



An
Bord
Pleanála

Inspector's Report ABP-315595-23

Development

Permission is sought for a development consisting of a residential development of 42 no. apartments and all associated site works (located west of 'Glencairn House', a Protected Structure).

Location

'Clonlea', Glencairn, Murphystown Way, Sandyford, Dublin 18, D18 VT14.

Planning Authority

Dún Laoghaire-Rathdown County Council.

Planning Authority Reg. Ref.

D22A/0026.

Applicant(s)

Delaney Property Trading Partnership.

Type of Application

Planning Permission.

Planning Authority Decision

Refuse.

Type of Appeal

First Party.

Appellant(s)

Delaney Property Trading Partnership.

Observer(s)

1. Roberta Lynch, Peter Lynch & Lynch Family.
2. Eoin Quaid.

3. Kevin Hyland.
4. Jeffrey Johnston.

Date of Site Inspection

25th day of April, 2024.

Inspector

Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. The irregular rectangular shaped appeal site has a stated 0.345ha and it is located on the eastern side of Murphystown Way, c130m to the north of Murphystown Way's junction with Glencairn Road and c390m to the south east of the R113's M50 overpass in the suburb of Sandyford, c11.5km to the south Dublin's city centre.
- 1.2. The site itself is a brownfield in character. Access to the site is via a vehicle entrance located in the north western corner. This vehicle entrance is flanked by period brick and stone tall pillars with the flanking wall on the eastern side consisting of period stone wall. To the south east of this entrance there is a modified container unit from which coffee and light snacks are sold for takeaway or consumption on site. The northern portion of the site including part of the former driveway is gravelled containing a number of outdoor seating, tables, canopy, and sundry structures associated with the coffee kiosk use. Within the space in use by the coffee kiosk are a number of mature trees. There are a mixture of timber panels and moveable boundaries in place that separate this use from sundry structures associated with the coffee kiosk, i.e. Portaloo and storage containers that are located in proximity to the coffee kiosk structure.
- 1.3. There is a moveable boundary that is located over the driveway that provides access to the main site area. This area contains a former coach house building that is located in the south western corner of the site that appears to be converted for habitable use. At the time of inspection water was being piped from this building to serve the coffee kiosk.
- 1.4. The main portion of the site contained a number of storage structures, a caravan, and a wide range of salvaged building as well as other materials. These are set in a very overgrown grounds that also contains several mature trees including specimen species and dense planting along the eastern and southern boundaries of the site.
- 1.5. The entrance on the northern boundary opens onto a restricted in length two-way vehicular access that provides vehicle access onto Murphystown for the subject site only as well as pedestrian and cycle access over a pathway that runs along part of the northern boundary of the site east and north eastwards where it curves through an area of open space that runs alongside the Glencairn SHD development and the boundaries associated with a period Gate Lodge whose design is attributed to

Benjamin Woodward which originally formed part of the curtilage of 'Glencairn House'. It forms part of the buildings, structures and spaces of merit that are afforded protection under the Dún Laoghaire-Rathdown County Development Plan as a Protected Structure (Note: RPS No. 1643) and this building is also listed in the NIAH (Note: Reg No. 60230004).

- 1.6. In close proximity to the west of the site entrance in the adjoining public domain is a controlled vehicle access over the Green Line Luas tracks which run along the eastern side of Murphystown Way. On Murphystown Way there is a short filter lane that also provides vehicle access to the site and to the Murphystown Way junction with Woodward Avenue which is located in close proximity to the north.
- 1.7. The western boundary of the site consists of a tall granite faced stone wall that adjoins a 'Glencairn' Green Line Luas Stop and at its southern end there is timber wall toppers running alongside the aforementioned former coach house building.
- 1.8. The southern boundary of the site includes the southern side elevation of the aforementioned converted coach house building on its westernmost end. With the main boundary consisting of a wire mesh and barbwire fence with dense planting. Along most of the southern side of this boundary is a linear strip of green space associated with the Glencairn residential scheme. With this public open space containing a pathway that provides connection to Murphystown Way via a pedestrian sized opening that adjoins the south westernmost corner of the site. The adjoining and neighbouring development of Glencairn View and Glencairn Garth contains two storey and single storey dwellings. Adjoining the southern end of the eastern boundary of the site is a pocket of open space associated with this mature residential scheme. Views into the site from the adjoining Glencairn residential scheme are limited by the dense tree and hedge planting on site.
- 1.9. To the east and north east of the site is the recently completed residential scheme permitted by the Board under ABP-302580-18. The nearest block lies in close proximity to the eastern boundary of the site and is separated by an open linear as well as falling in ground level linear strip of land. This nearest block is part three and part four storey in built form. Views into the site from this point are limited by the dense hedge and tree planting on the site.

- 1.10. The surrounding setting has a strong residential character and contains an emerging pattern of taller more dense residential buildings.

2.0 Proposed Development

2.1. Planning permission is sought for a residential development comprising 42 no. apartments, in a building up to 5-storeys in height located on lands. The total application area of the site is 0.345 hectare (ha). The application area includes the site (0.335 ha - under applicant ownership) and a portion of land (0.010 ha) beyond the boundary of ownership of the applicant, located to the north-west of the site, where a connection to existing services is proposed to be accommodated. The existing entry from Murphystown Road is proposed to be retained to facilitate access to the site. The development consists of the following components:

- (i) Demolition of the existing single storey dwelling located in the south-western corner of the site. (Note: The gross floor space of proposed demolition is given as 21sq.m.).
- (ii) Construction of a residential building with a maximum height of 5 storeys comprising: 14 x 1-bedroom apartments; 25 x 2-bedroom apartments; 3 x 3-bedroom apartments. The gross floor space of proposed works is given as 3,833.6 sq.m. and the residential mix is broken down as follows:

Figure 1

Apartment Type	No. of Units	% of Overall Units Proposed.
1-Bed	14	33.3
2-Bed	25	59.5
3-Bed	3	7.1
Total	42	100

- (iii) Communal and public amenity space (1,189sq.m.) located to the rear, eastern and western portions of the site.
- (iv) At grade car parking in the northern portion of the site. This would consist of 25 no. resident's car parking spaces, including 1 no. family parking space, 1 no.

accessible space, 2 no. shared parking spaces and 4 no. electric car charging spaces. (Note: 0.62 car parking spaces per dwelling unit).

- (v) 2 no. motorcycle parking spaces.
- (vi) All associated landscaping and tree removal works.
- (vii) 84 no. surface level bicycle parking spaces. This would be comprised of 76 no. long stay spaces and 8 no. short stay spaces.
- (viii) A resident waste bin storage area.
- (ix) All ancillary site development works necessary to facilitate the development including installation of drainage and water supply infrastructure (with this including connection to public mains water and foul drainage to the north west of the site), lighting and associated substation and switch room facilities.

Key parameters of the proposed development are as follows:

Figure 2:

Parameter	Proposed Development
Site Area	0.345ha <i>(Note: 0.335ha in the ownership of the applicant)</i>
Height	5-Storeys
Plot Ratio	1.15
Density	125 units per hectare
Site Coverage	27.8%
Amenity Space	Resident: 272-sq.m. Communal Open Space: 1,189.6-sq.m.
Dual Aspect	48%
Part V	4 No. Units (2 no. 2-bed and 2 no. 1-bed units)

This application is accompanied by the following documentation:

- A Bat Assessment
- Inward Noise Assessment of Ambient
- Tree Survey

- Construction Environmental Management Plan
- Irish Water Confirmation of Feasibility Statement
- Water Services Report
- Flood Risk Assessment
- Traffic and Transport Assessment
- Residential Travel Plan
- Design Statement
- Planning Statement
- Daylight & Sunlight Assessments
- Architectural Heritage Impact Assessment
- Letter of Consent to include the 0.010hectare area outside of the applicant's legal interest.

2.1.1. The applicant responded to the Planning Authority's **further information** request on the 17th day of November, 2022, with this response accompanied by readvertising of the proposed development due to it being considered to be **significant** in its nature. It is of note that the site area to which this application has now extended to include a larger area of Murphystown Way and has a given area of 0.464ha. The given area of works beyond the boundary of land in the applicant's ownership is given as 0.129ha. Of note the proposed development has been revised downwards in unit number to contain 40 dwelling units. 20 of these units are now being dual/corner aspect. The total gross floor area of the apartment building is given as 3,730-sq.m. and the footprint of the building is given as 808.5-sq.m. The residential mix is broken down as follows:

Figure 3

Apartment Type	No. of Units	% of Overall Units Proposed.
1-Bed	10	25
2-Bed	25	62.5
3-Bed	5	12.5
Total	40	100

2.1.2. A revised access arrangement is also provided, it is contended that access to the site via the SHD site is not feasible and that notwithstanding the removal of 22 trees that there would be a net increase of trees due to the 35 trees proposed in addition to the retention of 6 trees on site. This response is accompanied by:

- Updated Photomontages/Visual Impact Assessment
- Pedestrian Wind Environment Statement
- Schedule of Internal Storage Areas
- An External Material and Finishes Plan
- Revised Open Space Plan
- Revised Child Play Space and Measures to Provide Acoustic Buffers
- Clarification of 20% compliance with Part V
- Revised Landscaping Scheme
- Clarification of Servicing
- Clarification of Site Contours and Levels
- Revised Engineering Measures
- Clarification that 64.6% of proposed fourth floor level roof would be green roof.
- Clarification that 25 car parking spaces would be provided. With these consisting of 17 standard parking spaces, 1 family space, 1 accessible space, 2 shared spaces and 4 EV spaces. Car parking ratio of 0.62 per unit and ducting would be provided for future EV charging of spaces.
- Covered Short Stay Visitor Cycle Parking provision.
- Outdoor Lighting Report

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority **refused** permission for the following two stated reasons:

“1. The proposed access arrangements, including the proposals for additional

signalisation and amended road markings on Murphystown Way, represent a significant imposition on current and likely future movements by foot, cycle, vehicle, and rail. The amendments to routes, junctions, and priorities that would result on foot of the subject proposal would represent a threat to the efficiency, convenience, and indeed safety of users of all such modes. In particular, the impact of the proposed access arrangements on the pedestrian and cycle movements to and from the adjacent development to the northeast, the impact on Luas movements by virtue of the potential for vehicles to block the lines, and the impact on vehicular movements on Murphystown Way by virtue of the resultant reduction in the efficiency of the new signalised junction to the north, are contrary to the proper planning and sustainable development of the area. The proposed development would endanger public safety by reason of traffic hazard and obstruction of road users.

2. The proposed development represents an excessive loss of trees on the site, and fails to respond to the opportunities for quality development, and retention of natural heritage, offered by the current extent of vegetation on site. As such, the proposed development would be contrary to Section 12.8.11 of the County Development Plan 2022, and would be contrary to the proper planning and sustainable development of the area”.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **final Planning Officer’s report (14/12/22)** is the basis of the Planning Authority’s decision. It includes the following comments:

- There has been change in local planning provisions.
- Whilst 50% of the apartments are now the dual aspect. With this achieved by dropping two apartments from the proposal.
- The intensified use of the Luas line as a crossing point to serve this proposed development is a cause of concern and does not represent a good outcome.
- Since the SHD was permitted there has been changes in the immediate public domain of the site. This proposal would result in the intensification of the southern access point to Murphystown Way which functions to serve the site as well as

pedestrian and cyclists accessing from buff coloured and surfaced pathway with vehicle access restricted by bollards. The introduction of a 40 dwelling unit scheme on a short stretch of road where stacking of vehicles would be problematic and onto an unsignalized junction within meters of the Luas line would risk disruption to Luas services and impede future upgrades to services as well as capacity to this line. In light of target growth, it is prudent to protect its future capacity.

- The preferred access to the site for vehicles is to the east of the site through the SHD development.
- The TII state that increased vehicle traffic across the light rail corridor may also negatively impact on light rail operating times and service level performance targets as well as increase the risk to public safety.
- Reference is made to provisions relating to the extension of Luas network and introduction of a Metro and the potential adverse implications of the proposed development on these provisions.
- The Transportation Section found serious shortcomings with the proposal for traffic movements to service the proposed development. Particularly in relation to the proposed new signalised junction to the immediate north which included insufficient separation . This proposal would effectively truncate the newly constructed right hand turning lane from the northbound carriageway and are not deemed to be acceptable.
- The Luas crossing to the north has become a pedestrian and cycle access to the SHD scheme. This proposal would effectively result in a shared vehicle, pedestrian, cyclists, and Luas traffic shared space which would involve sharp vehicle turns from the subject site to and from Murphystown Way. Conflict is anticipated as this space is not fit for the purpose now proposed and would be a backward step in serving active modes of travel.
- Refusal is recommended on access arrangements.
- The photomontages provided do not allay their concerns that an appropriate balance has been reached in relation to tree retention and removal on the site.
- The proposed access would have a significant impact on a mature beech tree to the north-western corner of the site.

- The loss of trees remains a concern and should inform the refusal of permission.
- There is an issue with the principle of a 5-storey in height building at this location.
- It is not accepted that the revised apartment scheme accords with the internal storage requirements of Section 12.3.5.3 of the Development Plan and it would appear that internal storage has been overstated.
- The details provided do not fully clarify in a satisfactory manner the external materials and finishes for the apartment building, the storage and plant room buildings. Notwithstanding, this concern could be addressed by way of condition.
- The open space provisions have not been met and it would be appropriate in this circumstance to deal with this concern under Section 48(2)(c).
- The revised 85-sq.m. child play area is acceptable subject to the provision of a 2m high acoustic screen as opposed to a hedge for noise abatement.
- The applicants Part V proposal is acceptable.
- The development on this site should work with the trees on site as an asset. This is not evident in the approach taken to the development of this site.
- The parking ratio of 0.6 spaces per unit is an appropriate level of provision for the proposed development given its proximity adjacent to a Luas Stop. The lack of short stay parking for visitors could be addressed by way of condition.
- The revised scheme has given rise to an increase from 3 bed units comprising 7.5% of the scheme to 12.5% of the scheme.
- No AA or EIA concerns arise.
- Whilst progress has been made on resolving some of the issues arising from the initial scheme, notwithstanding, the access arrangements are not satisfactory would represent a disproportionate impact on the pedestrian, road, and rail movements in the surrounding area. Together with the loss of trees on site would represent a poor approach to the assets of the site. A more considered scheme retaining significantly greater proportion of trees on site would be required. It is recommended that permission be refused.

The **initial Planning Officer's** (10.03.2022) report concludes with a **further information** recommendation in relation to the following matters:

- Item No. 1: Compliance with SPPR 4 of the Design Standards for New Apartment Guidelines, as amended, sought.
- Item No. 2: Alternative access arrangement sought.
- Item No. 3: Compliance with Policy BELAP RES5 sought / Concerns raised over visibility of the scheme from Murphystown Road.
- Item No. 4: Compliance with Internal Storage provision requirements sought.
- Item No. 5: Clarification of External Building Materials for Apartment Building, Bike Storage and Plant Room Buildings.
- Item No. 6: Clarification of Communal and Public Open Space provision sought.
- Item No. 7: Demonstration of outdoor play area sought.
- Item No. 8: Compliance with Part V sought.
- Item No. 9: Concerns raised in relation to the loss of mature trees, including Category A and B trees. Concerns raised in relation to the extent of replacement planting.
- Item No. 10: Clarification of topographic levels and contours sought.
- Item No. 11: Clarity sought on proposed underground services within the landscape plans.
- Item No. 12: Clarity sought on a number of drainage matters.
- Item No. 13: Concern raised that Met Eireann rainfall return table data for the M5-60 and Ratio R values in the calculation of the hydraulic loading not used.
- Item No. 14: Clarification on use of petrol/oil interceptor as part of the attenuation system sought.
- Item No. 15: External Bin Store concerns and potential for pollutants to enter into the surface water network cause of concern.
- Item No. 16: Clarity on green roof cover sought.
- Item No. 17: Provision of 1 car parking space per dwelling unit sought.
- Item No. 18: EV charging sought.

Item No. 19: Revised short stay (visitor) cycle parking spaces sought.

Item No. 20: Lighting Design and Lighting Report Sought.

This further information request is accompanied by a note setting out that the Planning Authority has concerns in relation to the low car parking ratio proposed, the low proportion of existing trees being retained within the site through to the amount of dual aspect apartments proposed. In light of these concerns and taken together with the proposed development being one that represents almost twice the target density contained in the local area plan it is strongly advised that a reduction in the number of apartments is considered.

3.2.2. Other Technical Reports

Transportation Department – Public Lighting Municipal Services (07/12/22): Final report raises no objection subject to safeguards.

Drainage Planning Municipal Services Department (02/12/22): Final report raises no objection subject to safeguards.

Parks (02/03/2022): This report includes the following comments:

- No consultation was had with them despite the significant loss of mature trees.
- The proposed development conflicts with the findings of the applicants Arborist.
- There is an excessive removal of trees proposed in this application and there is little attempt to retain and/or incorporate the amenity of this site including its trees as part of the design.
- This proposal does not include commensurate tree planting. Further much larger scaled trees would be required with suitably sized tree pits and rootzone soil material than that proposed.
- There is no clear evidence of proposed finished surface landscape topographic levels and contours provided. The extreme slope on the site is not clearly depicted.
- The open amenity space proposed is secondary and due to the topography of the site its usefulness for future occupants is questioned.
- Surface car parking is occupying needed outdoor amenity spaces.
- All underground services have not been clearly identified throughout this site.

- The trees and hedgerows to be retained are not clearly identified or consistently depicted in the landscape, architecture and engineering drawings provided.

Transportation (09.03.22): This report includes the following comments:

- The proposed development should be served through the approved SHD development ABP-302580-18.
- The proposed vehicular access to the proposed development via the existing vehicular crossing is acceptable.
- The provision of 25 no. car parking spaces for 42 apartments is not acceptable having regard to local and national design standards. It is considered that as the area is an intermediate urban location and one off-street car parking space per residential apartment unit to include for all parking types, being either resident/visitor/mobility impaired/car share would be appropriate. As such there is a deficiency of 17 spaces.
- 1 no. disabled car parking space is required under the Development Plan standards.
- The long stay cycle parking spaces are provided in the form of undesirable double stacker spaces and the short stay cycle parking spaces are not covered.
- Concludes with a request for further information.

Environmental Health Officer (01.12.22): Final report concludes that the application is acceptable subject to a number of safeguards.

Surface Water Drainage (21.05.22): Concludes no objection subject to safeguards.

Housing Department (01.12.22): The transfer of the eight units comprising of 4 no. 1-bedroom and 4 no. 2 bedroom units is deemed acceptable to comply with the 20% Part V provision.

Waste Section Planning Report (21.02.22): No objection subject to safeguards.

3.3. Prescribed Bodies

Transport Infrastructure Ireland (TII) (24.02.22): No objection subject to safeguards in the grant of permission including but not limited to the following:

- That no adverse impact on Luas operation and its safety.

- Development comply with its Code of Engineering Practice for works on, near or adjacent to the Luas Light Rail System.
- Prior to construction that a number of documents are provided to them including a Construction Traffic Management Plan, Demolition/Construction Management Plan.
- Overhead Conductor System Poles be fixed on/or adjacent to the proposed development.

Uisce Éireann (24.02.2022): No objection, subject to standard safeguards.

3.4. Third Party Observations

- 3.4.1. Several Third-Party Observations were received by the Planning Authority during the course of their determination of this case, including submissions made on the significant further information received by the Planning Authority on the 17th day of November, 2022. I have noted their content and consider that the key issues raised correlate with those raised by the Third-Party Observers in this case. Copies of these submissions are attached to file and a summary of the Third-Party Observations received by the Board can be found in Section 6 of this report.

4.0 Planning History

4.1. Site

P.A. Ref. No. D21A/0324:

Retention permission was granted for a temporary duration of two years for the use of a modified storage container (14.32 sq.m.) as a takeaway coffee kiosk for the sale of hot beverages including tea and coffee, and confectionaries/baked goods, the siting of a staff Portaloo (1.44sq.m.) together with all ancillary site works necessary to facilitate the development. (Permission granted on the 3rd day of June, 2021).

ABP-302138-18:

On appeal to the Board against being listed on the Vacant Site Register it was considered that the site was not a vacant site within the meaning of the Urban Regeneration and Housing Act, 2015, as the area of land identified by the Planning Authority includes a person's home. Decision date: 15/04/2019.

Light Rail Order SI 441/2006:

The site forms part of the former grounds of 'Clonlea House' which was required to be demolished under the above Light Rail Order in order to facilitate the construction of the Green Line Luas and Glencairn Luas Stop. The only remaining structure that was not demolished within the site was a former coach house which was converted into habitable use. (Signed by the Minister on the 28th day of July, 2006)

4.2. Setting

ABP-302580-18 (SHD)

Permission was granted subject to conditions for the demolition of an existing house as well as outbuildings and the construction of 243 no. apartments, 98 no. houses, childcare facility and associated site works on the adjoining site to the east. Decision date: 19/12/2018.

5.0 Policy Context

5.1. Local – Development Plan

5.1.1. The Dún Laoghaire-Rathdown County Development Plan, 2022-2028, is the operative County Development Plan under which the site is subject to land use zoning 'A' which has the objective: *"to provide residential development and improve residential amenity while protecting the existing residential amenities"*. 'Residential' development is permitted in principle under this land use zoning objective.

5.1.2. The site is also subject to an objective to *"protect and preserve Trees and Woodlands."* Section 12.8.11 of the Development Plan deals with the matter of existing trees and hedgerows which are subject to this objective and states that: *"new developments shall be designed to incorporate, as far as practicable, the amenities offered by existing trees and hedgerows."*

5.1.3. Section 12.3.7.7 - Infill

In accordance with Policy Objective PHP19: Existing Housing Stock – Adaptation, infill development will be encouraged within the County.

New infill development shall respect the height and massing of existing residential units.

Infill development shall retain the physical character of the area.

5.1.4. Policy Objective PHP18 - Residential Density

Seeks to increase housing supply and promote compact urban growth through the consolidation and re-intensification of infill / brownfield sites having regard to proximity and accessibility considerations, and development management criteria set out in Chapter 12. Additionally, this policy objective seeks to encourage higher residential densities on the proviso proposals provide for high quality design and ensure a balance between the protection of existing residential amenities and the established character of the surrounding area, with the need to provide for high quality sustainable residential development.

5.1.5. Policy Objective PHP20 - Protection of Existing Residential Amenity

Seeks to ensure the residential amenity of existing homes in the Built-Up Area is protected where they are adjacent to proposed higher density and greater height infill developments.

5.1.6. Policy Objective PHP27 - Housing Mix

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

5.1.7. Policy Objective PHP42 - Building Design & Height

Seeks to encourage high quality design of all new development.

Seeks to ensure new development complies with the Building Height Strategy for the County as set out in Appendix 5 in a manner consistent with NPO 13 of the NPF.

5.1.8. Policy Objective PHP44 - Design Statements

Requires all medium-to-large scale and complex planning applications (30+ residential units) submit a 'Design Statement'. Additionally, such developments shall be required to demonstrate how the proposed development addresses or responds to the design criteria set out in the 'Urban Design Manual – A Best Practice Guide' (DoEHLG, 2009) and incorporates adaptability of units and / or space within the scheme.

5.1.9. Policy Objective BHS 1- Increased Height.

Seeks to support the consideration of increased heights and also to consider taller buildings where appropriate in suitable areas such as those well served by public transport links (i.e. within 1000 metres/10 minute walk band of LUAS stop, DART stations or Core/Quality Bus Corridor, 500metres/5 minute walk band Bus Priority Route) provided that proposals ensure a balance between the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity and the established character of the area in a manner consistent with NPO 35 and SPPR's 1 & 3).

Having regard to the Building Height Guidelines and more specifically to apply SPPR 3 the Development Plan it sets out that there may be instances where an argument can be made for increased height and/or taller buildings in the areas mentioned above. In those instances, any such proposals must be assessed in accordance with the performance-based criteria set out in Table 5.1 which is contained in Section 5 of the Development Plan. This sets out that the onus will be on the applicant to demonstrate compliance with the criteria.

Within the built-up area of the County increased height can be defined as buildings taller than prevailing building height in the surrounding area. Taller buildings are defined as those that are significantly taller (more than 2 storeys taller) than the prevailing height for the area.

5.1.10. Table 5.1 of the Development Plan sets out the criteria for assessing proposals for increased height (defined as building or buildings taller than prevailing building heights in the surrounding urban areas) or taller buildings or for a building that is higher than the parameters set out in any LAP, or any specific guidance set out in this County Development Plan.

5.1.11. Quantitative Standards for Residential Development include:

- *Habitable Rooms*: Shall comply with appropriate national guidelines/standards in operation at the date of application.
- *Residential Density*: The overarching objective is to optimise the density of development in response to type of site, location, and accessibility to public transport.

- *Separation Between Blocks:* All proposals for residential development, particularly apartment developments and those over 3 storeys high, shall provide for acceptable separation distances between blocks. A minimum clearance distance of circa 22 metres, in general, is required, between opposing windows in the case of apartments up to three storeys in height. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size, and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable. Where minimum separation distances are not met, a daylight availability analysis will be required.
- *Dual Aspect:* There shall be a minimum of 50% dual aspect apartments in a single scheme. For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, Council may exercise discretion to consider dual aspect unit provision at a level lower than the 50% minimum outlined above on a case-by-case basis, but subject to the achievement of overall high design quality in other aspects.
- *Minimum Apartment Floor Areas:* All apartment developments shall accord with or exceed the minimum floor areas indicated in the Sustainable Urban Housing: Design Standards for New Apartments.
- *Transport:* Proposals are sought to provide for pedestrians and cyclists as part of the development management process with all new development required to maximise permeability and connectivity for pedestrians and cyclists and to create direct links to adjacent roads and public transport networks in accordance with the provisions of the: 'Urban Design Manual – A Best Practice Guide' (2009), 'Sustainable Urban Housing: Design Standards for Apartments' (2018) and the 'Design Manual for Urban Roads and Streets' (DMURS, 2019).
- *Car Parking Provisions:* These are provided for under Policy Objective T18, Section 12.4.5 and Map T2.
- *Cycle Parking Provisions:* These are provided for under Section 12.4.6.

5.1.12. Policy Objective HER8 of the Development Plan deals with the matter of works to Protected Structures. It sets out that it is a Policy Objective:

- (i) Protect structures included on the RPS from any works that would negatively impact their special character and appearance.
- (ii) Ensure that any development proposals to Protected Structures, their curtilage and setting shall have regard to the 'Architectural Heritage Protection Guidelines for Planning Authorities.'
- (iii) Ensure that all works are carried out under supervision of a qualified professional with specialised conservation expertise.
- (iv) Ensure that any development, modification, alteration, or extension affecting a Protected Structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout, and materials.
- (v) Ensure that the form and structural integrity of the Protected Structure is retained in any redevelopment and that the relationship between the Protected Structure and any complex of adjoining buildings, designed landscape features, or views and vistas from within the grounds of the structure are respected.
- (vi) Respect the special interest of the interior, including its plan form, hierarchy of spaces, architectural detail, fixtures and fittings and materials.
- (vii) Ensure that new and adapted uses are compatible with the character and special interest of the Protected Structure.
- (viii) Protect the curtilage of protected structures and to refuse planning permission for inappropriate development within the curtilage and attendant grounds that would adversely impact on the special character of the Protected Structure.
- (ix) Protect and retain important elements of built heritage including historic gardens, stone walls, entrance gates and piers and any other associated curtilage features.
- (x) Ensure historic landscapes and gardens associated with Protected Structures are protected from inappropriate development (consistent with NPO 17 of the NPF and RPO 9.30 of the RSES).

5.1.13. Section 5.5.6 - Policy Objective T9: Luas Extension and MetroLink states that it is a *"Policy Objective to promote, facilitate and cooperate with other agencies in securing the extension of the Luas network in the County as set out in the NTA's 'Greater Dublin*

Area Transport Strategy 2016-2035' and including any future upgrade to Metro. (Consistent with RPO 4.40 and 8.8 of the RSES)."

5.2. Local – Other

Ballyogan & Environs Local Area Plan, 2019 to 2025.

Figure 1.5 shows that the site is located in the south western corner of Glencairn North. With Figure 2.3 showing that the topography of the site is a high point relative to other lands that comprise Glencairn North and also the lands to the south that form part of Glencairn South.

Glencairn North forms part of the 'Glencairn Quarter'. The LAP seeks to encourage and support the further development of Leopardstown Valley with this including facilitating the comprehensive and sustainable development of the zoned residential lands at Glencairn North. New and improved links from this Neighbourhood to lands across the M50 at Leopardstown and Sandyford are key.

Figure 4.7 sets out the Commuting Trips from the LAP area to Sandyford Business District as being over 70% by car.

Policy BELAP MOV11 – Mobility Management states that: *"it is an objective of the Plan to foster and support a pro-active mobility management approach and a culture of sustainable travel in new and existing developments"*.

Policy BELAP MOV12 – Cycling Infrastructure states that: *"it is an objective of the Plan to provide good quality end of trip facilities to encourage walking and cycling such as secure and weather proof bike stands, lockers, showers, changing and drying rooms"*.

Section 5.1.2. deals with the matter of 'Capacity for Additional Population Growth' and in relation Glencairn North to the east of the Luas Line 340 SHD residential units granted.

Policy BELAP RES1 – Density General states that: *"to achieve residential densities within the BELAP area sufficient to generate a critical mass of population to support and sustain commercial and community services and quality public transport infrastructure. Higher densities of population should be focused on services and not transport corridors alone."*

Policy BELAP RES2 – Density by Neighbourhood states that: *"any residential scheme within each of the Neighbourhoods shall as a general rule have a target net density as*

set out in Table 5.4, subject to the provisions of any Site Development Frameworks, where applicable. Within the site boundary, any major and local distributor roads; primary schools, churches, local shopping etc.; open spaces serving a wider area; and significant landscape buffer strips shall be deducted from gross site area to give a figure for net site area.”

Table 5.4 – Target Residential Densities sets out for the Neighbourhood 1 – Glencairn North a target net density (units per hectare) of 65. The rationale stated is “*close to high quality public transport and to Sandyford Business District.*” Of note the site is immediately bound by Neighbourhood 2 – Glencairn South which has a lower target net density of 50. The rationale for this density is given as: “*predominantly established low-density housing with little opportunity for infill development.*”

Section 5.3.4. deals with Building Height. It states that: “*there are currently no buildings within the BELAP lands that could be considered tall by contemporary standards. The Elmfield and Castle Court apartment buildings at the west end of Ballyogan Road are 4 storeys in height, while the Carrickmines Green apartments at Old Glenamuck Road are up to 5 storeys in height. The tallest building in The Park Carrickmines is 6 storeys. Taking into account the policies of higher-tier plans as set out in Section 5.2 above, the character and constraints of each of the Neighbourhoods, and proximity to existing and proposed services and public transport, the following standards in relation to Building Height shall apply.*”

- Policy BELAP RES3 – Building Height by Neighbourhood: “*The building heights of residential schemes shall be informed by the considerations set out in Table 5.5, unless otherwise indicated by the detailed provisions of any Site Development Frameworks, where applicable, and subject to Policy BELAP RES4 below.*”
- Policy BELAP RES4 – Locations for Higher Buildings: “*The locations identified as ‘RES4’ in Glencairn North, Kilgobbin South, Mimosa-Levmoss, Racecourse South, The Park Carrickmines, and Old Glenamuck Road are considered as suitable locations for higher buildings within the BELAP area (see Figure 11.1). It is anticipated that all bar one of these locations would be suitable for residential buildings, consistent with the prevailing zoning objective. The designation at The Park Carrickmines is subject to ‘E’ Zoning Objective, where residential is ‘open for consideration’ under the*

County Development Plan and as such, any proposed use mix would need to display compliance with this zoning objective.”

Table 5.5 – Building Heights sets out that the key consideration for height in the Neighbourhood of Glencairn 1: *“is the relationship to the M50 corridor and the site’s size and topography give capacity for height, subject to consideration of protected structures”*.

Policy BELAP RES5 – Building Height by Scheme states that: *“any planning application for a scheme which proposes buildings in excess of 4 storeys shall be accompanied by an analysis of building height and positioning of buildings with reference to the following issues:*

- Impacts on the immediate and surrounding environment – streetscape, historic character.*
- Impacts on adjoining structures, with a focus on overlooking and impact on residential amenity.*
- Relationship to open spaces and public realm.*
- Views and vistas.*
- Daylight and sunlight, including shadow analysis where appropriate.*
- Wind and microclimate analysis*
- Impacts on residential amenity of these buildings from noise sources such as motorway noise.*
- Placemaking and the ability of taller buildings to assist with legibility and wayfinding within a Neighbourhood.”*

5.3.5. Housing Mix and Design. It sets out that the following policies are applicable:

- Policy BELAP RES6 – Housing Mix: “Any planning application for new residential development within the BELAP area shall provide for a suitable mix of house types and sizes that meet the needs of a range of households and that both complement and enhance the existing residential mix. In locations where there is a dominance of any particular unit size or type, developments which contribute to a diversification of the housing stock shall be encouraged.”*

- Policy BELAP RES7 – Housing Design: *“To promote quality innovative housing designs that respect the particular character of an area and create a sense of place. Residential schemes of greater than 30 units shall be accompanied by a design statement”.*
- Policy BELAP RES9 – Social Housing: *“To support the delivery and integration of the proposed Council housing scheme at Ballyogan Court South (see Figure 11.1), and to pursue further opportunities for social housing throughout the BELAP area in an integrated manner, through ‘Part V’ housing, Council own build, delivery by approved housing bodies, or otherwise, in line with the council’s Housing Strategy, and to support any Affordable Housing schemes that might be introduced by the Department of Housing, Planning, and Local Government”.*

Chapter 7 deals with the matter of Built Heritage. With Section 7.1.1 referring to Glencairn House, the Gate Lodge and its entrance, railings, gates, piers, and archway. With Section 7.1.2 setting out the area’s rich archaeology.

7.3.1 includes the following Built Heritage Policies.

- Policy BELAP BH1 – Urban Design: *“To promote high quality urban design with particular reference to the ‘12 Criteria’ outlined in the ‘Urban Design Manual - A Best Practice Guide’ (2009)”.*
- Policy BELAP BH2 – Protected Structures: *“To ensure that new development respects the significance of the Protected Structures within the BELAP area and responds to their historic spatial context and landscape setting and the opportunity presented by these buildings to create a unique feature and setting that enhance the sense of place for new communities”.*

Section 7.3.2 sets out the following policies:

- Policy BELAP A1 – Archaeological Assessment: *“To require Archaeological Impact Assessments, including an archaeological geophysical survey, with any Planning application for future redevelopment within lands containing, or adjoining, sites of archaeological interest, including recorded monuments”.*
- Policy BELAP A2 – Archaeological Features: *“To incorporate historic features and archaeological remains into the design and layout of new development areas so as to*

link new development with its historical context and enhance the sense of unique identity”.

Of note Policy BELAP COM14 – Public Realm seeks to facilitate the delivery of improvements to the public realm, with particular focus including Leopardstown Valley.

5.3. **Local Other**

- Trees and Urban Forestry Strategy, 2011-2015 (currently being updated).
- The Benefits of Trees Booklet.
- Standards for Cycle Parking and Associated Cycling Facilities for New Developments, 2018.
- Dún Laoghaire-Rathdown County Council Development Contribution Scheme, 2023-2028.
- Dún Laoghaire-Rathdown County Council Guidelines for Naming and Numbering.

5.4. **Regional**

5.4.1. **Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Regions, 2019.**

This Strategy Document supports the implementation of Project Ireland 2040 and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the region. The following regional policy objectives (RPOs) are considered relevant to this application:

RPO 3.2 – Promotes compact urban growth, a target of at least 50% of all new homes should be built within or contiguous to the existing built-up area of Dublin city.

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

RPO 4.40 - Supports “*ongoing investment in public transport infrastructure, including the appraisal, planning and design of the LUAS extension to Bray.*”

Table 8.2: Rail Projects for the Region. This includes LUAS Green Line Capacity Enhancement in advance of Metrolink.

According to the RSES, the site lies in the Dublin metropolitan area, where it is intended to deliver sustainable growth through the Dublin Metropolitan Area Strategic Plan (MASP). It advocates sustainable consolidated growth of the Metropolitan Area, including brownfield and infill development, to achieve a target to 50% of all new homes within the built-up area of Dublin City and its suburbs.

Of further note Section 2.2 sets out the following key vision *“to create a sustainable and competitive Region that supports the health and wellbeing of our people and places, from urban to rural, with access to quality housing, travel and employment opportunities for all”* and also sets out the following key principles:

- Healthy Placemaking - To promote people’s quality of life through the creation of healthy and attractive places to live, work, visit, invest and study in.
- Climate Action - The need to enhance climate resilience and to accelerate a transition to a low carbon society recognising the role of natural capital and ecosystem services in achieving this.
- Economic Opportunity - To create the right conditions and opportunities for the Region to realise sustainable economic growth and quality jobs that ensure a good living standard for all.

5.5. National

- 5.5.1. **Project Ireland 2040 - National Planning Framework (NPF)**, 2018-2040, is the Government’s high-level strategic plan for shaping the future growth and development of the country to the year 2040 and within this framework Dublin is identified as one of five cities to support significant population and employment growth. The NPF supports the requirement set out in the Government’s strategy for: ‘Rebuilding Ireland: Action Plan for Housing and Homelessness’, 2016, to ensure the provision of a social and affordable supply of housing in appropriate locations.

National policy objectives (NPOs) for people, homes and communities are set out under chapter 6 of the NPF and include the following:

- 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 11 presumption in favour of development in existing settlements subject to safeguards.
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking.
- NPO 32 targets the delivery of 550,000 additional households by 2040.
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location.

5.5.2. **Housing for All – A New Housing Plan for Ireland, 2021.**

The government's vision for the housing system over the longer term is to achieve a steady supply of housing in the right locations with economic, social, and environmental sustainability built into the system. The policy has four pathways to achieving housing for all:

- Supporting home ownership and increasing affordability.
- Eradicating homelessness, increasing social housing delivery, and supporting social inclusion.
- Increasing new housing supply.
- Addressing vacancy and efficient use of existing stock.

This plan contains 213 actions which will deliver a range of housing options for individuals, couples, and families.

5.5.3. **Rebuilding Ireland – Action Plan for Housing and Homelessness, 2016.**

Pillar 3 of this Plan relates to increasing the output of private housing to meet demand at affordable prices.

5.5.4. **Climate Action Plan, 2024.**

Climate Action Plan 2024 is the second statutory update to the plan since the Climate Action and Low Carbon Development (Amendment) Act, 2021, was signed into law, committing Ireland to 2030 and 2050 targets for reducing greenhouse gas (GHG) emissions.

5.5.5. National Sustainable Mobility Policy, 2022.

This policy aims to support this modal shift between now and 2030, through infrastructure and service improvements, as well as demand management and behavioural change measures. This is with a view to encouraging healthier mobility choices, relieving traffic congestion, improving urban environments, and helping to tackle the climate crisis. It also takes account of Ireland's commitment to a 51% reduction in our carbon emissions by 2030 and to reach net zero by 2050.

5.5.6. Places for People – the National Policy on Architecture, 2022: This policy document provides national policy on architecture and outlines ways to promote and embed quality in architecture and the built and natural environment over the coming years in Ireland.

5.5.7. Having regard to the nature of the proposed development, the following plans and strategy documents are also relevant:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023).
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018).
- Architectural Heritage Protection Guidelines for Planning Authorities, (2011).
- Delivering Homes, Sustaining Communities (2007) and the accompanying Best Practice Guidelines - Quality Housing for Sustainable Communities.
- European Union (Energy Performance of Buildings) Regulations, 2021,
- Building Research Establishment (BRE) 209 Guide - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice, (3rd Edition, 2022).
- Cycle Design Manual, (2023).
- Transport Strategy for the Greater Dublin Area, 2022-2042.

5.6. Natural Heritage Designations

- 5.6.1. The site is located c4.6km to the south west of South Dublin Bay SAC (Site Code: 000210) and South Dublin Bay & River Tolka Estuary (Site Code: 004024), as the bird would fly.

5.7. EIA Screening

- 5.7.1. The proposed development comprises of the demolition and removal of existing buildings on site together with the removal of 22 mature trees in order to facilitate the construction of an apartment scheme that has been revised during the course of its determination by the Planning Authority from 42 dwelling units to 40 together with all associated site works and services on a stated 0.345ha brownfield site.
- 5.7.2. The development subject of this application falls within the class of development described in 10(b) Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended. EIA is mandatory for developments comprising over 500 dwelling units or over 10 hectares in size or 2 hectares if the site is regarded as being within a business district. I note that in this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.
- 5.7.3. The number of dwelling units proposed as proposed initially but more crucially as revised is well below the threshold of 500 dwelling units noted above. The site itself is located within suburban area of Dún Laoghaire-Rathdown which forms part of metropolitan area of Dublin city and does not form part of a business district. The site is, therefore, materially below the applicable threshold of 10 hectares.
- 5.7.4. In addition to the proposed development falling within the class of development described in 10(b) Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended, Class 14 of Part 2 to Schedule 5 of the Planning Regulations is also in this case relevant. This provides that mandatory EIA is required for: works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule, where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7. In relation to the proposed demolition works this relates to a modest converted coach building to habitable use which is of no architectural or other merit and has a given gross floor area of 21m².

- 5.7.5. This proposal is located on lands zoned Objective 'A' in the current Dún Laoghaire-Rathdown County Development Plan, 2022-2028, which seeks to protect and/or improve residential amenity and is also subject under this plan to a specific objective *'to protect and preserve Trees and Woodlands'*.
- 5.7.6. The buildings and structure on site are of no conservation status and their removal could be undertaken in a reasonable and safe manner complying with a final Construction Environmental Management Plan (CEMP), Demolition Plan and Waste Management Plan for the project.
- 5.7.7. This serviced brownfield site does not form part of any European site and is situated at a significant lateral separation distance from the nearest such site. As set out in Section 5.6.1 above the site is located c4.6km to the south west of South Dublin Bay SAC (Site Code: 000210) and South Dublin Bay & River Tolka Estuary (Site Code: 004024), as the bird would fly. These sites are significantly beyond the zone of influence of this project.
- 5.7.8. The proposed development will not have an adverse impact in environmental terms on surrounding land uses. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The existing public infrastructure, including foul drainage, has sufficient capacity to accommodate the scale of development proposed subject to standard safeguards. I consider that the issues arising from the proximity/connectivity to a European Site can be adequately dealt with under the Habitats Directive.
- 5.7.9. The applicant submitted an Appropriate Assessment Screening Report which concluded that the site is not likely to result in a significant effect on any European Site either alone or in combination with other plans and projects, thus Stage 2 Appropriate Assessment was not required. Additionally, this application is accompanied by a number of other documentations including Surface Water Management Details; Foul Drainage Details; Construction Environmental Management Plan; Outline Waste Management Plan; Flood Risk Assessment through to Detailed Landscaping Scheme. These address the issues arising in terms of the sensitivities in the site, its location and the overall changes now sought under this proposed residential scheme.

5.7.10. I have assessed the proposed development having regard to the above criteria and associated sub criteria having regard to the Schedule 7A and other information which accompanied this application alongside all relevant information on file. I have also completed a screening assessment as set out in Appendices attached to this report. (Note: See Appendix 1 and 2 attached).

5.7.11. I recommend to the Board 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 would not therefore be required.

5.7.12. This conclusion of this is assessment is based on:

Having regard to -

- The nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended.
- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Classes 14 of the Planning and Development Regulations 2001, as amended, and the existing building on site is not designated for protection under the current Dún Laoghaire-Rathdown County Development Plan, 2022-2028, or otherwise.
- The location of the site on lands on residentially zoned lands (Note: Objective 'A') as provided for under the Dún Laoghaire-Rathdown County Development Plan, 2022-2028, which seeks to protect and/or improve residential amenity.
- The location of the site in the 'Glencairn North' area of Ballyogan & Environs Local Area Plan, 2019 to 2025, where residential development is deemed to be permissible.
- The location of the development is outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations, 2001, (as amended).
- The results of the strategic environmental assessment of the Dún Laoghaire-Rathdown County Development Plan, 2022-2028, undertaken in accordance with the SEA Directive (2001/42/EC).

- The brownfield location of the site within an existing built-up suburban area, with the existing building on site being a serviced site though the temporary coffee kiosk on site is served by a Portaloo for its employees.
- The availability of mains water and wastewater services to serve the additional quantum of development sought under this proposed development.
- The features and measures proposed by applicant to ensure no connectivity to any sensitive location.
- The existing and emerging pattern of development particularly in relation to Brownfield/Infill sites in this area.
- The location of the site outside of any sensitive location specified in Article 109 of the Planning and Development Regulations 2001, (as amended).
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage, and Local Government, (2003).
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended).

Conclusion:

I have concluded that by reason of the nature, scale and extent of the quantum of development sought, the location of the subject site in a serviced suburban landscape through to the lateral separation distance between it and the nearest European site, 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 would not therefore be required in this case.

5.8. Wildlife – Natural Heritage

- 5.8.1. The basic designation for wildlife is the Natural Heritage Area (NHA). This is an area considered important for the habitats present or which holds species of plants and animals whose habitat needs protection. Under the Wildlife Amendment Act, (2000), NHAs are legally protected from damage from the date they are formally proposed for designation. I therefore note that the site is located c1.4km to the east of Fitzsimon’s Wood pNHA (Site Code: 001753), as the bird would fly.

- 5.8.2. This application is accompanied by a 'Bat Assessment' which found Bat activity on the site. All Irish bats are afforded protected under national (Wildlife Acts, 1976-2012) and EU legislation (under Annex IV of Habitats Directive, with Lesser Horseshoe Bat included under Annex II also). This matter is discussed separately (Note: Section 8.3).

5.9. Built Heritage

- 5.9.1. The site forms part of the lands that formed part of the once larger grounds of Glencairn House which is located to the west of the site. It and its associated buildings, structures and spaces of merit are afforded protection by way of their designation as a Protected Structure (RPS No. 1643). With the buildings including the period Gate Lodge located just over 12m to the north of the site boundary and a cut stone perimeter boundary that lies at a closer proximity to the site opposite the existing entrance serving the site. It is further noted that Glencairn House, its associated buildings, structures and spaces of merit are listed in the NIAH (Note: Reg No. 60230004).
- 5.9.2. The northern boundary of the site is located c60m to the south of Recorded Monument DU023-025 (Class TOHO). (Note: Murphystown Castle)

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The First Party's grounds of appeal can be summarised as follows:
- The proposed development was revised to include a revised signalised junction.
 - The Board should be aware of the historical context of the site which included the compulsory acquisition of part of the site in relation to works associated with the Dublin Light Rail Line B1. The site forms part of the grounds of Clonlea House that was required to be demolished as part of this Light Rail Order (SI 441/2006) to make way for the construction of the Green Line Luas. Two of the three dwellings on this site that were in the appellants ownership were demolished with the Coach House that is still on site retained following High Court proceedings. As part of the High Court settlement the Railway Procurement Agency, now known as TII, agreed to grant a right-of-way for vehicles and pedestrians to cross the rail line to and from the blue lands at one no. or other of the 3 no. alternative entrances, marked in

green in Figure 1 of their submission, as was acceptable to the Council. Subsequent to this an appeal was lodged with the Board in relation to the inclusion of the subject site on the Councils Vacant Site Register. The Board determined under ABP-302138-18 that the site was not a vacant site under the meaning of the Urban Regeneration and Housing Act, 2015, as the area includes a person's home.

- This scheme has been designed to maximise the potential of the site.
- The proposed development is consistent with planning policy provisions.
- Site constraints are such that the development must be concentrated closest to the eastern boundary of the site to allow for the maximum retention of as many trees as possible as well as to limit impact on residential properties in its vicinity.
- There is a significant shortage of residential accommodation in Dublin.
- The site is well served by public transport.
- In terms of employment the site is located approximately 900m from the site and the site is in easy reach of Beacon South Quarter shopping centre and Central Park which accommodates retail as well as office developments.
- The site forms part of a transitioning low density to higher density area.
- There is no proposal to change the existing vehicle access and consent to retain this access has been received from TII alongside their consent to lodge this application.
- Access serving the site is via a priority junction with Murphystown Way and requires vehicles to cross the Luas tracks at this location. This access is considered the most suitable access arrangement given the site constraints.
- The design seeks to reduce reliance on private car use and promote use of public transport. Therefore, a car parking ration of 0.62 is proposed.
- The Planning Authority nor its Transportation department raised no traffic related concerns in relation to the temporary coffee kiosk permitted on this site under P.A. Ref. No. D21A/0324.
- It is agreed that the proposed reduction from 28m to c9m is excessive and it is now recommended a minimum length of 12m. This increase could be conditioned as part of grant of permission by the Board.

- It is not accepted that the proposed development would give rise to an excessive loss of trees. The retention of existing trees together with the introduction of new native and non-native trees the number of which was increased as part of the further information response will assist in mitigating views into the site. The proposed development would give rise to an overall net increase of 59 trees.
- The project arborist outlines that several of the trees have undergone pruning or damage to the main trunks through to exhibit wounds and evidence of decay.
- The photomontages provided accurate representations of the proposed tree planting and their anticipated growth.
- This proposal is responsive to the site's context.
- The Board is requested to overturn the decision of the Planning Authority.
- This application is accompanied by a document prepared by the appellants consultant engineers which is dated January, 2023. It includes the following comments:
 - This document provides an analysis of the current signalised junction operations and its design parameters together with a review of the Glencairn SHD residential development: ABP-302580-18 is provided. With this analysis providing an examination of the proposed signalisation of the southern crossing to the subject site having regards to the additional trips the proposed development would generate. This analysis specifically analyses the right turning lane capacity requirements in the 2035 Design Year for both the SHD development and the proposed development.
 - This analysis finds that the current right turning lane for traffic entering the northern crossing is c28m which is far in excess of that required to meet the SHD residential development and appears to reflect the original right turning lane that existed before signalisation of the northern crossing. The further information drawings show a reduced turning lane to 9m and 11m for the northern crossing and southern crossing, respectively. This is considered insufficient capacity for peak PM movements as 12m would be required for the SHD development. It is therefore proposed to amend the design to provide up to 17m, if required.

- The analysis also concludes that signalisation of the southern crossing does not cause significant traffic impacts over and above the current layout when assessed for the 2035 Design Year. With this being due to the small number of trips generated by the proposed development on this site.
- An examination of alternative access to the east and south of the site are provided.
- The Transportation Department in their report dated the 09/03/2022 though preferring that a vehicle access is provided through the SHD lands they note that the proposed vehicular access to the proposed development via the existing Luas vehicular crossing to be acceptable. They also raise no objection for access to the site via Murphystown Way.
- A pedestrian pathway could be highlighted through the use of alternative materials on the adjoining public domain if necessary.
- It is not accepted that the proposed development to be an intensification of the crossing point.
- The Planning Officer's concerns that the stacking of vehicles onto an unsignalized junction meters from a signalised junction would be incredibly problematic and considers the risk of disruption to Luas services as significant. Yet this concern was not raised in the original Transportation Planning Report nor in TII submission. Despite this the applicant proposes the upgrading of the southern uncontrolled existing access to a signalised junction linked to the recently constructed signalised junction located to the north.
- The SHD lands may not be taken in charge for many years.
- Prior to the construction of the signalised junction to serve the SHD Development both the then uncontrolled northern and southern crossings were served by a single right turn filter lane, and if the proposal to provide two separate right turn filter lanes is of concern, then we can combine them into a single right turn filter lane broken by the proposed yellow box.
- While the potential for rear-end shunt collisions may exist, it is not considered to be exacerbated by the proposed development and its proposed access arrangement.

- Approvals to provide active modes of travel to the SHD development via the southern crossing should have allowed for the subject sites existing usage and future zoned usage via its existing vehicular access.

6.2. Planning Authority Response

6.2.1. Their response included comments from their Drainage Planning Section which can summarised as follows:

- The reasons for refusal were not drainage related.
- Should the Board be minded to grant permission no objection is raised in relation to the matter of drainage subject to the imposition of a number of recommended conditions.

6.3. Observations

6.3.1. The submission from Kevin Hyland can be summarised as follows:

- The applicants' responses to the further information and significant further information requests did not meaningfully overcome the density concerns of this scheme. The only change was changing four apartments into two three-bedroom apartment units in order to meet the minimum dual aspect requirement.
- The density is twice that permitted under the local area plan for development in the Glencairn north region. It is also twice the density of the immediately adjacent permitted SHD development which has been implemented.
- The 65 unit per hectare density for this area has been in effect exceeded for this area by the two SHD developments completed in its immediate vicinity.
- Permitting a development of this density would not only conflict with the density of the local area plan but would put extra pressure on the social services and local amenities that were sized to accord with the local plan recommendations.
- There is an inadequate provision of car parking to meet the needs of this scheme and the assumption that the local public transport would meet the needs of the occupants is not accepted.
- The minimum provision of play space which is not met in this residential scheme.

- The access onto Murphystown Way is concerning and also gives rise to safety concerns for pedestrian and other road users.
- The five-storey height would give rise to a building that is 128m above sea level and would be the tallest building in the Glencairn Quarter. This would be completely out of character with the surrounding area. Additionally, the site is not located at one of the areas identified under the local area plan for tall buildings.
- The proposed building would be of a height that would have a domineering and disconnected presence with its setting. It would also be out of character with the existing dwellings at Glencairn to the south.
- A proposal that is sympathetic to the recommendations of the local area plan is required for this site. This proposal is not.

6.3.2. The submission from Eoin Quaid can be summarised as follows:

- Access serving the site is not suitable.
- Proposal would give rise to road safety and traffic hazard issues for its users.
- Proposal would compromise the function of the Luas Green Line.
- The validity of the Traffic & Transport Assessment is questioned.
- This proposal is out of character with its setting.
- The site contains significant mature and evergreen trees which play a significant role in the local environment. It also includes Bats which are a protected species. In order to preserve the natural wild life habitat of the site it is imperative that all mature trees within the site are preserved and future development on this site is scaled down.
- There has been excessive development in this area over the past 4 to 5 years which has strained infrastructure and further development is not sustainable or in the interest of local residents.
- The Board is requested to uphold the Planning Authority's decision in this case.

6.3.3. The submission from Roberta Lynch, Peter Lynch & family can be summarised as follows:

- The Planning Authority's decision is supported.

- The use of the proposed junction onto Murphystown Way will intensify traffic jams and cause delays impacting the function of the Luas and impacting traffic flows.
- No information is provided on how the junction would work in tandem with the junction at Woodward Square and the access solution seems overly complex.
- The existing right-of-way provides vehicle access for one residence and is not suitable for the number of dwelling units proposed.
- Vehicle access would be more appropriate through Woodward Square.
- The traffic impact assessment was carried out during Covid lockdown and does not represent current and future traffic flow. It also does not take account of traffic generated from Lisieux Hall or the new exit for the development permitted onto Murphystown Way by the Board under ABP-308227-20.
- The ecological value of this site is important to the area.
- Every effort should be taken to retaining as many trees as possible on this site.
- There are insufficient car parking spaces proposed to meet the needs of future occupants.
- The architectural merit of the proposed building is weak, and it does not seek to blend with its setting.
- This proposal contravenes the density and height provisions of the local area plan.
- Inaccurate elevations and photo montages are provided.
- The scale of the development relative to the adjoining Glencairn View pathway and the dwellings in Glencairn View and Glencairn Garth are not provided. The proposal would also have no significant trees between them. The proposed block should be set back from the southern boundary to allow for a more densely planted boundary. This would be needed to soften the transition between the proposed buildings five storey height and these existing properties.
- The proposed development would give rise to diminished residential amenities during construction.
- This proposal would give rise to reduced privacy and could give rise to additional anti-social behaviour.

6.3.4. The submission from Jeffrey Johnston can be summarised as follows:

- The Planning Authority's decision is supported.
- This development would significantly impact upon their residential amenities.
- There has already been a huge amount of ongoing and imminent development in this area. With these impacting upon infrastructure, the aesthetics as well as character of the area.
- The Local Area Plan dwelling unit number has already been met in Glencairn North and this development is also at a density twice that permitted.
- This site provides a welcome ecological break for all in this locality and its extensive mature trees are enjoyed by local residents as well as others who pass by the area.
- This development would give rise to an excessive loss of trees on this site.
- If permitted as proposed would threaten the efficiency, convenience, and safety of adjacent users of the public domain, including road users.

6.4. Referrals

6.4.1. This appeal case was referred to An Chomhairle Ealaíon; An Taisce; Failte Ireland; Minister for Culture, Heritage, and the Gaeltacht – DAU; and, The Heritage Council. No responses were received.

7.0 Assessment

7.1. Introduction

7.1.1. I have carried out an inspection of the site and its setting, carried out an examination of all documentation on file, including *inter alia*, the First Party appeal which includes revised site access arrangements to serve the proposed development that as revised contains a reduced number of 40 apartment units, the response of the Planning Authority and the Third-Party Observations received by the Board together with I have had regard to relevant local through to national planning policy provisions and guidance. From this examination it is my considered opinion that the key issues in this appeal case relate to the Planning Authority's two given reasons for refusal alongside the potential of the proposed development to give rise to amenity impacts on

properties within the vicinity of the site. The latter concerns are raised by the Third-Party Observer's in their submissions to the Board.

7.1.2. For clarity I note to the Board that my assessment below is based on the proposed development as revised by the applicant's further information response which was received by the Planning Authority on the 17th day of November, 2022.

7.1.3. This is on the basis that it includes a number of qualitative and quantitative improvements including the increase in number of dual aspect apartments to 50% of the reduced 40 apartments proposed, it includes an outdoor child play area which is of a size that accords with required standards, additional drainage improvements and measures are provided including improved management of surface water through to capturing of potential pollutants/contaminants through to there are some improvements to the landscaping of the proposed apartment scheme with this scheme now proposing more mature tree compensatory planting.

7.1.4. I therefore propose to assess this appeal case on the following broad headings:

- Principle of Proposed Development
- Reason 1 of the PA Refusal - Access Arrangements
- Reason 2 of the PA Refusal – Loss of Trees
- Compliance with Planning Provisions
- Impact on Residential Amenities
- Other Matters Arising

7.1.5. The matter of 'Appropriate Assessment' also requires examination. This matter is dealt with separately under Section 8 of this report below.

7.1.6. I also note that I am satisfied that the proposed development gives rise to no other substantive planning related concerns that would warrant in-depth consideration in my assessment below or are such that they could not be appropriately dealt with by way of standard in nature conditions. This includes matters such as internal qualitative standards of the proposed apartment units which accord with required relevant design and layout at a local through to national level, drainage, landscaping, demolition/construction and operational waste management, construction management plan details, restriction of additional structures at roof level and

restriction of access to roof levels to maintenance purposes only, Part V details to the agreement of material treatments, finishes and the like.

- 7.1.7. On a further point of clarity, in relation to relevant local planning policy provisions, the site area lies within the boundaries of the Ballyogan & Environs Local Area Plan, 2019 - 2025. I note to the Board that on the 13th of May 2024 this Local Area Plan was extended in accordance with the legislation for a further period of 3 years from the date of the 13th of May, 2024. Regard therefore should be had to its provisions as part of the assessment of the proposed development and its compliance with local planning policy provisions where appropriate.

7.2. Principle of the Proposed Development

- 7.2.1. The proposed development as revised is for demolition of existing building, removal of existing structures and the construction of 40 apartment unit apartment building together with all associated services. The site though containing a temporary coffee kiosk on a small portion of its land adjoining its northern boundary has established residential use with the site containing a modest coach house building in its south westernmost corner.
- 7.2.2. The subject site forms part of a larger parcel of suburban lands that are zoned 'Objective A' (Residential), in the Development Plan. The stated objective for such lands is *"to provide residential development and improve residential amenity while protecting the existing residential amenities."* The site is also subject to the following specific objective *"to protect and preserve Trees and Woodlands."* As such the general principle of 'residential' use is permitted at this site subject to safeguards including but not limited to the protection and preservation of the trees and woodlands.
- 7.2.3. None of the buildings on site are afforded protection as Protected Structure or are identified as being of any specific merit that would warrant their retention. Further though the site forms part of the visual setting of a Protected Structure (Note: RPS No. 1643) its streetscape scene and surrounding public realm does not form part of a designated conservation area. As such the principle of the demolition and removal of existing structures on site to facilitate the proposed development, subject to standard safeguards, is acceptable.
- 7.2.4. The site adjoins the Green Luas Line on its western boundary with the Glencairn Luas Stop immediately beside its western boundary and access to the public road network

is dependent upon crossing the adjoining stretch of the Green Luas Line in order to access Murphystown Way.

- 7.2.5. In this regard, the Development Plan under Section 5.4.1 Policy Objective T1 seeks to activity support sustainable modes of transport and ensure that land use and zoning are aligned through to Policy Objectives T8 and T9 seeks to facilitate its extension, expansion of operations and support the Luas Green Line Capacity Enhancement Project to cater for the demand for Luas trips in the County. There is also a suite of other provisions that provide protection for this key public transport infrastructure as well as supporting developments of increased density and scale in proximity to the Luas as well as other public transport provisions as part of climate resilient development through to achieving greater efficiencies of scale. As such the principle of residential development in proximity to public transport provision like the Glencairn Luas Stop, subject to safeguards, is acceptable.
- 7.2.6. The site is also identified as ‘New Residential Community’ in Figure 2.9: Core Strategy Map of the Development Plan and Table 2.11- Core Strategy sets out the following for this location:

Figure 4

Location	RDCA* Existing Zoning Ha	RDCA* Existing Residential Yield	County Development Plan, 2022-2028, Proposed Zoning Ha	County Development Plan, 2022-2028, Proposed Residential Yield
Ballyogan & Environs	71.8	4,147	71.8	4,147

**RDCA - Residential Development Capacity Audit*

- 7.2.7. Section 4.3.1.1 Policy Objective PHP18 of the Development Plan sets out that it is a policy objective to increase housing supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites having regard to proximity and accessibility considerations, as well as the development management criteria set out in Chapter 12.
- 7.2.8. Further, Policy Objective CS11 – Compact Growth to deliver 100% of all new homes, which pertain to Dublin City and Suburbs, within or contiguous to its geographic boundary. This policy objective is consistent with RPO 3.2 of the RSES, and it also

seeks to encourage the development of underutilised and brownfield sites, with a view to consolidating and adding vitality to existing centres and ensuring the efficient use of urban lands.

7.2.9. Moreover, Section 4.3.1.2 Policy Objective PHP19 of the Development Plan sets out that it is a policy objective to “*densify existing built-up areas in the County through small scale infill development having due regard to the amenities of existing established residential neighbourhoods*”.

7.2.10. In general, having regard to the above Development Plan provisions the general principle of the proposed development, subject to safeguards is acceptable.

7.2.11. In relation to other local planning provisions, I note that the Development Plan also provides under SLO 61 that the Planning Authority will: “*implement and develop the lands at Ballyogan and Environs at the Ballyogan and Environs Local Area Plan, and the Specific Local Objectives, therein*”. It is also of note that the Development Plan that this LAP is broadly consistent with its Core Strategy (Note: Section 2.6.1.3). In this regard, having regard to the provisions of the said LAP the subject site is located in Glencairn North. A location where the Planning Authority seeks to encourage and support the further development including developments that facilitate the comprehensive and sustainable development of zoned residential lands, subject to safeguards. Alongside this the LAP seeks to encourage and support new improved links from this urban neighbourhood to lands across the M50 at Leopardstown and Sandyford. This is also subject to a number of safeguards. This further supports that the general principle of the proposed development is acceptable having regard to local planning policy provisions with these being consistent with relevant national planning provisions which in a consistent manner seek to channel new residential development to appropriate serviced accessible locations within settlements where they can be sustainably absorbed.

7.2.12. Conclusion:

Having regard to the above, I am satisfied that the general principle of the demolition in order to facilitate proposed residential development at this site is acceptable, subject to safeguards, particularly having regard to the constraints arising from the protection of trees and the proximity to the Green Line Luas corridor/Glencairn Green Line Luas stop.

7.3. Reason 1 of the PA Refusal – Access Arrangements

- 7.3.1. The Planning Authority's first given reason for refusal of the development sought under this application related to proposed vehicle access arrangement concerns for the proposed development, particularly the revised proposal for additional signalisation and amended road markings on Murphystown Way put forward as part of the applicant's significant further information response. In relation to the amended access arrangements concerns were that the access arrangement proposed would result in significant imposition on current as well as future movements by foot, cycle, vehicle, and rail in the immediate vicinity of the entrance serving the site and access onto Murphystown Way. It goes on to state that: *"the amendments to routes, junctions, and priorities that would result on foot of the subject proposal would represent a threat to the efficiency, convenience, and indeed safety of users of all such modes. In particular, the impact of the proposed access arrangements on the pedestrian and cycle movements to and from the adjacent development to the northeast, the impact on Luas movements by virtue of the potential for vehicles to block the lines, and the impact on vehicular movements on Murphystown Way by virtue of the resultant reduction in the efficiency of the new signalised junction to the north"*.
- 7.3.2. On this basis it was considered by the Planning Authority that the proposed development would be contrary to the proper planning and sustainable development of the area as well as it would endanger public safety by reason of traffic hazard and obstruction of road users.
- 7.3.3. These concerns are shared by the Third-Party Observers in this appeal case who in a consistent manner raise concerns over the access arrangements for the proposed development, the potential for it to give rise to road safety, traffic hazards through to potential overspill of parking on the surrounding road network.
- 7.3.4. The First Party Appellant as part of their submission consider that the concerns raised by the Planning Authority in their first reason for refusal is overcome by way of their proposal to link up the signalised operation of the southern vehicular access junction with the northern vehicular access junction on Murphystown Way. This they contend would allow vehicles and other road users from the proposed development at the subject site as well as the pedestrians, cyclists from the adjoining Glencairn SHD residential development access to and from Murphystown Way via the southern

junction across the Green Line Luas tracks more easily and in a controlled safe manner.

- 7.3.5. In this regard they set out that to minimise traffic impact and ensure smooth traffic movement along the northern and southern vehicular access junctions at Murphystown Way that the linking of these junctions would ensure the ongoing smooth traffic movements on Murphystown Way with minimal impact. The proposed amended junction layouts would provide adequate flares on Murphystown Way for northern and southern vehicular access so that queueing would not obstruct the straight-ahead movement on Murphystown Way. As well as would it not affect the junction performance with these junctions operating to normal design thresholds in the AM and PM peak hours for the 2035 Design Year Do-Something Scenario.
- 7.3.6. Their submission includes a technical analysis of the current operations and design of the Murphystown Way junctions that would serve the site and the SHD development in terms of vehicle, pedestrian, and cycle generated movements with capacity requirements in the Design Year of 2035 for both developments.
- 7.3.7. It indicates that the small levels of right-hand turning movements from the SHD development are explained by the fact that the majority of traffic departing and arriving to this development would be from a northern direction. That is to say accessing Murphystown Way from the M50, N11, Sandyford and Stillorgan Industrial Estates through to the city centre. It also sets out that vehicle traffic movements are also reduced due to the site's proximity to Luas Green Line Stop at Glencairn, the site's proximity to Bus Routes through to the availability of good pedestrian and cycle infrastructure. It is further indicated that the length of the current turning right lane for traffic entering the northern crossing is c28m in its length which is contended to be in excess of the 12m required to serve the adjoining SHD Glencairn development and is further indicated to reflect the original right turning lane that existed prior to its more recent signalisation.
- 7.3.8. As part of the applicant's further information submission the signalisation of the southern crossing in tandem with the northern crossing was as said proposed. Additionally, the submitted drawing implied a right turning lane for Clonlea of 9m and 11m for the northern crossing and southern crossing, respectively.

- 7.3.9. In relation to these access arrangements put forward in the further information response it is acknowledged that this reduced the right turning lane northern crossing to 9m which was insufficient to cater for PM movements as 12m was required.
- 7.3.10. In light of this issue, it is now sought under their appeal submission to the Board that the design be amended to reduce the extent of the yellow box so that the modified right turning lane be increased to up to 17m in length. It is contended that this modification would form part of a detailed design and is not anticipated that the proposed access arrangement subject to this amendment would result in obstruction of straight-ahead traffic movement on Murphystown Way when considered in tandem with the linking up of the signalised southern vehicular access junction.
- 7.3.11. In relation to the linking up of the south and north junction on Murphystown Way it is indicated that there would be 30 cycles allotted subject to detailed design per hour for both the northern and southern signalised junctions. With the maximum turning movement from Murphystown Way to the proposed development from their assessments being 5 passenger car unit per hour.
- 7.3.12. Based on this finding it is contended that the average queue length per each cycle for the inbound flares on Murphystown Way would be less than 5.5m. As the length of the inbound flare on Murphystown Way south arm and left turning inbound flare both being 12m in length would provide adequate space for both left and right turning vehicles. In turn the queueing would not obstruct the straight-ahead movement in either direction on Murphystown Way.
- 7.3.13. It is further noted that there is a 120 second cycle time for both the northern and southern junctions on Murphystown Way and that these stay green if there are no vehicles or pedestrians on either arm of the Glencairn SHD residential scheme and the entrance serving the proposed development on this site.
- 7.3.14. It is therefore argued by the appellant that there is adequate turning inbound flares on Murphystown Way for the northern and southern vehicular access junctions for queueing without obstruction of straight-ahead traffic movements on Murphystown Way to cater for the proposed development alongside that of the SHD development and therefore the proposed junction layout amendments will not affect the overall safe junction performance.

- 7.3.15. Subject to the changes proposed in their appeal submission the appellant contends that the Planning Authority's first reason for refusal concerns are now overcome as the proposal allows for sufficient capacity for right turning lane on the Murphystown Way South Arm. With this further supported by the low trip generation of the proposed development which will require a green light every 5 minutes whilst the Glencairn SHD development will need a green light every cycle, i.e. 120 seconds. It is therefore unlikely in their view that the proposed development in AM and PM peak hours would result in additional red lights on Murphystown Way. Moreover, it is argued that Luas movement will always have priority over vehicles movements from this site and from the SHD development. With the Luas movements safeguard and controlled by its associated red-light signalisation at this location. No changes are proposed to this signalisation at Murphystown Way as part of the access arrangements.
- 7.3.16. The revised junction access arrangement for the northern and southern junction arrangement as set out in the appeal submission which amends the access arrangements put forward in the further information response includes linking the signalisation of these junctions and reducing the yellow box. As said the reduced yellow box would allow for a modified right turning lane to be increased up to 17m. Notwithstanding, these changes I am not convinced that the reduced yellow box in itself which despite allowing for improved capacity for queueing length for the right turn filter lane into the site and the Glencairn SHD would be an acceptable modification to the design of this stretch of Murphystown Way which has been subject to significant recent qualitative design and layout improvements. There is no input from the Planning Authority, including their Transportation Division on whether or not they deem that these amendments are substantial in their own right to overcome their overall access arrangement concerns for the proposed development sought under this application.
- 7.3.17. Nor does these minor amendments in themselves overcome the other substantive issues arising. Of particular concern is the appropriateness of the proposed development being dependent on a modified existing vehicular access that opens onto restricted in length public road which has limited capacity for more than one car to dwell whilst waiting to access onto Murphystown Way over the Luas tracks from the signalised junction. The modified entrance would have to cater for any additional cars to dwell when egressing the site onto Murphystown Way. This would result in potential for conflict with pedestrian and cycle movement arising from the pathway to the

immediate east of the modified entrance. With this pathway being a direct route for not only future occupants of the proposed residential scheme on this site to the Glencairn Luas Stop but also for the now completed adjoining SHD development to the east and north east of the site. Further conflict could also arise from vehicles accessing the entrance to the proposed development after journey in either a southerly or northerly direction on Murphystown Way due to the deficiencies of the immediate public domain serving the site for vehicle access and egress.

- 7.3.18. In this context vehicles accessing and egressing the site have the potential to give rise to conflict and obstruction of more vulnerable existing users of the public domain, i.e. cyclists and pedestrians, as well as for the pedestrian and cyclists also using the main entrance proposed to serve future occupants of this residential scheme.
- 7.3.19. Further, the amendments do not overcome the Transportation Planning Divisions concerns that to access the proposed development from the existing right-turn filter lane into the Glencairn SHD development, on the basis that a vehicle accessing the Glencairn SHD development from the right-turn filter lane might expect a vehicle ahead to be making the same turning movement which could result in a rear-shunt collisions when the vehicle ahead slows down within the right-turn filter lane to make the turn into the proposed development.
- 7.3.20. Alongside this issue is that the Transportation Planning Division of the Planning Authority considered that direct access into the site proposed site from Murphystown Way irrespective of this access being controlled by appropriate signalisation is for the reasons of this potential for various conflict, safety issues and potential to impact on the Luas Green Line including its future expansion of services unacceptable and therefore an alternative access is required.
- 7.3.21. Since this application was made the site context has significantly changed with the Glencairn SHD bounding the site east and neighbouring the site to the north east completed and operational. These works have also given rise to significant improvements to the public realm in this area. This includes public open space and playgrounds including the restoration works to the remains of Murphystown Castle. The latter also includes interpretation of the same and makes this Recorded Monument an important feature of this new space. Additionally, the improvements to the public realm also include enhancing surviving features associated with Glencairn

House. With Glencairn House itself located to the east of the site and a number of its surviving features positively contributing to the streetscape scene of Woodward Avenue and the new public domain spaces associated with the residential development that has arisen in recent times in Glencairn North as part of the Glencairn Quarter.

- 7.3.22. I also noted during my inspection of the site setting that the new open spaces, the improved cycle, pedestrian and play area provisions generates pedestrian movements from the more established residential developments to the south and west of the site. With the active travel pathway to the immediate east of the entrance serving the site providing a high quality comfortable and safe link to the new active and passive amenity open spaces now present in the Glencairn North area.
- 7.3.23. Additionally, the changed context includes a completed vehicle cul-de-sac that serves the residential block to the immediate east of the site. This provides vehicle linkage to Woodward Avenue and in turn the northern junction discussed on Murphystown Way. As well as provides pedestrian/cycle access to an area of communal open space that lies to the south and east of the site. With this open space forming part of the mature residential development of Glencairn View and Glencairn Garth.
- 7.3.24. Moreover, running alongside the southern boundary of the site is a vehicle cul-de-sac that terminates alongside the western end of this boundary.
- 7.3.25. I also note that the south eastern corner of the site is in close proximity a wide pedestrian pathway that provides linkage to the internal access roads associated with the residential developments of Glencairn View and Glencairn Garth. With the junction that serves this established residential development onto Murphystown Way indicated under Table 5.2 and Table 5.3 of the Development Plan for improvements. In this regard Table 5.2 indicates pedestrian and cycle infrastructural improvements and Table 5.3 sets out that Murphystown Way is included in the Development Plans 6 Year Road Objectives/Traffic Management/Active Travel Upgrade. Together with the accompanying map indicating that the improvement to Murphystown Way would incorporate the junction serving the larger existing Glencairn residential scheme, i.e. Glencairn Road.
- 7.3.26. Despite the arguments put forward to the contrary that there is no other potential to serve vehicle access to the proposed development other than by way of a revised in

width entrance on the northern boundary of the site which lies in close proximity to the public domain of Murphystown Road and consists of what is effectively an access that caters for the traffic generated from the modest dwelling unit in site and a small quantum of sundry vehicles generated by the operations of the temporary coffee kiosk. I am not convinced that this is the case. With as said having regard to the changed context of the site which includes the completion of the Glencairn SHD residential component to the east and north east of the site with access completed onto Woodward Avenue from which access to the surrounding and wider public road network is obtained via Murphystown Way.

7.3.27. I am also not convinced that though this would be the most effective manner to provide vehicle access and egress to any proposed residential development of more significant quantum than the current development on the site that there are no other opportunities for alternative access to the public domain that would provide a safer road traffic outcome for users of the public domain through to future occupants of any proposed development scheme at this site.

7.3.28. Of further note that the Development Plan provides for integrated land use and transport measures in a manner that accords with the Metropolitan Area Strategic Plan (MASP) and as set out in the RSES by way of identifying strategic residential and employment corridors (Note: Section 1.5.2.5 of the Development Plan) with this including the Metrolink/Luas Line Corridor. Policy Objective T3: Delivery of Enabling Transport Infrastructure sets out that it is a policy objective of the Development Plan to support the delivery of enabling transport infrastructure so as to allow development take place in accordance with the Core Strategy of this Plan and the settlement strategy of the RSES. Additionally, Policy Objective T8: 'Green Line Capacity Enhancement (GLCE) Project' sets out that it is a policy objective of the Development Plan *"to promote, facilitate and cooperate with other agencies in supporting the Luas Green Line Capacity Enhancement Project to cater for the demand for Luas trips in the County in the short and medium term"* and Section 5.5.6 Policy Objective T9: Luas Extension and MetroLink sets out that it is a policy objective: *"to promote, facilitate and cooperate with other agencies in securing the extension of the Luas network in the County as set out in the NTA's 'Greater Dublin Area Transport Strategy 2016-2035' and including any future upgrade to Metro."*

- 7.3.29. In relation to this project, I note that Phase 1 has been completed but Phase 2 involves increasing frequency of service by operating thirty 55m trams per hour (in each direction). The Development Plan indicates that this would consist of one every two minutes, and it is at the project planning and design stage. This upgrade would require infrastructural improvements to the Green Line Luas corridor.
- 7.3.30. I note that the design for this phase in relation to the improvements to Murphystown Way is unclear and whether what implications this would have on the subject junctions discussed that serve the site and the Glencairn SHD development.
- 7.3.31. Moreover, the improvements to the Luas and its extension together with the provision of a Metrolink is further indicated as a policy objective under Policy Objective T9 of the Development Plan. With this policy I note being consistent with the NTA's 'Greater Dublin Area Transport Strategy 2016-2035' and various provisions for future upgrade to Metrolink. Moreover, the infrastructure enhancement of public transport serving this area as provided for as policy objectives in the Development Plan is also consistent with RPO 4.40 and 8.8 of the RSES.
- 7.3.32. The Development Plan under Section 12.4.1 requires all new developments to maximise permeability and connectivity for pedestrians and cyclists including by way of the creation of direct links to adjacent roads and public transport networks in a manner that accords with DMURS, the guidance document referenced above.
- 7.3.33. Further, the Development Plan also acknowledges that increased permeability also aligns with the Climate Action Plan through to the National Sustainability Mobility Action Policy. As better integrated/people focused/ safe and green mobility, alongside densification at appropriate locations where sustainable trips and modal share are achievable allows for greater efficiencies and improvements to sustainable public transport services. With these aligning with the various provisions of the Development Plan that seek to achieve more climate resilient outcomes, including achieving improved levels of decarbonisation through the spatial planning process in a manner that is consistent with higher level national guidance and provisions.
- 7.3.34. Additionally, the site is located in an increasingly built-up area of Dublin with the more recent development resulting in taller, denser, and compact forms of residential development.

7.3.35. In this context I consider that the potential of this site to achieve maximise permeability, linkage and connection has not been achieved by the proposed design and layout for the proposed development sought under this application. With for example the main entrance on the north western corner of the site containing a pedestrian access gate on one side only onto the public domain whereas there is no pedestrian linkage on the eastern side where the entrance is in closer proximity to the active travel route that provides connection to open spaces associated with the Glencairn SHD development. Further there is as said no vehicle linkage through the eastern boundary to the adjoining vehicle cul-de-sac of the Glencairn SHD development. In relation to the same it is generally considered that adjoining cul-de-sacs can have latent potential for future linkage and permeability. There is also no pedestrian/cycle link to this now completed scheme. A scheme that was granted predating the making this application. Moreover, there is no pedestrian/cycle linkage to the adjoining communal/public open space of Glencairn nor towards the eastern end of the northern boundary onto the adjoining public domain which could provide a more direct access to new public open spaces in the Glencairn North area situated along Woodward Avenue.

7.3.36. Overall, I consider that the pedestrian and cycle permeability, linkage and connectivity proposed under this scheme is not consistent with Section 12.4.1 of the Development Plan. This could be considered as a **new issue** in terms of the access arrangements for the proposed development. Notwithstanding, it further adds to the concerns raised in terms of the quality of the access arrangement serving the proposed development.

7.3.37. Conclusion

Having regard to the above considerations I concur with the Planning Authority's concerns in relation to the access arrangements and its preference that an alternative vehicular access would be appropriate to serve any proposed development on this site that is of a nature, scale, and extent greater than the existing uses on the site in terms of traffic generation.

I am not satisfied that despite the additional measures and improvements put forward in the further information and as part of the appeal submission that these cumulatively would overcome the substantive road safety and traffic hazard concerns that arise from the proposed development.

Nor am I satisfied that the entrance onto the public domain and in turn from which vehicle access and egress onto Murphystown Way would be obtained is suitable to safely cater for its existing and future users, in particular the movement of vulnerable road users.

Also, I am not satisfied that the reduction in the junction box on a road that has been recently upgraded and for which future improvements to the Luas Green Line including increased capacity and frequency of service proposed would not be compromised in its safety and efficiency by the amendments put forward. Through to I am not satisfied that the proposed design is one that maximises achieving qualitative, safe, and comfortable permeability, connectivity, and linkage for future occupants of the proposed scheme.

7.4. Reason 2 of the PA Refusal – Impact on Natural Heritage Features

- 7.4.1. The Planning Authority's second reason for refusal considers that the proposed development sought under this application and as revised represents an excessive loss of trees on the site and fails to appropriately respond to the opportunities of the site's natural features by the retention of the vegetation on site. It is therefore considered that, if permitted, the proposed development would be contrary to the proper planning and sustainable development of the area.
- 7.4.2. The Third-Party Observers in this appeal case also raise concerns in relation to the extent of loss of mature trees from this site and various adverse impacts that this would give rise to from setting diminishment through to loss of biodiversity and urban greening.
- 7.4.3. During the course of the Planning Authority's determination of this application concerns were raised in the further information in relation to the extent of vegetation proposed for removal. With particular concern raised in relation to the removal of Category A and B trees alongside the mature trees along the boundaries of the site.
- 7.4.4. The applicant's further information response indicates that their Landscape Architect met with the Parks Department to review the landscape proposal.
- 7.4.5. This I note resulted in an amended landscaping design which included an increased size and quantity of the clear stemmed tree planting from that of the original proposal but did not give rise to reduction to the loss of 22 out of the 28 mature trees on site.

- 7.4.6. Their further information response also contended that many of the trees that would be removed from this site as part of the proposed development are non-native Monterey Pine, Sycamore or relatively low quality trees including trees that are located along the western boundary of the site likely to have their root zone compromised by the past construction activities of the Luas line. To this it is also noted that the document titled 'Light Rail Environment Technical Guidelines for Development', prepared by TII in 2020, outlines that no trees be planted within 2.75m of the edge of the light rail track. They also contend that whilst the removal of trees in the short term would give rise to a visual diminishment impact the net increase in the number of trees to be delivered across the site will overcome this impact.
- 7.4.7. Notwithstanding, the amendments put forward as part of the applicant's further information response, the Planning Authority's Planning Officer in their final report considered that the applicant had not addressed their concerns in relation to the extent of tree loss and considered that the development of this site should work with the trees currently on site as an asset rather than a constraint. They also referred to the Parks Department report which concluded with a recommendation of refusal on the basis of tree extent of tree loss.
- 7.4.8. The appellant in their appeal submission contends that the trees to be removed are non-native and offer low ecological value. With the proposed replacement planting resulting in additional 59 trees which will cater for a mix of native and non-native trees. They set out that this includes 45 no. clear stemmed large girth trees and 36 multi-stemmed trees. As such this would exceed the number of trees proposed to be removed and would in their view result in an enhanced outcome to that of the existing site once matured. It is further contended that they were in favour of retaining as many trees as possible. But the location and health of existing trees through to the proposed development seeking to facilitate an appropriate site density at what is a highly strategic and transport orientated location result in the proposed removal of 22 trees. The net increase of trees and the retention of 6 existing trees on site is in their view consistent with Section 12.8.11 of the Development Plan.
- 7.4.9. I note that this application is accompanied by a Tree Survey of the site (Note: Dated June 2021) and is based on a survey of the site carried out in May 2020. This report indicates that it represents a record of those trees existing within and adjacent to the site area that may potentially be impacted by a proposed residential development. This

report notes that the site both contains and is adjacent to trees of significant maturity and size. As well as that every effort should be made to safely retain these as part of any proposal. Alongside the proposed development will represent an opportunity to implement additional new tree planting as part of a general landscape design scheme. But also, as part of a tree management program aimed at maintaining high quality diverse long-term amenity tree cover in keeping the setting.

- 7.4.10. Section 2.3 of this report describes the trees located on the site primarily represent non-native ornamental tree species primarily Monterey Cypress and Sycamore. It describes these trees as prolific self-seeding species with a number of saplings of each species around the mature parent trees and it considers that the older trees are likely to have been planted in the past as part of a garden setting. It further describes that many of the trees have undergone pruning or damage to the main trunks with some exhibiting evidence of decay.
- 7.4.11. Section 3.3 of the report sets out the individually the 22 no. trees to be removed, their species, their class, and their number. The species listed are: *Cedrus atlantica*; *Acer pseudoplatanus*; *Cupressus macrocarpa*; *Fraxinus excelsior*; *Prunus avium*; *Betula pendula*; and *Fagus sylvatica*.
- 7.4.12. Additionally, Section 3.6 of the report summarises that 2 No. A, 4 No. B, 13 No. C and 3 U Class Trees will be removed. Section 4 of the report sets out an Arboricultural Method Statement regarding the trees to be retained and new planting.
- 7.4.13. The site is subject to an objective to: *“protect and preserve Trees and Woodlands”* with Section 12.8.11 of the Development Plan stating that: *“new developments shall be designed to incorporate, as far as practicable, the amenities offered by existing trees and hedgerows.”* It also sets out that decision on preservation is subject to full Arboricultural Assessment alongside having regard to other objectives of the Plan. With this assessment contain a tree survey, implications assessment and method statement. The assessment of the site in question will inform the proposed layout, in relation to the retention of the maximum number of significant and excellent quality trees and hedgerows. It further requires this assessment to be carried out in accordance with BS 5837 (2012) *‘Trees in Relation to Design, Demolition and Construction – Recommendations’*, or any subsequent document.

- 7.4.14. While I note that the accompanying Tree Survey was prepared in cognisance of BS 5837 considerable time has passed since its preparation and in the intervening time there has also been a change in relevant planning provisions in particular at a local level. Moreover, on inspection of the site it would appear that there has been more recent damage to the mature trees that are present on this site through to I raise concern that the Tree Survey omitted the presence of a mature multi stem *Magnolia denudata* and what to appears to be a very old pear tree. The site is overgrown but there is evidence that would appear to support the felling of trees on site through to activities that have threatened the health of trees that are present on site.
- 7.4.15. Alongside more critically the design and layout of the proposed development does not appear to have any cognisance towards protecting as many mature trees on site as possible. With this conclusion based on the modest number of trees that are to be retained and the poor future environment that would provide appropriate space for the root zone of these trees.
- 7.4.16. This I consider is a particular concern for T254 (*Taxus baccata*), T253 (*Fagus sylvatica*), T251 (*Acer pseudoplatanus*), T240 (*Acer pseudoplatanus*) and T238 (*Cupressus macrocarpa*) on site as well as the large tree located in proximity to the south eastern corner of the site.
- 7.4.17. Of further concern the Tree Survey indicates that the structural condition of the following trees T238 is poor; T253 is fair; T251 is fair and T240 is fair. This further adds to the design and layout being one that is not seeking to maximise incorporating the trees of particular merit on this site. But instead, is one that is retaining trees that do not interfere with the proposed scheme.
- 7.4.18. As such in terms of the incorporating the trees of particular merit on this site the proposed design and layout is one that in my considered opinion seeks to impose a design onto a site and maintaining a small number of mostly of poor and fair in structural condition trees that are present in perimeter locations on the site. In this regard, I raise concerns that T254 root zone would likely be negatively compromised by the provision of the EV charging infrastructure, services, surfacing and the access arrangements; T240 and T238 root zoning are also likely to be infringed by building works associated with the apartment building through to the provision of site boundaries and servicing; and T250 and T251 also likely to be impacted by the layout

of car parking spaces and structures associated with this development. With this conflicting with the recommendations of the author of the Tree Survey provided with this application.

- 7.4.19. Of further concern there is limited deep soil and necessary space for the establishment of the trees that are proposed as compensation for the tree loss. With the tree planting appearing to be tight to the boundaries through to planted in close proximity to the building footprint/services/other ancillary infrastructure.
- 7.4.20. Further the planting also appears to not consider the significant fall in ground level between the eastern boundary of the site and the adjoining SHD development. With this in turn potentially impacting on these trees as they mature having adequate deep soil to establish a healthy root zone.
- 7.4.21. As such I question the likelihood of the trees for retention and the trees proposed for compensatory planting being one that is sufficiently robust or likely to restore the loss of the site's sylvan character and the positive contribution of the mature trees on site to its setting, this locations biodiversity and harmonise with the pattern of mature trees that survive in the Glencairn North location. Together with I am not satisfied that the proposed planting scheme is one that could successfully over time mitigate the loss of mature trees from this sylvan site. Through to overtime provide appropriate level of visual screening as well as softening of the proposed five storey apartment building. A building that would occupy a high point in its setting. Particularly relative to the existing mature residential scheme of Glencairn View/Glencairn Garth to the south and south east as well as the recently completed SHD development to the east. Also, as visible form the public domain of Woodward Avenue.
- 7.4.22. Moreover, the lack of visual softening of the proposed five storey building would also add to the visual overbearance of the proposed five storey building given its close proximity to the single storey Gate Lodge building to the north. This single storey period building whose architectural merit is recognised as part of the Protected Structure of Glencairn House and positively contributes to its public domain including the streetscape scene of Woodward Avenue and Murphystown Way. Also as viewed from the public open space created around the Recorded Monument of Murphystown Castle to the north of the site and the small pocket of open space that bounds the northern boundary of the site. With this space connecting to Woodward Avenue and

containing an active travel path and a number of mature trees and new semi-mature new trees.

- 7.4.23. On this point I note that the Development Plan seeks to protect the setting of such structures from inappropriate change with Section 12.11.2.3 also requiring development proposals within historic setting like this to include an appraisal of the existing landscape character prior to the initial design of any development. With this appraisal providing an understanding of the essential character of the site and help to inform the appropriate location for any development.
- 7.4.24. Additionally, Section 12.7.3 of the Development Plan, which I note deals with the matter of Sensitive Landscapes and Site Features, indicates that the Planning Authority will seek to protect and enhance the character and amenities of the County's sensitive open area. It states that: "*all new developments of any scale shall incorporate high quality landscape design and shall ensure that: existing site features such as specimen trees, stands of mature trees*" "*are retained where appropriate and new planting or other landscaping appropriate to the character of the area will be provided*" and "*existing significant on-site natural features must influence the layout.*"
- 7.4.25. Of further concern Section 12.8.11 of the Development Plan requires that this type of application be accompanied by an ecological assessment of existing hedgerows where new development have the potential to impact on their ecological importance. I note that this site is one where there is not only a considerable number of mature deciduous and coniferous tree species present. But also, it includes a dense intermixture of these trees with hedgerow species along its southern and eastern boundaries. With this over time having become more robust as the site has become very overgrown.
- 7.4.26. Also having regard to the limited in scope Bat Assessment provided with this application. With this assessment finding bat activity present on the site. Together with the considerable time that has passed, it is my view that as a precaution a planning application on this site as a precaution should be accompanied by an EcIA as part of meeting relevant local planning policy provisions of Section 12.8.11. This I note is also a requirement of Section 12.7.1 of the Development Plan which deals with the matter of Green Infrastructure. It states that: "*where a proposed development results in a loss of or impact on existing trees or on a wildlife corridor, potentially resulting in an adverse*

impact on dependant flora and fauna, developers/applicants shall undertake an Ecological Impact Assessments and provide mitigation measures associated with these to address any such impacts if they are identified on site”.

7.4.27. This concern however is in my view a **new issue** in the context of this appeal. I acknowledge that even if an EclA accompanied this application it would not overcome that the substantive concerns arising from the extensive loss of mature trees from this site. It would also not overcome that the proposal is one whose design resolution ignores the findings of its Arboricultural expert and retains limited in good structural condition and quality mature trees that are present on the site. In this context I concur with the Planning Authority’s Planning Officer that the proposed design and layout is one that fails to provide a successful balance between providing residential development and protecting the site’s natural features which are deemed of merit to provide protection for by way of a specific objective under the provisions of the Development Plan. Moreover, the design and layout concept are one that would result in unfavourable conditions for the trees to be retained to survive and thrive. Alongside limited deep soil to sustain in the medium to long term the compensatory planting proposed. Having regard to these considerations the proposed development is contrary to Section 12.8.11 of the Development Plan and in turn Section 9.3.1.3 Policy Objective OSR7: Trees, Woodland, and Forestry. This policy objective seeks to *“implement the objectives and policies of the Tree Policy and the forthcoming Tree Strategy for the County, to ensure that the tree cover in the County is managed, and developed to optimise the environmental, climatic and educational benefits, which derive from an ‘urban forest’, and include a holistic ‘urban forestry’ approach”.* Alongside, I further note Chapter 9 of the Development Plan setting out that the Council will also seek to preserve trees, groups of trees and/or woodlands that form noteworthy features in the landscape, and/or are important in setting the character, amenity, or ecology of an area. Moreover, it the Planning Authority’s Tree Strategy for the County seeks to protect and expand the county’s tree cover.

7.4.28. My final comment relates to Section 12.2.6 of the Development Plan, which on the matter of Urban Greening sets out that applications are required to put forward qualitative landscaping scheme and in relation to infill development Section 12.3.7.7 requires new infill development to retain the physical character of the area including features such as trees (Note: Objective Policy Objective PHP19). For the reasons set

out above the proposed development is inconsistent with the Development Plan's provisions for Urban Greening and Infill Development.

7.4.29. Conclusion

Having regards to the above considerations I concur with the reasons set out by the Planning Authority in their second reason for refusal that that the proposed development is not only that is consistent with the provisions of the Development Plan, in particular Section 12.8.11, but also as discussed other local planning provisions of the said Development Plan which together seeks to provide an appropriate balance between protecting the natural features of this site which give inform its sylvan character and that contribute positively to the site's surrounding setting and any development proposal thereon. If permitted, the proposed development would give rise to significant adverse visual, biodiversity through to urban greening outcome for the site as well as its setting. It would therefore be a type of development that would be contrary to the proper planning and sustainable development of the area.

8.0 Other Matters Arising

8.1. General Design and Layout Concerns

- 8.1.1. I concur with the Planning Authority that the access arrangement and the significant loss of mature trees from the site as part of a design and layout concept for a residential scheme that failed to satisfactorily incorporate the natural features protected as well as of merit on this site are substantive issues that warrant refusal of permission in their own right.
- 8.1.2. I am of the view that there are other significant issues arising from the design and layout approach of the proposed residential scheme that are such that they could only be addressed by way of a complete revisiting of what is an appropriate design resolution for this sylvan site, a site whose natural features sit comfortably with their surroundings which as said includes forming part of the visual setting of a Protected Structure.
- 8.1.3. On this latter point the single storey Gate Lodge building designed by Benjamin Woodward which is situated in close proximity to the northern boundary of the site when observed from the public domain Woodward Avenue, Murphystown Way and

the new public open spaces associated with the Glencairn SHD would be visually overwhelmed by the proposed apartment buildings five storey height, mass, volume, and extent proposed. As would its visually setting be eroded by the loss of its sylvan backdrop and the lack of any appropriate separation and graduation of the five-storey building proposed for the subject site.

- 8.1.4. On this point I note that Policy BELAP BH2 of the LAP on the matter of Protected Structures seeks to ensure that new development respects the significance of the Protected Structures within the LAP area and responds to their historic spatial context and landscape setting.
- 8.1.5. Additionally, the Development Plan under Section 11.4.1.2 Policy Objective HER8 on the matter of Protected Structures that any development affecting a Protected Structure and/or its setting is sensitively sited and designed alongside is appropriate in terms of its proposed scale, mass, height, density, layout, and materials.
- 8.1.6. It is therefore a concern that the suite of documentation accompanying fail to provide an accurate scaled contiguous streetscape elevation of the existing and proposed context of the development relative to this Gate Lodge structure satisfied that the proposed development, if permitted, would not be contrary to the Policy BELAP BH2 and Section 11.4.1.2 Policy Objective HER8 of the Development Plan.
- 8.1.7. On the matter of building height, I note that the site's location in Glencairn North is not one that is identified in the LAP for tall buildings and the LAP indicates a more nuanced approach will be had to height. With it recommending 3 to 4 storey heights outside of the identified location for tall buildings at this location (Note: Section 5.2.3 of the LAP). It also sets out that regard will be had to the Development Plan and relevant national planning guidance like the 'Urban Development and Building Heights Guidelines'. With Policy BELAP RES3 'Building Height by Neighbourhood' indicating that building heights of residential schemes shall be informed by the considerations set out in Table 5.5, unless otherwise indicated by the detailed provisions of any Site Development Frameworks. In this regard I note that Table 5.5 sets out for Glencairn North that key considerations regarding building height are the relationship to the M50 corridor and the site's size, topography through to consideration of protected structures.
- 8.1.8. In relation to the Development Plan the Planning Authority's policy in relation to building height throughout the County is detailed in three policy objectives as set in its

Building Height Strategy which is contained in Appendix 5. With Policy Objective BHS 1 dealing with the matter of Increased Height; Policy Objective BHS2 dealing with the matter of Building Height in areas covered by an approved Local Area Plan and Policy Objective BHS 3 dealing with Building Height in Residual Suburban Areas.

- 8.1.9. Under Section 1.1 of Appendix 5 that the previous Development Plan's upward and downward modifiers have been replaced with a comprehensive set of performance-based criteria for development management assessment of applications for increased height, thus ensuring increased height in appropriate locations whilst protecting the residential amenity of the County.
- 8.1.10. Under Section 3.7 it sets out that suburban infill sites in excess of 0.5ha the Building Height Strategy allows for increased height at appropriate locations which set their own context. In relation to the building height provisions set out in the BELAP Section 4.2.1 considers that it is consistent with more recent Ministerial Guidelines with respect to building height and fully accords with relevant SPPR's with the base criteria for analysis for proposed buildings in excess of four storeys including the impact on the immediate and surrounding environment, impact on adjoining structures, with a focus on overlooking and impact on residential amenity.
- 8.1.11. As said the documentation accompanying this application fails to show the relationship between the proposed apartment building and the Gate Lodge, a Protected Structure that forms part of the group of buildings, structures, and spaces of Glencairn House. In relation to the existing development to the south, i.e. Glencairn View, the five storey building's parapet height (which I note excludes the 0.8m metal screen that projects above the parapet height) would according to the submitted plans be 7.65m above the ridge height of the nearest two storey structure and in relation to the height of the adjoining Glencairn SHD development that is now complete it's parapet height would be 4.139m higher. It is also of note that the parapet height of the proposed apartment building would be 6.535m higher than the ridge height of buildings on the opposite side of Murphystown Way and that the ground levels fall away from the site particularly to the south and south east of the site.
- 8.1.12. The site is also as said not identified for taller buildings with the tallest building in the LAP indicated as being 6 storeys in height and with this height related to a location identified as having potential to cater for an increase in height.

- 8.1.13. The site is below the 0.5ha area where there is flexibility to absorb an increase in height and the site itself does not mark a key corner, intersection, or other location where the additional height could be considered as a 'Focal Point' or a 'Landmark' building in its own right within its streetscape scene. With this also being the case given the single storey and two storey nature of buildings in close proximity to the north and south of it. In the context of these buildings, particularly the Gate Lodge, the proposed five storey building height and the overall scale, mass and volume of the proposed apartment building would be overly dominant and visually oppressive against. Less so when viewed in the context of the adjoining part three and part four storey adjoining building to the east of the site. But would notwithstanding given this neighbouring building's lower ground levels the five-storey building when viewed from the western elevation of this building would be visually overbearing.
- 8.1.14. In this context the proposed five storey building height is not one that is consistent for example with Section 3.2 of the Building Height Guidelines.
- 8.1.15. On this point I note at the scale of the relevant city/town being one that does not demonstrate that it has had regard to its architecturally sensitive setting, it fails to successfully integrate into and enhance the character as well as public realm of the area with its proposed building of height at a high point in the topography requiring the extensive removal of mature trees providing limited qualitative retention of trees of merit on site and lack of deep soil to allow any appropriate level of compensatory planting as part of ensuring that the loss of sylvan quality of the site does not unduly diminish the visual amenities of its setting.
- 8.1.16. Moreover, in this context I don't accept that the photomontages provided with the significant further information provide an accurate representation of the proposed development if implemented in the time frames they purport the likely potential visual impact and how the compensatory as well as retained trees would soften as well as visually buffer the proposed building when viewed in its setting.
- 8.1.17. Further, at the scale of district/neighbourhood/street the proposal is not one that responds in a successful manner given its significant overbearance of a 5-storey building relative particularly to the single storey Gate Lodge which is within 10m of this buildings northern elevation through to the trees to be retained include minimal mature trees of structural condition and qualitative with the significant number of mature trees

on site to be lost to facilitate the proposed development. With this in turn diminishing the visual contribution of this site to the overall natural environment of this urban neighbourhood.

- 8.1.18. Moreover, at the scale of the site/building the shadow analysis shows that the overall buildings height, massing, scale, and volume are such that the private and open spaces within the site would be heavily overshadowed providing poor future amenity for its residents.
- 8.1.19. Additionally, as previously discussed the proposed development is one that fails to provide maximum permeability, linkage, and connection to the east and south east of the site.
- 8.1.20. Also, the Daylight & Sunlight Assessment for the Proposed Residential Development does not accord with best practice and guidance.
- 8.1.21. On this point I note that the Apartment Guidelines (as updated December 2022) state that Planning Authorities should 'have regard to quantitative performance approaches to daylight provision outlined in guides like 'A New European Standard for Daylighting in Buildings IS EN17037:2018, UK National Annex BS EN17037:2019 and the associated BRE Guide 209 2022 Edition (June 2022)'. The submitted Daylight & Sunlight Assessment does not demonstrate that it is consistent with the quantitative performances of these documents.
- 8.1.22. Of further concern is the density of the scheme as revised (Note: 122 units per hectare a reduction from 125 units per hectare net as originally proposed) is one that significantly exceeds that for Glencairn North which is set out under Section 5.3.2 of the BELAP as 66 net dwellings per hectare. It is of note that the net density of the adjoining Glencairn SHD scheme to the east as permitted has a net density of 66 net dwellings per hectare and as such accords with the density standards of the BELAP. In relation to the Glencairn North development, if permitted, it would be of a density that significantly exceeded the envisaged density for the new residential community and that established in by the emerging pattern of more dense residential development in the Glencairn Quarter.
- 8.1.23. In relation to the Development Plan, it is of further note Section 12.3.3.2 on the matter of Residential Density sets out that the number of dwellings units to be provided on a site should be determined with reference to the Government Guidelines and as a

general principle on the grounds of sustainability optimising density of development in response to type of site, location, and accessibility to public transport.

- 8.1.24. Though I acknowledge that the site is an accessible location given that it adjoins Glencairn Luas Stop with this having a high frequency service in both directions and with there being walking distance of the site a number of bus stops which provide good connectivity to the wider area. Notwithstanding, the zoning of this site is one that whilst deeming residential development is permissible that it must be balanced with protecting the natural features that are afforded specific protection on this site alongside protection of existing residential amenities as well as the established character of the surrounding are (Note: Policy Objective PHP18 – Residential Density).
- 8.1.25. Whereas this development is one that seeks to optimise density, height, and compact development at the expense of the natural features the site contains, the topography of the site through to the visual and amenity sensitivities of its setting including streetscape scene.
- 8.1.26. I also raise it as a concern that location of the play area is one that would not only require acoustic buffering but is a space that would be heavily overshadowed. Additionally, the linear strips of open space around the development are of limited passive or active recreational amenity value. With the Planning Authority determining that whilst the revised layout appears to show that public and communal open space requirements of the Development Plan appear to be met, these spaces are not of a qualitative standard to provide passive and recreational amenity in a manner that would be consistent with the requirements sought under Section 12.8.3.1.
- 8.1.27. It is also a concern that whilst the revised internal layout gives rise to an increase in dual aspect apartments, there is a need for the design solution to include more robust screening to ensure that the proposed apartment units do not give rise to undue overlooking of existing properties in its vicinity including the recently completed adjoining Glencairn SHD development.
- 8.1.28. These are just an overview of a number of the other issues arising from the proposed development sought under this application. These concerns add to the overall concerns that the design and layout of the proposed development is one that, if permitted, would be incompatible with its intrinsic character and attributes of its site and setting, alongside would result in a development that would fail to accord with the

proper planning and sustainable development of the area as provided for under the Development Plan and the BELAP.

8.1.29. For these reasons, the proposed development would be contrary to the Development Plan provisions for infill development as provided for under Section 12.3.7.7 of the Development Plan and the proposed density would be contrary to the Policy Objective PHP18. These policy objectives seek high quality sustainable residential development at brownfield infill sites like this that achieve an appropriate balance between the protection of existing residential amenities and the established character of the surrounding area.

8.1.30. Conclusion:

8.1.31. The overall design and layout of the proposed development, if permitted, would be contrary to the Policy Objective PHP18 and PHP19 of the Development Plan, in turn it would be contrary to the proper planning and sustainable climate resilient development of the area.

8.2. Other Impacts Arising from Tree Loss

8.2.1. I raise a concern that it would appear that there may have been tree felling on site and damage to the mature trees since the Tree Survey accompanying this application was conducted. This adds to the concern that the Tree Survey is out dated and does not appear to reflect the current situation in relation to the mature trees present on site. It is also a concern that the visual amenity assessment provided with this application fails to provide accurate contiguous existing and proposed contexts of the proposed development.

8.2.2. It should also be noted that the site setting to the north, north east and to the east of the site also contains several mature trees that together with the mature trees positively contribute to the visual amenities of this area as well as the forming key natural features of merit in the Glencairn North urban greening and its biodiversity.

8.2.3. As such the sylvan character of the site is not in isolation in terms of its setting but it is consistent with adjoining stretch of the eastern side Murphystown Way to the north of the site.

8.2.4. Moreover, the immediate setting of the Gate Lodge, Protected Structure, includes mature trees as well as other features that create an important back drop from which

it and other surviving natural and man-made features of Glencairn House can be appreciated and interpreted as a collective that warrant safeguarding from inappropriate interventions.

8.2.5. Conclusion

8.2.6. The loss of mature trees from this site would materially and adversely impact on the visual amenities of the site's setting, including the setting of surviving features of Glencairn House, a Protected Structure, which includes building, structures, and natural features to the north of the site. It would also diminish the visual qualities of the site setting which is added to by the mature trees on this site that harmonise with its immediate setting. Moreover, the Tree Survey is out of date and does not appear to reflect the existing situation in terms of mature trees on site through to the contiguous drawings fail to adequately show the relationship between the proposed building and existing natural and man-made features of the site's neighbouring context to make an informed decision of the potential impact of the proposed building as well as the loss of trees would have on it.

8.3. **Potential for Impact on Bats – New Issue**

8.3.1. I am cognisant that All Irish bats are protected under national (Wildlife Acts, 1976-2012) and EU legislation (under Annex IV of Habitats Directive, with Lesser Horseshoe Bat included under Annex II also).

8.3.2. It is of note that the documents accompanying the application as initially lodged included a Bat Assessment of the site.

8.3.3. Upon review of this assessment, I note that it indicates that it found no bat roosts on the site but did observe the presence of bats during the field survey along the southern and south-eastern corner edges of the site (Note: Undertaken on the 9th to 10th of June, 2021). The species noted feeding within and over the site were:

- Common pipistrelle
- Leisler's bat
- Soprano pipistrelle

8.3.4. The most noted activity was the Leisler bat, and it was also noted bat signals audible to the human ear, but the origins were beyond the range of detectors used during the

field survey. The overall activity was described as low. It describes the potential impacts are described as the loss of mature trees will give rise to potential for roost loss with this being a long-term slight to moderate negative impact without mitigation being implemented.

8.3.5. Additionally, it considers that the loss of feeding for a small number of bats including the Leisler bat and common pipistrelle will arise from the loss of scrub and mature trees with the long-term impact described as slight negative based on the number of bats present and the area of land involved.

8.3.6. It is therefore recommended that a number of mitigation measures be incorporated in the proposed development. These measures range from:

- Examination of trees on site by a bat specialist prior to felling or removal of limbs.
- Planting of species included on the All-Ireland Pollinator Plan, Pollinator Friendly Planting Code.
- Lighting measures / designation of dark sky area within the development and lighting to accord with Bats & Lighting Guidance Notes for Planners, Engineers, Architects and Developers (Bat Conservation Ireland, 2010), Guidance Notes for the Reduction of Obtrusive Light GN01 (Institute of Lighting Professionals, 2011) and Bats & Built Environment Series (Institute of Lighting Professionals, 2018).
- Bat boxes.

8.3.7. The site at the time of inspection contained a coffee kiosk with associated structures, tables, and seating to the south and south east of the entrance serving the site. It also contained a modest habitable building in the remainder of the site which is cordoned off from the modest area associated with the coffee kiosk with this building surrounded by an overgrown area that is also used for the storage of mainly building materials and associated storage structure. Within the site there are stated to be 28 mature coniferous and deciduous trees that are set in a site that is heavily overgrown with scrub and other hedging species.

8.3.8. The proposed development includes extensive felling of mature trees (Note: 22 trees) on site with only 6 proposed to be retained as well as extensive clearing of what as said is a highly overgrown site that for the most part consists of unkept grounds in order to facilitate the proposed apartment building, its associated structures, buildings

and spaces. There are as discussed in my report concerns on the trees chosen for retention and the limited provision made for protecting their root zone through to the limited deep soil to establish into maturity the additional tree planting of c35 young tree. The demolition, site clearing, construction through to the completed scheme would give rise to a significant disturbance for bats (but also it should be noted birds) using this highly sylvan site for nesting, roosting, commuting, and foraging.

- 8.3.9. I note that the Planning Authority raised no specific concerns in relation to the potential impact on bat species or any other species. However, they did consider as discussed above and as set out in their first reason for refusal concerns that the extent of loss of mature trees on site was not acceptable.
- 8.3.10. Given the sylvan and overgrown nature of the site and its boundaries I am of the view that survey in itself relates to one survey carried out between the 9th to 10th of June, 2021. In this regard I note that it is accepted best practice that a minimum of three emergence surveys between the months of May and September.
- 8.3.11. On this point I note that it is generally accepted that the most effective detector survey period is June, July, and August. As this will provide information on maternity roosts. Whereas earlier studies for example in April and May as well as later studies in the month of September will provide some information on alternative roosts and mating roosts. With Autumn months the time that bats may establish mating roosts in trees, comprising a male bat and several females. These roosts may not be recorded during summer survey work, when maternity roosts are most easily identified. With one of which recommended to be undertaken in June or July.
- 8.3.12. Whilst the survey carried out on the 9th through to 10th June correlates with the months where emergence surveys should be undertaken in this country, I am not satisfied that this limited survey alone is acceptable for examining the likely potential impact of the proposed development on this protected species. It is also a further concern that considerable time has lapsed since the Bat Assessment accompanying this application was undertaken. With the site in the interim appearing to have become more overgrown despite the provision of a coffee kiosk operating from a shipping container for limited hours of the day.
- 8.3.13. Though I consider that the mitigation measures recommended by the authors of the Bat Assessment provided would provide a level of mitigation to lessen any potential

adverse impact on this protected species in the absence of further surveys I cannot conclude that they are in themselves are sufficient when taken together with the significant loss of mature trees, the loss of scrub, the lack of maturity and the compensatory planting proposed. Through to it is unclear from the information provided that these measures informed the overall design of this residential scheme.

8.3.14. Conclusion

Whilst this is a **new issue** of consideration in the context of this appeal, I raise it as a precaution that the documentation provided is not satisfactory to make an informed decision on impact on Bats as a Protected Species. I am not satisfied that a suitably worded condition requiring the preparation of additional surveys and appropriate mitigation measures would overcome this concern. Further, given the maturity of trees on this site for which protection is afforded by way of an objective of the Development Plan the significant removal of all mature trees with the exception of six trees together with the quantum of development sought for it compounds the concerns that arise from this proposals failure to design a scheme that responds in a successful manner with this site intrinsic sylvan attributes.

8.4. Communal / Public Open Space

- 8.4.1. Should the Board be minded to grant permission for the proposed development given the lack of quantitative and qualitative communal / public open space. Section 12.8.3.1 and 12.8.3.2 provides where the Development Plan standards are not met in terms of communal and open space provision that an additional contribution in lieu may be attached to any permission, by way of planning condition, in accordance with Section 48 of the Planning and Development Act 2000, as amended. It would be appropriate to include such a condition in this case given the modest area of the site and given that any development on this site is required to protect its natural features of merit.

8.5. Car Parking

- 8.5.1. The Planning Authority raised it as a concern the low number of car parking spaces proposed and recommended as part of the further information that the requirements of the Development Plan of 1 car parking space per dwelling unit be provided. This concern formed part of their further information request.

- 8.5.2. The applicant further information response did not provide any additional car parking provision. At the time the further information response was received a new Development Plan has been adopted. With this flexibility in car parking provisions have been provided for schemes to provide reduced spaces at suitable locations, i.e. in proximity to qualitative public transport nodes and the like. With this being flexibility being consistent with both local and national planning provisions, particularly in terms of ensuring more climate resilient developments that seek to encourage public transport and active travel modes for meeting most of the day-to-day journey needs of future occupants of residential developments.
- 8.5.3. Having assessed the appellants significant further information response considered that the provision of 0.625% car parking space per dwelling unit, i.e. 25 car parking spaces was deemed to be acceptable at this well served by public transport location having regard to the relevant local through to national planning provisions. Alongside having regard to the measures included in the accompanying Residential Travel Plan which I note includes the provision of two car parking spaces for a car sharing scheme within the development; the provision of appropriate drop off; the level of secure and covered cycle spaces; through to providing required number of mobility impaired and motorbike parking facilities.
- 8.5.4. The Third Party Observers as well as the Third Party submissions received by the Planning Authority during the course of its determination consider that there is an adequate provision of car parking spaces to realistically meet the parking needs of the proposed development when operational and that each dwelling should be provided with a car parking space as well as the scheme should accommodate visitor parking.
- 8.5.5. It is apparent from inspecting the surrounding area, including the adjoining and neighbouring streets of Glencairn residential scheme, that there is a high demand and overspill of on-street parking. This is particularly evident on the streets to the south and south east within easy walking distance of the Glencairn Luas Stop and with this estate being located in proximity to Dublin Bus Stops located along Murphystown Way. It is therefore not unreasonable for Third Parties to question the under provision of car parking at a location where any additional overspilling of car parking would place an unreasonable burden on the limited publicly provided on-street provision in this area. With the ad hoc parking on the streets within the Glencairn residential scheme in the

vicinity of Murphystown Way and the Luas Stop resulting in conflicting with the movement of vehicles associated with its residential properties.

- 8.5.6. In relation to this concern the potential for overspill would be a realistic concern at the entrance serving the proposed development onto the public domain in the vicinity of Murphystown Way and Green Line Luas tracks.
- 8.5.7. I also raise it as a concern that though this residential scheme proposed is below the number where a Traffic and Transport Assessment is required the applicant carried out such an assessment. It and a Mobility Management Plan / Residential Travel Plan were included with the documentation accompanying the original application. Whilst assessments were carried out during the period of Covid restrictions the main concerns were the appropriateness of the access arrangements serving the proposed development from a public safety and traffic hazard point of view. Having inspected the setting of the proposed site I am not convinced that an under supply of parking given the sensitivity of the entrance serving the site onto the public domain and the public road network through to the evident lack of capacity in the immediate surroundings to absorb any overspill of car parking, even if limited, is in itself a reason that would warrant a refusal of permission in their own right. But cumulatively adds to the road safety, traffic hazard and inconvenience issues already concluded upon in Section 7.3 of the main assessment above.

8.6. Drainage and Servicing

- 8.6.1. The proposed development would connect to the public foul drainage and water supply networks by upgraded connections. Full details are set out in the engineering drawings and the engineering services report accompanying the application. I note that the PA and Irish Water have raised no objection to the proposed drainage and water supply arrangements subject to standard safeguards.
- 8.6.2. Surface water would be discharged to the public surface water drainage network and SUDs measures are proposed to control the level of discharge. Details for the management of stormwater during the construction stage can be addressed through a Construction Environmental Management Plan. This can be addressed by condition.
- 8.6.3. The site is not within Flood Zones 'A' or 'B' lands, the site is one where there is no history of flooding and has a low probability of flooding with the site occupying a high point in its landscape. I am satisfied that the potential risks have been adequately

considered and addressed in accordance with the requirements of the Flood Risk Management Guidelines. With the suite of documentation included with the planning application as submitted to the Planning Authority initially containing a 'Flood Risk Assessment' and with it concluding that a 'Justification Test' is not required alongside that the proposed development is deemed appropriate at this site. I concur with this conclusion.

8.7. Archaeology

- 8.7.1. There are no Recorded Monuments within the site and the site lies just outside the zone of archaeological influence of a Recorded Monument. Notwithstanding the site is located within 60m to the south of the above ground remains associated with Recorded Monument DU023-025 (Class TOHO) and is located in an area with an accepted long history of human settlement. I therefore recommend that should the Board be minded to grant permission that include an appropriately worded archaeological condition as a precaution in order to conserve any unknown subsurface archaeological remains should they be uncovered and to secure the preservation (in-situ or by record) in manner that accords with best practices. Additionally, the Board may consider in tandem with such a condition that a suitably worded condition also be imposed requiring a method statement to be agreed with the Planning Authority for monitoring ground disturbance works and excavation during the course of construction. With these being such that they have the potential to conflict with unknown subsurface archaeology given the history of development at this location.

8.8. Construction Nuisance

- 8.8.1. Concerns are raised by Third Parties that the proposed development, if permitted, would give rise to undue nuisances for properties in its vicinity during construction works.
- 8.8.2. In my view the main impact that would arise to the amenities of this area would result from the demolition, removal of trees, site excavation and general works associated with the construction phase. During these phases, the works would inevitably result in noise, dust, building debris, vibrations, and so forth. There is also potential for obstruction of traffic movements along the heavily trafficked Murphystown Way and potentially in the surrounding road network including that of Woodward Avenue and Glencairn during these phases.

8.8.3. Notwithstanding, such nuisances would be of a temporary nature and would be required to be carried out in compliance with standard codes of practice through to agreement of Demolition and Construction Management Plan through to Waste Management Plans.

8.8.4. It is also standard planning practice to include conditions that seek to minimise such impacts in the event of a grant of permission with these including restriction of times and days for construction activities, noise and the like. As such it is my view that the concerns raised on this matter can be appropriately dealt with by way of appropriate condition and where non-compliance with any condition attached to a grant of permission occurs this is an enforcement matter for the Planning Authority to deal with as they see fit.

8.9. Development Contributions

8.9.1. I refer the Board to the Dún Laoghaire-Rathdown County Council Development Contribution Scheme, 2023-2028. The development is not exempt from the requirement to pay a development contribution under this scheme. It is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

8.9.2. Further, as noted in the assessment above, as a result of the lack of quantitative and qualitative communal and public open space a special contribution is also required to be paid under the provisions of the Development Plan. In this regard I note that Section 6 of the said Scheme sets out the payment for such circumstances and states that: *“as adopted 9th October 2023 concerned, an additional financial contribution of €7,500,000 per hectare shall be calculated on a pro rata basis on the quantum of the shortfall in public open space and monies paid in accordance with such condition shall be applied to the provision of and/or improvements to a park and/or enhancement of amenities in the area”*.

8.9.3. I also refer the Board to the Dún Laoghaire-Rathdown County Council Development Section 49 Development Contribution Scheme for the Extension of the Luas Line B1 – Sandyford to Cherrywood. The development is not exempt from the requirement to pay a development contribution under this scheme.

9.0 Appropriate Assessment

- 9.1. The subject appeal site is a suburban serviced site not directly located within, it does not adjoin or is it in close vicinity to a European Site. The nearest European sites is situated c4.6km to the south west of South Dublin Bay SAC (Site Code: 000210) and South Dublin Bay & River Tolka Estuary (Site Code: 004024), as the bird would fly.
- 9.2. Neither of these designated sites or any other European Sites with a greater lateral separation distance from the site are within the zone of influence of the proposed development sought under this application.
- 9.3. Additionally, there is also no direct hydrological pathway or ecological connection between the subject site and any European Sites.
- 9.4. I note that all foul and surface water runoff from the development will be contained onsite and/or discharged to the public wastewater drainage system in a manner consistent with best practices for the type of development proposed. With no substantive concerns raised by the Planning Authority in this regard.
- 9.5. I further note that the documentation on file indicate that all necessary connections or diversions of sections of sewer lines running through the property would be able to be made following a connection and diversion agreement with Uisce Éireann, if so required. No likely significant in-combination effects are identified for the purposes of AA.
- 9.6. Conclusion:
 - 9.6.1. Having regard to the nature and scale of the proposed development on this brownfield serviced site, the intervening land uses, the absence of a pathway to, and the distance from, any European site, no Appropriate Assessment issues arise. Therefore, 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 a European site.

10.0 Recommendation

- 10.1. I recommend that permission be **REFUSED** for the reasons and considerations set out below.
- 10.2. I note that Reason and Consideration No. 3 relates to the concerns raised in the assessment above in terms of the material and adverse impact the proposed development would have on the setting of the Gate Lodge, Protected Structure, as well as the various sundry concerns arising from the proposed developments on its surrounding setting. The Board may consider this a **new issue** given the two reasons set out by the Planning Authority in their refusal, however, this additional reason for refusal includes concerns raised by Third Party Observer's in this appeal case. The concerns set out in this additional reason and consideration for refusal are substantive in their own right for refusal of permission of the proposed development.

11.0 Reasons and Considerations

1. Having regard to access arrangements associated with the proposed development and its relationship with the shared public domain access onto Murphystown Way due to its substandard nature, its restricted capacity and its function as a shared vehicle, pedestrian, and cycle space. Additionally, the proposed additional signalisation and amended road markings on the adjoining stretch of Murphystown Way, would represent a significant imposition on current and future movements by foot, cycle, vehicle, and rail on this public road.

The overall amendments to routes, junctions, and priorities that would result on foot of the subject proposal would represent a threat to the efficiency, convenience, and safety of users of all modes.

In particular, the proposed development would adversely impact upon the pedestrian and cycle movements to and from the adjacent residential development to the northeast and east of the site alongside would have the potential to impact adversely on future upgrades to the frequency, capacity and service of the Luas Green Line as well as its planned extension southwards by virtue of the changes

to the road layout and signalised junction serving the site and Woodward Avenue to the north.

The proposed development would endanger public safety by reason of traffic hazard and obstruction of road users from the quantum of vehicles access and egressing onto a substandard in design and layout public domain that in its current capacity serves the modest single dwelling on this site and a temporary coffee kiosk which does not include visitor or staff parking.

It would also be contrary to Policy Objective T8 which seeks to facilitate and support the Luas Green Line Capacity Enhancement Project to cater for the demand for Luas trips in the County in the short and medium term and also Policy Objective T9 of the Dún Laoghaire-Rathdown Development Plan, 2022-2028, which seeks in part to facilitate the extension of the Luas network in a manner that accords with the NTA's 'Greater Dublin Area Transport Strategy 2016-2035'.

Accordingly, the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. There are a considerable number of mature trees on this modest in area site that together give rise to its strong sylvan character and positively contribute to the amenities of its setting. The mature trees on site are subject to a site-specific objective which seeks their protection and preservation.

New developments in such site-specific circumstances are required under Section 12.8.11 of the Dún Laoghaire-Rathdown Development Plan, 2022-2028, to be designed to incorporate, as far as practicable, the amenities offered by such natural features. Additionally, Section 12.7.3 of the Development Plan which deals with the matter of sensitive site features requires all new developments of any scale to ensure that existing site features such as specimen trees, stands of mature trees are retained and that high quality new planting or other landscaping appropriate to the character of the area to be provided. It also sets out that existing significant on-site natural features must influence the layout of new development schemes. It is also a requirement under Section 12.3.7.7 Policy Objective PHP19 which deals with the matter of infill development that new development retain the physical character of the area including features such as trees.

It is considered that the design and layout of the proposed development fails to demonstrate compliance with these Development Plan provisions with it resulting in the loss of most of the mature trees on site and amongst the small number of trees to be retained these include trees of poor structural condition and merit. As such the design and layout has failed to incorporate most trees that are deemed of good structural condition and merit, in particular Category A and B trees on site.

Further, against the significant loss of trees from this site it is not considered that a high-quality landscaping scheme has been demonstrated including one that will give rise to an appropriate compensatory tree planting that would overcome the erosion of the site's sylvan character and its positive contribution to its setting. The resulting design and layout are one that, if permitted, would materially erode, and diminish the special sylvan character of the site and its contribution to its setting, including as appreciated from the public domain in a manner that would be contrary to urban greening approach and strategy for trees within the County.

Accordingly, the proposed development would be contrary to the provisions of the said Development Plan and in turn would therefore be contrary to the proper planning and sustainable development of the area.

3. It is considered that the proposed development, by reason of its design and layout, the extent of mature tree loss, its height, density, scale, massing and bulk at this site, a site that includes the presence of a Gate Lodge building which is listed as a Protected Structure in the Dún Laoghaire-Rathdown Development Plan, 2022-2028, (RPS No. 1643), would constitute a visually discordant and overtly dominant feature that would be detrimental to the setting of this architectural feature, that that positively contributes to the intrinsic character of its setting, adds to this areas unique sense of place and is appropriate to preserve.

It is also considered that the proposed five storey building fails to graduate its height as well as built form in proximity to the Gate Lodge building but also in proximity to the Glencairn residential scheme that bounds the southern and part of the eastern boundary of the site.

Further, the site is one that is not identified for tall buildings under the local planning provisions that includes under Ballyogan & Environs Local Area Plan, 2019 to

2025, a detailed and nuanced examination of building heights for this location. With it concluding that two to four storeys in height buildings are appropriate at this location. Alongside in consistent manner with other local through to national planning provisions seeking that taller buildings achieve an appropriate balance between the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity through to the established character of the area. At this high point in the landscape the proposed five storey building would also be a visually imposing and at odds with its setting in a manner that would not achieve a positive balanced outcome.

When taken together with the building height concerns it is further considered that the proposed development would constitute overdevelopment of the site by virtue of its density being at odds with what is determined under the said LAP an appropriate density for the Glencairn North and with this density being reflected in the permitted recent developments in this locality. The proposed development of this scale would be at odds with its setting and would necessitate the extensive loss of trees on this sylvan in character site.

The proposed development would, therefore, materially, and adversely affect the character of its site, the setting of surviving built features associated with Protected Structure RPS No. RPS No. 1643, and it would seriously injure the visual amenities of the area. Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.

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.

Patricia-Marie Young

Planning Inspector
28th day of June, 2024.

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP – 315595 – 23			
Proposed Development Summary	Development of a residential development comprising 42 no. apartments and all associated site works (located west of 'Glencairn House', a Protected Structure).			
Development Address	'Clonlea', Glencairn, Murphystown Way, Sandyford, Dublin 18, D18 VT14.			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	<input checked="" type="checkbox"/>	
		No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes	<input checked="" type="checkbox"/>	Is of a class but does not exceed the relevant quantity, area, or limit of that class. (Note: 10(b) Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended).	EIA Mandatory EIAR required	
No			Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes	<input checked="" type="checkbox"/>	The proposed development is of a Class specified, i.e. 10(b) Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended.	It is subthreshold given the unit number as revised being 40 in total and the site area significantly falling below the area	Proceed to Q.4

			threshold (Note: 0.345ha site area).	
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4. Has Schedule 7A information been submitted?		
No	<input checked="" type="checkbox"/>	Preliminary Examination required
Yes	<input type="checkbox"/>	Screening Determination required

Inspector: _____ Date: _____

Appendix 2 - Form 2 - EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-315595-23	
Proposed Development Summary	Development of a residential development comprising 42 no. apartments and all associated site works (located west of 'Glencairn House', a Protected Structure).	
Development Address	'Clonlea', Glencairn, Murphystown Way, Sandyford, Dublin 18, D18 VT14.	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the production of any significant waste, emissions, or pollutants?	<p>It is consistent with the nature of development deemed to be permissible on brownfield/infill sites under the applicable Development Plan which seeks to promote compact more efficient use of accessible lands at higher density on 'A' zoned lands and as such is not exceptional in its context.</p> <p>This mono-use development would produce standard expected waste, emissions/pollutants that correlate with the removal of an existing converted coach house dwelling, storage structures and the like. The nature and scale of the proposed development is not exceptional. It is of a type that can be dealt with during all construction and operational stages by standard best practice measures as well as controls.</p>	<p>No.</p> <p>No.</p>
Size of the Development Is the size of the proposed development exceptional in the context of the existing environment? Are there significant cumulative considerations having regard to other existing and/or permitted projects?	<p>This brownfield/infill existing residential site forms part of the Glencairn Quarter in the BELAP and whilst it is a departure from the low scale and low-density existing development to the north, south and south east it is comparable to permitted denser and more compact developments permitted in the BELAP area though at twice of the density proposed for this location under the BELAP provisions. There is an emerging pattern of more compact, denser, and taller buildings within the wider setting including on the adjoining site to the east Glencairn SHD. It is therefore a development that is not exceptional in its environment.</p> <p>The proposed development would together with other redevelopments in its vicinity, in particular the permitted SHD development ABP-302580-18, would give rise to a change in their local context. Notwithstanding, it is demonstrated that the cumulative impacts on its setting would accord with that envisaged and planned for with the redevelopment of Glencairn Quarter under the BELAP and Development Plan.</p>	<p>No.</p> <p>No.</p>

<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The nearest ecologically sensitive site is located c4.6km to the south west of South Dublin Bay SAC (Site Code: 000210) and South Dublin Bay & River Tolka Estuary (Site Code: 004024). Having regard to the nature of development sought, the lack of any hydrological or other links, the nature of the landscape in between, the capacity of the existing infrastructure to accommodate the scheme once operational together with the surface water drainage measures I am satisfied that the proposed development would not give rise to any potential to significantly impact on any ecologically sensitive site or location.</p> <p>As above. The site is significantly outside the zone of influence of any European Site or other environmentally sensitive area. Further, were it to be considered that the demolition, excavation, construction through to operational phases of the development to give rise to any contaminant, which is not considered the case, having regard to the topography, the geology, and other locational factors through to characteristics of this suburban area such contaminants would be highly likely diluted to an imperceptible level before they would reach the SAC or the pNHA.</p>	<p>No.</p> <p>No.</p>
<p>Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p><u>I concurred with this statement.</u></p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>NO.</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>NO.</p>

Inspector: _____

Date: _____