



An  
Bord  
Pleanála

## Inspector's Report

### ABP-315290-22

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<b>Development</b>	Construction of additional floors, increase of dwellings to 78 and all associated site works
<b>Location</b>	Elmpark Green, Merrion Road, Dublin 4
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	4879/22
<b>Applicant(s)</b>	Red Rock Elm Park Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Brackenstone Services Ltd Patrick Sheeran
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	22 <sup>nd</sup> of March 2023
<b>Inspector</b>	Karen Hamilton

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## 1.0 Site Location and Description

- 1.1. The subject site is located within a mixed-use campus (Elmpark Green) located to the west of Merrion Road, Dublin 4. The site is accessed from Merrion Strand with most of the vehicular traffic accommodated in the basement car park. The overall campus is bound by St Mary's Home and Caritas Convalescent Centre to the north, Elm Park Golf Course to the west and established suburban housing to the south.
- 1.2. The campus includes modern linear buildings (c.6) which range from 5 to 9 storeys in height and accommodate a mix of office and residential uses. To the south of the access road there are low rise apartments providing accommodation for the elderly (Heskin Court).
- 1.3. The subject site is at the south-western corner of the overall Elmpark Green campus site. A residential apartment block (The Links) is located directly north of the subject site. A two storey creche (Giraffe) is located to the east and the two-storey dwellings on Bellevue Park Avenue are located to the immediate south of the southern boundary of the site.
- 1.4. Permission has been granted ABP-307424-20 (Reg Ref 3743/19) on the site for a residential building providing for 73 no. apartments and all associated works. This apartment development is currently under construction, with substantial works complete.

## 2.0 Proposed Development

- 2.1. Permission is sought to amend the residential development permitted under ABP-307424-20 (Reg. Ref. 3743/19).

The proposed revision to the scheme comprises

- Increase in residential units from 73 no. to 78 no. with a unit mix of 1 no. studio units; 16 no. 1 bed units; 8 no. 2 bed (3 person) units; 46 no. 2 bed (4 person) units and 7 no. 3 bed units
- Internal revisions to permitted units
- The proposal provides for an additional floor to the primary block (resulting in 10 storeys over basement) including the provision of an additional amenity

area and an external swimming pool at 9th floor level, and an additional floor to the secondary block (resulting in 5 total over basement).

- Elevational revisions and consequential revisions to the scheme
- Provision of new single storey multi use amenity pavilion within the open space
- Increase in car parking provision from 73 no. to 78 no. within existing basement footprint
- All associated site development works, revised photovoltaic panels to roof spaces, landscaping and tree removal

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Decision to grant permission subject to 14 no conditions of which the following are of note:

C4-The proposed development should comply with the conditions of the parent permission

C5- The proposed residential amenity accommodation within the multi-use pavilion building and on the 9<sup>th</sup> floor of the apartment shall be reserved for the exclusive use of the residents of the development and shall be managed in accordance with the Operational Management Plan submitted with the application.

C6- All balcony and roof terrace balustrades on the southern elevation of the primary ten-storey block shall comprise opaque glazing (as shown on the submitted planning application drawings) and shall measure 1.7m in height.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

The report of the area planner reflects the decision to grant permission and is summarised below:

- The proposed buildings are 32.15m and 16.36m, above the 16m heights permissible in the outer city. The proposed additional setback can comply with the criteria of SSPR3 and the development management criteria of 3.2 of the national guidelines.
- The quantum of communal open space is acceptable, and the additional residential amenity is welcomed. The facilities should be reserved exclusively for the residents.
- The new unit mix is acceptable and complies with SPPR4.
- The design of the addition floor and multi-use amenity is in keeping with the modern design of the surrounding campus.
- The trees have been felled and the proposal includes a landscaping scheme which is acceptable.
- The impacts of overbearing on the residential properties to the south have been addressed by way of FI on the parent permission.
- A submitted Glint and Glare assessment concludes there will be hazards on the aviation.
- The third parties raised the impact of the parent permission which the PA are precluded from revisiting.
- The site notices have been checked and are in the appropriate location.

### 3.2.2. Other Technical Reports

Drainage Division: No objection subject to conditions.

Transport Planning Division: No objection subject to conditions.

### 3.3. **Prescribed Bodies**

Irish Aviation Authority: No objection subject to condition relating to the crane operations.

### 3.4. **Third Party Observations**

2 no third-party observations were submitted to the application. These third parties have also submitted appeals, the issues raised are similar and have been summarised in Section 6.1 below.

## 4.0 **Planning History**

### 4.1. Live applications on the site

#### **Reg Ref 4848/22**

Permission granted by DCC for revisions to ABP 307424-20 (Reg Ref 3743-19) for an increase in the residential units from 73 no to 77 no and increase in the height of the secondary block (5 over basement) and no increase in the height of the primary block (9 over basement) and other associated works.

The final grant notices are the 19<sup>th</sup> of December 2022, no appeal has been received on this application.

#### **ABP 312832-22 (Reg Ref 3389/21)**

Permission granted by DCC to amend the parent permission ABP 307424-20 (Reg Ref 3743-19) to include an increase in apartments from 73 no to 80 no and an increase in the primary residential building by one additional storey (10 over basement) and the secondary building.

### 4.2. Other planning history

#### **ABP 307424-20 (Reg Ref 3743/19)**

Permission granted for a residential building (73no. units) and associated works subject to 14 no conditions.

#### **PL29S.243763 (Reg Ref 2773/14)**

Permission granted for Retention of revisions to development permitted by reg.ref:1539/02 and permission for change of use from hotel and private hospital use to office use.

The permission included restrictions on the operation of Block HH where hours of operations had to be agreed and the control of any odour emissions.

## **PL29S.201622 (Reg Ref 1539/02)**

Permission for a mixed-use scheme (416 units) Former lands of the Sisters of Charity, adjacent to St. Mary's Home, Merrion Road and Bellview Avenue, Dublin 4

### **5.0 Policy Context**

#### **5.1. National Guidelines**

- Urban Development and Building Heights – Guidelines for Planning Authorities,
- Sustainable Urban Housing: Design Standards for New Apartments

#### **5.2. Dublin City Development Plan 2022-2028**

##### Zoning

The site is located on lands zoned Z1, Sustainable Residential Neighbourhoods, where it is an objective “To protect, provide and improve residential amenities”

##### Height Strategy

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

Policy SC15: Building Height Uses: To support the development of an adequate mix of uses in proposals for larger scale development which are increasing height or proposing a taller building in accordance with SPPR 2.

Policy SC16: Building Height Locations

Policy SC17: Building Height (have regard to the performance-based criteria in Appendix 3)

Appendix 3: Height Strategy

Table 3: Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale



### 5.3. Natural Heritage Designations

- 5.3.1. The Elm Park campus is approx. 100m from the South Dublin Bay SAC (000210) and the South Dublin Bay and River Tolka Estuary SPA (004024). That part of the site that is subject to the proposed new build is approx. 500m from the SAC and SPA boundary

### 5.4. EIA Screening

#### Introduction

- 5.4.1. The proposed development includes alterations to a permitted apartment development to increase the proposal from 73 no units to 77 no. units, construction of a multi-purpose pavilion and associated alterations to the car parking etc. The permitted development (ABP 307424-20 (Reg Ref 3743/19) is currently under construction.

#### Submissions and Observations

- 5.4.2. Third party submissions note the absence of any screening determination on the parent permission (ABP 307424-20 (Reg Ref 3743/19)) and the current proposal. In addition, the grounds of appeal consider the PA have not adequately screened the proposed development for EIA. A legal opinion has been submitted on behalf of the third parties to state the EIA screening is defective. The applicant's response to the grounds of appeal includes a detailed screening for EIA with Schedule 7A information. This Schedule 7A information and screening assessment was recirculated to the third parties for comment.

#### Screening Assessment

- 5.4.3. The proposed increase in the number of units (a cumulative impact of 80 units) does not exceed the thresholds for mandatory EIA (i.e., 500 dwellings or an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere) as per Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended).
- 5.4.4. In terms of subthreshold development Article 109 (2) (a) of the Planning and Development Regulations 2001-2022 states that;

“Where an appeal relating to a planning application for subthreshold development is not accompanied by an EIAR, the Board shall carry a preliminary examination of, at the least, the nature, size or location of the development”

5.4.5. I note this article concludes that following on from a preliminary examination the Board concludes that there is no real likelihood of significant effects on the environment arising from the proposed development, it shall conclude that an EIA is not required.

5.4.6. The site is currently a greenfield site, located within a mixed-use campus with a golf course to the west and residential developments to the north and south. The site is zoned as residential in the current development plan. The Schedule 7A information noted no sensitive receptors on the site. The impact of the proposal on the Elm Park Stream, located c. 100m to the north of the subject site, is raised in the grounds of appeal. It was considered the impact on this stream was not properly assessed. The Board will note my assessment in Section 7.0 below, and that impact on the Elm Park Stream, which concludes no significant impact of the proposal on this stream. With regards “poor” status of the stream (Water Framework Directive) I note the EPA data records anthropogenic pressures which would be mostly historical. Having regard to the design and treatment of the surface water, the proposed development would not have any negative impact on the Elm Park Stream and therefore no impacts on the WFD status. Having regard to the design and layout of the surface water treatment I do not consider the discharge of water to the stream would cause any deterioration in the water quality.

#### Conclusion

5.4.7. Having regard to:

- (a) Characteristics of the proposed development,
- (b) The nature and scale of the proposed development, on zoned lands served by public infrastructure,
- (c) The types and characteristics of potential impacts,

it is 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. Therefore, I consider the need for an Environmental Impact Assessment can be excluded.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal are submitted from a resident and the residents association of Bellevue Park Avenue, the residential estate to the south of the site. The resident association submission is accompanied by a legal opinion. The issues raised in both submissions are similar and have been summarised under common themes below:

#### 6.1.1. Introduction and Background

- The site is included within a wider development.
- There is currently an undetermined appeal on the site ABP 312832-22 (Reg Ref 339/21) (the PA required additional information on this proposal).
- There were no site notices in place for the original application, ABP 307424-20 (Reg Ref 3743/19) therefore the adjoining residents did not have the benefit of making submissions.
- Works have recently commenced on the parent permission for this residential block.
- The new development plan came into effect on the 14<sup>th</sup> of December 2022 and whilst the application was determined under the old plan (2016-2022) the new plan will be determined under the 2022-2028 plan.
- The Inspector on the original campus application recommended the site be retained as public open space.

#### 6.1.2. Nature of the proposed development

- An additional floor is proposed on the upper floors of the secondary block (up to 5 storey) and on the primary block (up to 10 storeys).
- The inclusion of a multi-purpose pavilion, along the south of the site, will lead to the loss of a substantial number of trees along the boundary.

- There is no identified need for the multi-use pavilion.
- The multi-use pavilion is located beside open space and there are other leisure facilities in the vicinity of the site which have never been used.
- The estate management may use the multi-use pavilion for whatever reason they believe.

#### 6.1.3. Negative Impact on residential and visual amenities of Bellevue Park Avenue.

- The original parent permission was unacceptable and required amendment.
- The already permitted over development will be exacerbated if this permission is granted.
- The additional floor will have a negative visual impact.
- The additional outdoor space will have a negative impact.
- The overlooking and overbearing will be compounded by the removal of a significant number of trees.

#### 6.1.4. Negative impact on the amenity space serving the proposed development

- The proposal will lead to a loss of open space for the residents of the proposed development.
- The site is remote to other open space locations of open space on the campus.
- Correspondence from a senior planning official in DCC indicated that open space lands were to be accessible to the public.

#### 6.1.5. Additional Storey is contrary to the City Council Building Height Guidelines

- The parent permission should have addressed SPPR3 of the height guidance.
- The parent permission was granted in material contravention with incorrect references.
- The 10-storey building can not meet the development criteria of Section 3.2 of the guidelines or SPPR3.

#### 6.1.6. Excessive Density

- The proposed development would result in excessive densities.

#### 6.1.7. Potential Negative Impact on Elm Park Stream

- The stream is recognised by the EPA as polluted although the AA screening report identifies it as moderate.
- No EIA screening was undertaken of the original application.

#### 6.1.8. Negative Impact arising in terms of car parking proposals.

- The proposal would lead to a net reduction in the car parking proposals and would lead to overspill on the surrounding area.

#### 6.1.9. Reduction in property values

- The proposal will cause a significant negative reduction in the value of the third party dwellings to the south of the site.

#### 6.1.10. Legal Opinion

- The parent permission did not address the height of the main block under SPPR3.
- The draft development plan classifies the site as outer city with heights generally three or four storeys.
- No further increase in height is justified.
- The EIA screening was not undertaken for the parent permission or the original campus permission.
- The Board's EIA decisions failed to acknowledge a hydrological connection between the site and the Elm Park Stream which is given the code BREWERY STREAM\_010 under the Water Framework Directive system.
- The DCC decision that no EIA screening was unlawful and the Schedule 7A information should have been requested.
- The entire development should have been screened rather than only the proposal.
- The report states that there will be no chemicals on the site although the location of the swimming pool would require the storage of toxins.

- The appellant has not had access or opportunity to comment on the new development plan and the Board cannot determine a Section 37 without first a decision by the PA on the development plan.
- There appears an increase in density which is not compliant with draft development plan.

6.1.11. A copy of a promotional brochure for the Elmpark Green Campus accompanied the grounds of appeal.

## 6.2. Applicant Response

An agent on behalf of the applicant has submitted a response to the grounds of appeal. This submission has been accompanied by a range of supporting documentation including:

- A Hydrological/Hydrogeological Risk Assessment
- Climate Action, Energy & Sustainability Report
- Architect response to the Universal Design
- EIA Screening Report
- Irish Water Correspondence.

6.2.1. A background to the planning history and the proposed development.

- The materials etc are generally consistent with the permitted building.
- The multi-use pavilion will incorporate the landscaping
- The Operational Management Plan sets out the parameters of the use

6.2.2. Height and potential impact on residential amenity

- The height of the building remains the same as the permitted 9 storey and is not reliant on SPPR3.
- The 2022-2028 development plan does not include any height limits in the area.
- SPPR4 of the urban height guidance relates to building heights in suburban areas and the proposal can comply with the requirements.

- The height of the proposal is generally in line with the prevailing heights of the area.
- The carrying capacity assessment indicates the public service availability.
- The Visual Impact Assessment illustrates the integration of the proposal with the surrounding area.
- The proposal can comply with the development management criteria in Section 3.2 of the urban height's guidance. Specific assessments have been submitted with the appeal.

#### 6.2.3. Density

- The proposed density is 137 uph (128.5 permitted).
- There is only 8.5uph extra which is not considered serious.
- The proposal complies with SC10 and SC11 of the development plan and is in accordance with the sustainable residential development guidelines
- The table is slightly above those densities in Table 1 of the development plan although having regard to the permitted density there is only a marginal increase.
- Table 1 is a "general rule" and not an absolute with supporting text of the development plan referring to higher density.

#### 6.2.4. Campus Open Space and Proposed pavilion

- The communal open space exceeds the quantum required to serve the development (i.e., 517m<sup>2</sup> required and 1,682m<sup>2</sup>).
- 24% of the overall campus has been provided for the residential communal open space, well in excess of the 15% suggested in the sustainable residential guidelines.
- An Operational Management Plan for both the roof top communal space and the multi-use pavilion.

#### 6.2.5. EIA Screening

- A full detailed EIA screening report and Schedule 7a information has been submitted.

- The proposal has been assessed against that criteria in Article 4 of the Directive and it has been concluded that the proposal is not likely to have any significant effects on the environment.
- The EIA report refers to the Bat and Bird Technical note, Construction and Demolition Waste Plan, the current development plan zoning, and the impact on the Elm Park Stream.

#### 6.2.6. Water Quality

- The chemicals for the pool will not be stored on site and the used water will be discharged to the foul sewer.

#### 6.2.7. Additional Parking

- The proposal provides 5 additional car parking spaces over the 73-unit permission and 1 space over the 77-unit permission.
- The Traffic Assessment and Parking Strategy Report states that the proposed additional traffic impact is negligible.

#### 6.2.8. Other Matters

- The site notices were all erected and determined to be valid by Dublin City Council.
- There is no material contravention of the development plan
- The current development plan (2022-2028) supports the proposed development and is supported in the core strategy, climate action, housing chapter, density, plot ration etc
- A detailed response to the criteria in Appendix 3- Height strategy (current development plan) is submitted.

### 6.3. **Planning Authority Response**

None received

### 6.4. **Observations**

None received



## 6.5. Further Responses

The applicant's response was circulated to the third parties and a submission was received from the agent on behalf of the resident's association. This submission is summarised below:

### 6.5.1. Background

- The applicant has submitted an excessive amount of commentary in response to the third-party appeal.
- The applicant has failed to address the third-party concerns.
- The grounds of appeal and points of concern remain the same.
- The location of the pavilion along the boundary of Belleuve Park Avenue is not appropriate compounded by the significant loss of trees.

### 6.5.2. Height and potential impact on residential amenity

- The comments in relation to the height and the current development plan are noted.
- The height, proposed at 10 storeys, is still above the prevailing height on those buildings in the vicinity.
- The 10 storey height remains excessive.
- The proposal does not comply with the guidance in the building height guidance.
- The proposal will not integrate into or enhance the surrounding area.
- The glass screen, amenity space and potential for overlooking has not been addressed by the applicant.
- The overbearing elements are impounded by the removal of the trees.

### 6.5.3. Negative loss of amenity space serving the proposed development.

- There has been a significant and slow removal of open space since the parent permission in 2002.
- The Board can not conclude there would be no negative impact.

#### 6.5.4. Other Submissions

- The Climate Action, Energy and Sustainability Report does not address the concerns of the first party.
- The submitted EIA screening is noted and it is raised if the impact on the already polluted stream has been adequately addressed.

#### 6.5.5. Reduction in property values

- The proposed development would have a material and significant impact on the property value of the client property due to the impact on the visual and residential amenity.

## 7.0 Assessment

The proposed development is similar to a separate appeal which is currently before the Board (ABP 312832-22 Reg Ref 3389/21), which I have also assessed. Some of the issues raised in the grounds of appeal are similar, *inter alia*, principle of development, impact of additional height and validation issues with the parent permission (ABP 307424-20 (Reg Ref 3743/19)). The Board will note that where the same issues arose, I have replicated the same responses, amended where necessary.

I consider the main issues of the appeal can be dealt with under the following headings:

- Principle of Development
- Impact on Visual Amenity
- Impact on Residential Amenity
- Impact on Car Parking
- Site Notices
- Other
- Appropriate Assessment

## 7.1. Principle of Development

### Introduction

- 7.1.1. The proposed development includes alterations to a previously permitted development on the subject site, ABP 307424-20 (Reg Ref 3743/19) for 73 no apartments and all other associated works. Upon site inspection it was noted that works to the permitted scheme are underway with the main spine of the residential block nearly up to parapet level. This proposal relates to alterations to that permitted development to include an additional 5 no apartments, (increase to 78 no units) in the form of an additional floor on the primary residential building and other associated alterations and change of unit mix to accommodate an increase in units. The proposal also includes for a multi-use amenity pavilion to the east of the permitted residential building and south of the existing crèche.
- 7.1.2. The grounds of appeal are submitted by a resident and an agent on behalf of the resident association of that housing estate to the south of the site, Bellevue Park Avenue. It is considered that the PA was required to have regard to the previous permitted development on the site, rather than only those amendments proposed. The third-party submissions refer to the parent permission for the overall Elmpark Green campus (PL29S.201622) and the permission for this residential block (ABP 307424-20). The appellants refer to a condition on the parent permission which designates the subject site as public open space.
- 7.1.3. Due to the absence of any in depth analysis by the PA and the terms of previous permissions, the grounds of appeal consider the principle of development is not acceptable and this application should not have been permitted. I have provided a background of the planning history on the site. As stated above my assessment is similar to a previous application and appeal currently before the Board (ABP 312832-22 Reg Ref 3389/21).
- 7.1.4. PL29S.201622: This permission was for the overall Elm Park Campus (mixed-use development). The report of the PA notes that proposal permitted on site and the third-party submissions received on the current proposal and it was stated that only those third-party submissions relating to the proposed alterations would be considered. Notwithstanding this assertion, the report of the PA noted the third-party submission relating to the designation of the subject site as open space. I have

checked this planning history and note the Inspectors report on PL29S.201622 recommends a condition (condition No. 2) restricting the use of the site as a designated open space area. This condition was not included in the final Board Order. Therefore, I do not consider there are any restrictions in the original permission preventing this proposal.

- 7.1.5. ABP 307424-20: The third-party submissions also reference the previous proposal, permitted for 73 no units on the site, and considers many of those issues relating to the previous proposal should be assessed again, *inter alia*, building height, bulk scale and mass, impact on the Elm Park Stream. Many of the issues raised by the grounds of appeal where also raised by the appellant in the previous application. I note the Inspectors Report on the ABP 307424-20 addressed the principle of development, impact on residential amenity, traffic and parking and Appropriate Assessment. I consider a robust assessment of the previous application was undertaken by the Board and the permitted development is considered reasonable. I note no restrictions in this permission preventing the proposed development.

#### Land Use Zoning

- 7.1.6. The zoning on the site has remained unchanged between the Dublin City Development Plan 2016-2022 and the current development plan 2022-2028, as Z1, Sustainable Residential Neighbourhood. The proposal complies with the zoning.

#### Multi-use Pavilion

- 7.1.7. The purpose of the multi-use pavilion is raised in the grounds of appeal. The applicant states that this building is ancillary to the main residential use. The building is single storey with one large room for “multi-purpose space”. The location of the building is discrete, beside the crèche, and I consider will provide additional community residential facilities for the future occupants of the apartments. I note the PA included a condition on the grant of permission restricting the use of this space for the residents, which I consider reasonable.

#### Conclusion

- 7.1.8. Having regard to the planning history and land use zoning objectives, I have no reason to believe there are any serious restrictions or constraints relating to the principle of residential development at this location. Therefore, subject to all other

planning considerations, I consider the proposed development is acceptable in principle.

## **7.2. Impact on Visual Amenity**

### Introduction

- 7.2.1. The permitted development includes two blocks interconnected. The proposal increases the height of the main building from 9 storey to 10 storeys and from 4 storey to 5 storeys on the secondary building. The highest point of the current permitted building is 36.47m whereas the proposed height is c. 40.36m. The height of the adjoining Links building to the north is 34.19m.
- 7.2.2. The report of the area planner notes the proposed height of both blocks which exceed the height limit in Section 16.7.2 of the development plan (16m for the outer city). The report of the area planner notes those documents which accompanied the application and having regard to the scale of the additional penthouse on the main building, the design and set back, it was considered the proposal could be approved under the provisions of SPPR3 of the urban height guidance.
- 7.2.3. The third-party submission specifically raised the need for proposed heights to comply with the criteria for taller buildings as set out in the national urban building height guidance. It is considered that compliance with SPPR3 had not been adequately addressed in the parent permission therefore the area planner cannot rely on compliance with the parameters of the national guidance for the contravention of the development plan.
- 7.2.4. The Dublin City Development Plan 2016-2022 was the plan in force during the planning application decision. Section 16.7 of the previous development plan set out guidance for building height in the city where a max height of 28m was permitted in the inner city, up to 24m at rail hubs and up to 16m at the outer city. The development plan has changed since the planning decision was made by the PA and the Dublin City Development Plan 2022-2028 is the current plan in place. The height restrictions for residential buildings have been removed and the criterion for assessing enhanced height is listed in Appendix 3. This is detailed further below.
- 7.2.5. The applicant's response to the grounds of appeal notes that the proposal is not reliant on SPPR3 and considers the proposal is compliant with the criteria in section

3.2 of the guidelines. I note the proposal is not reliant on the requirements of SPPR3 (i.e., there is no material contravention of the development plan or local area plan) although I consider the proposal, which includes an additional storey (up to 10 storeys), should be assessed against the development management criteria in 3.2 of the national guidance and Appendix 3 of the development plan, further detailed below.

Urban Development and Building Heights: Guidelines for Planning Authorities

7.2.6. Section 3.2 of this guidelines requires the applicant to demonstrate to the satisfaction of the PA/ABP, that the proposed development satisfies specific development management criteria. I have provided a summary of the proposed development having regard to these criteria.

<b>At the scale of the relevant city/town</b>
<ul style="list-style-type: none"> <li>• The site is located within 100m from a bus stop and 800m train station (DART).</li> <li>• The site is not within an architecturally sensitive location and the visual impact assessment and photomontages illustrate the building generally in line with those buildings in the Elm Park Campus.</li> <li>• The proposal is located on a permitted scheme which provides for an infill development within a larger mixed use campus development.</li> </ul>
<b>At the scale of district/ neighbourhood/ street</b>
<ul style="list-style-type: none"> <li>• The permitted development includes a stepped approach with the reduced heights to the south.</li> <li>• The additional floors on the secondary block are stepped to match the permitted development, the additional floor on the primary block exceeds the prevailing building</li> <li>• The proposal includes alterations to the mix of units proposed and compliments the current apartments development in Elm Park and provide a balance to the suburban two storey dwellings to the south.</li> </ul>
<b>At the scale of the site/building</b>
<ul style="list-style-type: none"> <li>• The daylight and sunlight assessment notes a potential impact on a bedroom on The Links apartment to the north and the existing creche.</li> </ul>
<b>Specific Assessments</b>
<ul style="list-style-type: none"> <li>• Site Specific Flood Risk Assessment</li> <li>• Daylight/Sunlight Assessment</li> <li>• Visual Impact Assessment</li> </ul>

- Transport Capacity Assessment
- Appropriate Assessment Screening Report
- Pedestrian Wind Comfort Study
- A Bat and Bird Technical Note
- A Design Statement
- A Glint and Glare Assessment
- Hydrological and Hydrogeological Qualitative Risk Assessment

7.2.7. Having regard to the design, layout, and scale of the proposal alterations to ABP 307424-20 (Reg Ref 3743/19) which includes an additional storey, I consider the proposal complies in general with the broader development management criteria in Section 3.2 of the national guidance for urban building heights. The Board will note my concerns below with regard the visual and residential amenity impact of the additional 10<sup>th</sup> floor, detailed below. In this regard I do not consider the additional height on the primary building can fully meet this management criteria.

Dublin City Development Plan 2022-2028

7.2.8. Appendix 3 of the current development plan, Dublin City Development Plan 2022-2028, includes a criterion for assessing enhanced height, density, and scale with eight objectives for which to assess against. This criterion is listed below;

- To promote development with a sense of place and character
- To provide appropriate legibility
- To provide appropriate continuity and enclosure of streets and spaces
- To provide well connected, high quality and active public and communal spaces
- To provide high quality, attractive and useable private spaces
- To promote mix of use and diversity of activities
- To ensure high quality and environmentally sustainable buildings
- To secure sustainable density, intensity at locations of high accessibility
- To protect historic environments from insensitive development
- To ensure appropriate management and maintenance

- 7.2.9. I have briefly assessed the proposed increase in height against those criteria for the purpose of development plan compliance. In general, I consider the principle of the taller building is acceptable in principle having regard to the overall mixed use campus development, the location of the site adjoining The Links residential block and the current permitted residential development.
- 7.2.10. In terms of the design and layout of the additional 10<sup>th</sup> floor on the main building, it is my opinion there would be a negative visual impact having regard to the design of the existing building and the extension above the established and permitted building height, as detailed below.

Design and layout of the additional floor.

- 7.2.11. The application is accompanied by plans and photomontage drawings illustrating the additional floor. These illustrations clearly indicate a change of design for the additional floor which extends above the height which is established by the adjoining Links apartment building and the permitted residential block. A new external treatment (coloured glass) has been introduced which I do not consider compliments the existing permitted external materials. Whilst the applicant's response considers the additional floor will not materially change the visual impact of the overall permitted development, I am concerned the proposed additions do not integrate visually with the existing and/or proposed buildings and as such would have a negative visual impact. The Board will note the concerns raised in my assessment under ABP 312832-22 (Reg Ref 3389/21) in relation to the design of the additional floor and whilst the use of the additional floor is different, the design remains the same in both proposals.
- 7.2.12. In the first instance, I note the design of the building permitted ABP 307424-20 (Reg Ref 3743/19) includes a stepped approach with a change of design for the upper floors and a flat roof in keeping with the adjoining established residential block. The proposed development (additional floor) alters these architectural features where it introduces a new design feature and external material which, in my opinion, does not compliment the permitted buildings.
- 7.2.13. In the second instance, I consider the additional floor has the potential to reduce the sunlight/ daylight to those rooms and balconies, on the upper floors along the eastern elevation of the existing Links building to the north of the site. Therefore, I



consider the proposed additional height on the main residential building cannot meet the development criteria of Section 3.2 of the urban building height guidelines.

### Conclusion

- 7.2.14. Having regard to the design and layout of the additional 10<sup>th</sup> floor, which I do not consider compliments the permitted residential block or is it in keeping with the character of the prevailing apartment development in the vicinity, it is my opinion that the proposed additional floor would have a significant negative visual impact on the existing and proposed residential development in the area. To this end, I do not consider the proposal complies with the development management criteria for enhanced heights in the national guidance or the development plan.
- 7.2.15. The Board will note the proposed development includes additional proposals such as the additional floor on the secondary building, alterations to the layouts and unit mix and fritted glazing on the balconies of the permitted development ABP 307424-20 (Reg Ref 3743/19). I have no objections to those proposals and as such I consider a condition to remove the 10<sup>th</sup> floor is reasonable to prevent any significant visual impact on the surrounding area.

## **7.3. Impact on Residential Amenity**

### Introduction

- 7.3.1. The site is located to the south of The Links residential block and to the north of Bellevue Avenue Park estate. The submissions from the Bellevue Park residents consider the proposed development, in combination with the permitted development will have a significant impact on their residential amenity. The location of the multi-purpose pavilion along the boundary is considered inappropriate and it is considered the inclusion of the pavilion on the open space will remove valuable open space for the existing occupants of Elm Park and future residents.

### Open Space

- 7.3.2. The proposal includes 1,682m<sup>2</sup> communal open space (21.5m<sup>2</sup> per unit). The report of the area planner notes the quantum exceeds the requirements in Appendix 1 of the Design Standards of New Apartments, which I consider reasonable. Section 15.9 of the current development plan requires apartment developments to comply with

these apartment standards with specific reference to communal amenity space in Section 15.9.8. I note the location, design and layout of the communal amenity space and having regard to the integration of the multi-use pavilion, I consider there is sufficient amenity provision for the future occupants of the residential development.

#### Sunlight/Daylight

- 7.3.3. The design of the additional floors remains the same as that proposed in a separate and concurrent application (ABP 312832-22 Reg Ref 3389/21). My assessment remains the same with regard the potential impact on availability of sunlight/daylight along the east of the existing building to the north of the site (The Links). I have referred to my assessment from (ABP 312832-22 Reg Ref 3389/21) below, where necessary. Although the grounds of appeal do not specifically raise the impact on daylight/sunlight, they argue the proposal does not meet the development management criteria of Section 3.2 of the national building height guidelines. This has also been detailed in my assessment above.
- 7.3.4. The application was accompanied by a Sunlight and Daylight Access Analysis. The assessment uses the BRE and BS standards to assess the impact on the available sunlight to the existing properties in the vicinity. The assessment has regard to the impact of the proposal on The Links building to the north, The Bay building to the northeast and those dwellings along the northern boundary of Bellevue Park Avenue. No potential Impacts are recorded on any properties along the south of the site, Bellevue Park. Having regard to the orientation of the building to the north of this estate, I consider this result is acceptable.
- 7.3.5. The report of the area planner does not specifically address the impact of the daylight/sunlight of adjoining residential buildings. Table 4.1 of the submitted daylight and sunlight analysis for a similar application (ABP 312832-22 Reg Ref 3389/21) records a potential slight to moderate impact on two of the bedrooms along the east of The Links building (i.e., below 0.8 times its former value. The daylight/sunlight analysis now submitted has been amended and does not include Table 4.1. Table 3.1 of the daylight/sunlight analysis notes a potential impact on the existing crèche and bedroom on the ground floor. No analysis of the impact on the upper bedroom floors of The Links building are included. It is my opinion that the additional height on

the main residential building would reduce the availability of sunlight to the north of the site, during the mid-day and into the evening on The Links building. This information is not available in the sunlight daylight analysis; therefore, I cannot undertake a full assessment.

- 7.3.6. Section 3.2 of the national building height guidance states that where a proposal may not be able to meet all the requirements of the daylight provisions, they must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out. The daylight/ sunlight analysis notes the reduction in the daylight and sunlight is mostly from the permitted residential development rather than the proposed additional floors. In this regard I do not consider compensatory measures are necessary for the representative rooms on the ground floor. I still have concerns in relation to the absence of any analysis of the upper floors, as a worst-case scenario. In addition, having regard to the location of balconies along the eastern elevation of The Links building the proposal has the potential to impact the daylight/sunlight to these spaces.
- 7.3.7. Therefore, having regard to the results of the applicant's sunlight and daylight analysis and the design of the 10<sup>th</sup> floor, it is considered the proposed development may impact the available sunlight to the upper floors of The Links Building which would lead to a significant negative impact on the residential amenities of those residents in these apartments. Having regard to my assessment above in relation to the design and layout of the additional 10<sup>th</sup> floor and my recommendation to include a condition removing this floor, I consider the potential for any impact would be removed.

#### Overlooking

- 7.3.8. The impacts of the overlooking and perceived overlooking have been previously addressed in the Inspectors Report for the permitted development. The location of the residential amenity space on the 10<sup>th</sup> floor is mostly constrained to an outdoor swimming pool and will be located c. 35m from the southern boundary, adjacent to Bellevue Park Avenue. There will be no direct overlooking from the proposal into the windows of any properties.
- 7.3.9. Condition No 3 of the parent permission ABP-307124-20 (Reg Ref 3743/19) required the glass balustrades to the terraces to be fitted with fritted glass. The proposal as

submitted includes this fritted glass. The proposed development also includes a 1.15m high fritted glass balustrade around the upper terrace. I consider the use of the fritted glass will remove any perception of overlooking from the terrace areas.

- 7.3.10. Having regard to the distance of the 10<sup>th</sup> floor from the adjoining residential estate and the absence of any specific use on the terrace, I do not consider the proposed development will cause any overlooking on any adjoining residential properties.

#### Overbearing

- 7.3.11. As stated above the permitted development is currently under construction with a substantial amount of works undertaken. Having regard to the location of the subject site within a campus of high-rise development and the stepped down approach to the design, I do not consider there will be any overbearing impact on those properties to the south. A comprehensive assessment of the visual impacts of the 10<sup>th</sup> floor is included above in Section 7.2. Within this assessment I have concluded that the additional 10<sup>th</sup> floor would have a negative visual impact on the permitted residential development and the surrounding area, and I have recommended a condition to remove this additional floor.

#### Tree Removal

- 7.4. The impact of tree removal along the southern boundary has also been raised by those residents of Bellevue Park Avenue. There is concern the removal of trees will lead to overlooking etc. As stated above, works have commenced on the site. Upon site inspection I noted several mature trees have been retained along the southern boundary of the site. The application was accompanied by an Arboricultural Assessment and tree retention/ removal plan illustrates the trees to be retained along the northern boundaries of those dwellings in Bellevue Park Avenue. Additional tree planting and herbaceous planting are proposed between these stands of trees to be retained. I consider the retention of the trees and the additional planting will prevent any significant impact on the adjoining residential amenities.

#### **7.5. Elm Park Stream**

- 7.5.1. The proposed development includes alterations to the existing permitted development to include an additional 7 no units. The grounds of appeal do not consider the impact on the Elm Park Stream has been adequately assessed and

have raised issues relating to the EIA screening (previously assessed under Section 5.4 above).

- 7.5.2. The Elm Park Stream runs through the Elm Park Golf course along the north of the site (culverted under The Links residential block) and north of the campus. The stream flows east and discharges into Dublin Bay.
- 7.5.3. The Elm Park Stream is referred to as Brewer Stream\_010 in the EPA Maps<sup>1</sup> and is in the catchment area of Liffey and Dublin Bay sub catchment of Dodder\_SC\_010 for the purpose of the Water Framework Directive. The stream had unassigned classification until 2013 and the most recent monitoring programme for the WFD notes the status as “poor”. The threats are identified as anthropogenic<sup>2</sup>.
- 7.5.4. Third party submissions note the location of the Elm Park Stream on the site and the WFD classification detailed above. They consider the location of the site is particularly sensitive having regard to the connection with the stream and the potential impact on the water body.
- 7.5.5. The proposal incorporates SuDS and the storm water discharge will be limited to 1.0l/s and will incorporate a stone filter attenuation to clean the storm water before discharge to the Elm Park Stream. It is proposed the foul and water supply will connect to the public system. The report of the Drainage Department noted no objection to the proposal subject to the use of standard conditions and compliance with the surface water management conditions of the parent permission.
- 7.5.6. I note the scale of the works proposed, both the increase of 7 units and the cumulative impact of the 80 units, and the discharge of clean surface water, and I do not consider the proposal will lead to any significant impact on the water quality of the Elm Park Stream (Brewer Stream\_010).
- 7.5.7. The Board will note Section 5.4 of my assessment addresses the third-party submissions which consider the impact of the proposal on this stream has not been considered in the EIA screening. It is my opinion that the design and layout of the proposal will ensure no significant negative impact on the Elm Park Stream and therefore no conflict with any objectives of the WFD.

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<sup>1</sup> <https://gis.epa.ie/EPAMaps/>

<sup>2</sup> [Subcatchment Assessment \(catchments.ie\)](#)

## 7.6. Site Notices

- 7.6.1. The grounds of appeal have raised concern in relation to the site notices erected for the previous application ABP 307424-20 (Reg Ref 3743/19) and the current applicant. It is stated that the site notices were not available on the previous application and hence no submissions from Bellevue Avenue residents. It is also argued that the site notices were not readily available for this proposed development.
- 7.6.2. In this first instance, the grounds of appeal have raised concern that they were not aware of the initial application ABP 307424-20 (Reg Ref 3743/19). They reference the third-party submission on this application, which also referenced the site notice. The Board will note the area planners report (DCC) on the previous application, records the site notice as being in order on the 16<sup>th</sup> of September 2019 and included reference to the third-party submission which raised the location of the site notice. In this regard, I am satisfied that the PA were aware of the third-party concerns relating to the site notice and would have the opportunity to address any issue of concern during the planning process.
- 7.6.3. Similarly, I note the planners report on the current application also recorded the site notices as legible and in place on the 21<sup>st</sup> of September 2022, printed on yellow background and at 6 no locations. The submitted plans illustrate 6 locations for the site notices. These include locations around the site which adjoin a public road. The planner's report notes the location of the site notices and considers these in accordance with the Planning and Development Regulations 2001 (as amended), which I consider reasonable.
- 7.6.4. Therefore, having regard to the planning authority reports and the information contained within the proposed development, I find no reason to invalidate the proposed application.

## 7.7. Other

- 7.7.1. Car parking: The grounds of appeal consider the proposed net reduction in the car parking spaces will lead to overspill of parking on the surrounding area. I note the application was accompanied by Traffic Assessment and Parking Strategy Report which sets out the main alterations to the parking and the location of the 78 no

parking spaces need to serve the proposed development. The report notes the proposal complies with the apartment guidelines (i.e., one space per unit). I note the location of the site which I consider is well served by public transport (bus stops and DART Station within 500m) and I consider the proposal should include limited parking to prevent any car dependence. I consider the carparking strategy acceptable and the proposal would not have a negative impact on the flow of traffic in the vicinity.

- 7.7.2. Density: The amendments to the mix of units leads to an increase in the number of apartments by 5 no. The density proposed is not considered appropriate by the appellant. The applicant's response to the grounds of appeal notes the increase of density from 128.5 uph to 137 uph, which is not considered to be significant. Section 15.5.5 of the development plan provides guidance on the appropriate densities with reference to the site conditions and surrounding neighbourhood. The proposed development should comply with Appendix 3 of the development plan and the height strategy. Having regard to the characterises of the existing Elmpark Green Campus and the stepped approach to the design along the south of the site, I do not consider the increase of density would have a significant negative impact on the surrounding area.

## 7.8. **Appropriate Assessment**

### Introduction

- 7.8.1. The proposed development is for alterations to a permitted development ABP 307424-20 (Reg Ref 3743/19) to include an additional 5 no residential units, new multi-use amenity pavilion and associated works. The application was accompanied by an Appropriate Assessment (AA) Screening report. This AA screening considered the impact of the proposed development on European Sites within a 15km radius of the site.
- 7.8.2. The PA undertook an AA screening, noted the location of the South Dublin Bay and River Tolka SPA and the South Dublin Bay SAC, c.333m to the east of the site and concluded the additional 7 no units would not give rise to any significant impact, either individually or in combination with other plans or projects.

7.8.3. The site is located c. 300m to the west of Dublin Bay and those European Sites South Dublin Bay and River Tolka SPA and the South Dublin Bay SAC. The Elm Park Stream runs c. 100m north of the subject site and joins the European Sites at the edge of the Bay. I note the list of European Sites within the AA screening report although having regard to the location of the site and the characteristics and the absence of any other source-pathway-receptor I consider the potential for any impact only on those European Sites listed below.

European Site	Qualifying Interest and Conservation Objectives
South Dublin Bay SAC (site code 000210)	To maintain the favourable conservation condition of those habitats: <ul style="list-style-type: none"> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]* priority habitat</li> <li>• Annual vegetation of drift lines [1210]</li> <li>• Salicornia and other annuals colonising mud and sand [1310]</li> <li>• Embryonic shifting dunes [2110]</li> </ul>
South Dublin Bay and River Tolka SPA (site code 004024)	To maintain the favourable conservation condition of those habitats <ul style="list-style-type: none"> <li>• Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</li> <li>• Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</li> <li>• Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</li> <li>• Grey Plover (<i>Pluvialis squatarola</i>) [A141]</li> <li>• Knot (<i>Calidris canutus</i>) [A143]</li> <li>• Sanderling (<i>Calidris alba</i>) [A144]</li> <li>• Dunlin (<i>Calidris alpina</i>) [A149]</li> <li>• Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</li> <li>• Redshank (<i>Tringa totanus</i>) [A162]</li> <li>• Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</li> <li>• Roseate Tern (<i>Sterna dougallii</i>) [A192]</li> <li>• Common Tern (<i>Sterna hirundo</i>) [A193]</li> <li>• Arctic Tern (<i>Sterna paradisaea</i>) [A194]</li> <li>• Wetland and Waterbirds [A999]</li> </ul>



### Assessment of likely Significant effects

- 7.8.4. The site is in the urban area of Dublin City on lands zoned for residential use. There is a recent permission on the site for a residential block of 78 no units. The proposed development includes an increase in the number of units by 5 and the same services, i.e., connection to public water and wastewater are included in the proposal.
- 7.8.5. As stated above the Elm Park stream runs along the north of the site and connects into Dublin Bay some c. 300m to the east. The impact on this stream is raised in the third-party submissions and I have addressed the impact of deterioration of the stream above, with regards WFD. It is proposed the surface water will discharge to this stream. The AA screening report identified the connection with the stream and the hydrological link to the European Sites. The use of standard construction measures to protect the water quality of the stream is included in the screening assessment i.e., preventing the release of any hazardous materials during construction, control of soil excavation etc. All surface water design will be in keeping with the Greater Dublin Strategic Drainage Study and incorporate SuDS. I do not consider there are any specific mitigation measures required to prevent any effect on the conservation objectives of any European Site.
- 7.8.6. The AA report states that the subject site does not contain any suitable habitat to support those species of qualifying interest in the adjoining SPA and there is no potential for any bird strike or collision having regard to the design of the proposed building.
- 7.8.7. I consider the information contained in the AA screening report reasonable to undertake an assessment of the likely significant effects on any European Site. I consider in the absence of any suitable habitat for wintering bird species and design and layout of the surface water, it can be concluded that the proposed development would have no potential for likely significant effect on the following European Sites, or any other European Sites:
- South Dublin Bay SAC
  - South Dublin Bay and River Tolka SPA

## Screening Determination

- 7.8.8. Having regard to the nature and scale of the proposed development within a serviced area and separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on the conservation objectives of any European site.

## 8.0 Recommendation

- 8.1. I recommend that planning permission should be GRANTED, subject to conditions, for the reasons and considerations as set out below.

## 9.0 Reasons and Considerations

Having regard to the nature, scale and design of the proposed development, the policies and objectives of the Dublin City Development Plan 2022-2028, in particular the Z1, Sustainable Residential Neighbourhood zoning, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential development in this location, would not seriously injure the residential or visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.
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	Reason: In the interest of clarity
2.	<p>The proposed development shall be amended as follows:</p> <p style="padding-left: 40px;">a) The 10<sup>th</sup> floor on the main residential building, community amenity area, shall be removed.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of visual and residential amenity</p>
3.	<p>The proposed resident amenity accommodation within the multi-use pavilion building and on the 9<sup>th</sup> floor of the apartment building shall be reserved for the exclusive use of the residents of the development and shall be managed in accordance with the Operational Management Plans submitted with the application.</p> <p>Reason: In the interest of clarity and to protect the residential amenity of adjoining properties.</p>
4.	<p>Prior to the commencement of development and at least 30 days before the erection of any cranes, the applicant shall provide written evidence to the planning authority of any notification of crane operation to the Irish Aviation Authority.</p> <p>Reason: In the interest of air traffic safety.</p>
5.	<p>Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission(s) granted under ABP 307424-20 (Reg Ref 3743/19) and any agreements entered into thereunder.</p> <p>Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission(s).</p>
6.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p>

	Reason: In the interest of public health.
7.	The applicant shall comply with the requirements of Irish Water. Reason: In the interest of public health.
8.	The internal road network and all those car parking requirements serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.  Reason: In the interest of amenity and of traffic and pedestrian safety.
9.	The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, construction traffic management and off-site disposal of construction/demolition waste.  Reason: In the interests of public safety and residential amenity
10.	The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas (residential and commercial), open spaces, landscaping, roads, paths, parking areas, public lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority, before any of the residential or commercial units are made available for occupation.

	Reason: To provide for the future maintenance of this development in the interest of residential amenity and orderly development
11.	<p>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.</p> <p>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.</p>
12.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the</p>

	Development Contribution Scheme made under section 48 of the Act be applied to the permission
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Karen Hamilton  
Senior Planning Inspector

29<sup>th</sup> of March 2023