



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316429-23

#### Development

Construction of a 120 no. bed nursing home facility (4 and 5 storeys in height) and 29 no. 1 bed Independent living units in a new residential block (6 storeys) with a new access from no. 26 Cherrywood Road, including a new road bridge over the Loughlinstown River and all associated site clearance, excavation, landscaping, and development works. A Natura Impact Statement has been submitted to the Planning Authority with the application.

#### Location

Rose Cottage, 26 Cherrywood Road, and lands generally bounded by existing residential development to the north, woodland area to the south, Saint Columcille's Hospital to the east and Loughlinstown River to the west, at Bray Road, Loughlinstown, Co. Dublin.

#### Planning Authority

Dún Laoghaire Rathdown County  
Council

<b>Planning Authority Reg. Ref.</b>	D23A/0054
<b>Applicant(s)</b>	Galadar Properties Limited.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Galadar Properties Limited.
<b>Observers</b>	17 Observations (see section 6.3).
<b>Date of Site Inspection</b>	7 <sup>th</sup> March 2024
<b>Inspector</b>	Terence McLellan

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## 1.0 Site Location and Description

- 1.1. The appeal site measures approximately 0.91 hectares and is irregularly shaped, spanning both sides of the Loughlinstown River on lands that are generally bound by Cherrywood Road to the west, Bray Road (N11) to the north and east, and St Columcille's Hospital to the south and south-east, approximately 1.5km south of Shankhill and 12km from Dublin City centre.
- 1.2. The site effectively comprises two plots of land separated by the Loughlinstown River. The smaller of these two plots refers to Rose Cottage, which is located at 26 Cherrywood Road. The existing part single/part two storey detached dwelling has a gated access from Cherrywood Road and benefits from a substantial front and side garden, with a smaller area of rear garden bounded by the river. Directly opposite Rose Cottage is a pedestrian footpath which links to Cherrywood Business Park through an area of open amenity space. There is a significant change in levels between Cherrywood Road and Cherrywood Business Park. Neighbouring properties along Cherrywood Road are generally low rise and detached/semi-detached, with maximum heights of two storeys. Cherrywood Road is served by a single narrow footpath on the eastern side of the road.
- 1.3. The larger part of the site is located on the eastern side of the Loughlinstown River which forms the western boundary of this part of the site. The site is undeveloped and heavily planted with trees and scrub vegetation, particularly to the south and the west, as well as along the river edge. There is a significant change in levels towards the south where this part of the site is bounded by St Columcille's Hospital, sitting approximately 13m-14m higher than the subject site. A concrete staircase provides access between the subject site and the hospital site although a palisade fence/gate at the top of the staircase prevents unauthorised access.
- 1.4. A stone wall marks the north and east boundaries of this part of the site, with a locked gated access located on the northern edge, linking to Bray Road. Adjacent properties to the north and east are generally single and two storey detached properties, accessed from various spurs from Bray Road. The immediate surrounding area is predominantly residential in nature, with limited commercial premises along Bray Road (car dealership, fire protection services and a café) and at the northern end of Cherrywood Road (bar/restaurant and takeaway). The wider area can be described

as transitional in nature with extensive redevelopment to the west of the site at Cherrywood Business Park (circa 400m) and the Cherrywood Strategic Development Zone (SDZ). The Loughlinstown Wood Proposed Natural Heritage Area (pNHA) is located to the north-east of the site on the opposite side of Bray Road and the Bride's Glen Locally Important Biodiversity Area is located upstream to the south west.

1.5. The nearest bus stop to the site is located approximately 270m to the north on the N11 Bray Road which is a Core Bus Corridor and served by the following services:

- 84/A – Blackrock to Newcastle
- 84X – Hawkins Street/Eden Quay to Newcastle
- 111 - Brides Glen to Dalkey
- 143 – Bray to Sandyford
- 145 – Heuston Station to Ballywaltrim
- 155 – Bray to Ballymun

1.5.1. The nearest Luas station is located at Bride's Glen, approximately 800m to the south-west within the Cherrywood Business Park.

## **2.0 Proposed Development**

2.1. Planning permission is sought for the redevelopment of the site to provide a 120 bedroom nursing home facility in addition to 29 one bedroom Independent living units for over 55's. The nursing home would be housed in a part 4/part 5 storey building, located centrally within the site and arranged in a T shape with a central circulation space. All bedrooms would be en-suite and the nursing home would include ancillary communal areas/facilities in addition to roof gardens. External materials would include granite stone cladding panels (in light grey, dark grey, and red/brown), aluminium windows and grilles (copper coloured), brickwork cladding, self-coloured render and glass balustrades.

2.2. The Independent living units would be accommodated in a six storey building located between the proposed nursing home and the Loughlinstown River, to the south west of the site. A rooftop amenity space would be provided, and external materials would be similar to the nursing home, as set out above.

- 2.3. The development would include a new vehicular/pedestrian entrance via land at Rose Cottage (no. 26 Cherrywood Road), including a new bridge over the Loughlinstown River to connect to the main site and a pedestrian crossing on Cherrywood Road. Additional pedestrian access would be provided via Bray Road to the north as well as potential future connections to St Columcille's Hospital to the south-east.

<b>Key Figures</b>	
Site Area	0.91 hectares
Public Open Space	2,269sqm
Communal Open Space	606sqm
Maximum Height	6 storeys (22.018m above ground and 42.018m AOD)
Total GFA	9,527sqm
No. of Homes	120 nursing home bedrooms 29 independent living one bedroom units.
Vehicle Parking	41 (including one ambulance bay and eight EV charging bays).
Bicycle Parking	54 (including one cargo bike space).
Plot Ratio (Development Site)	1.04
Site Coverage (Development Site)	22.2%

### 3.0 Planning Authority Decision

#### 3.1. Decision

- 3.1.1. Notification of the decision to refuse permission was issued by Dún Laoghaire Rathdown County Council on 27<sup>th</sup> March 2023. Permission was refused for the following two reasons:

1. Under the Dún Laoghaire-Rathdown County Development Plan 2022-2028, the site is subject to zoning objective A1, which seeks 'To provide for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans' and zoning objective SNI which seeks 'To protect, improve and encourage the provision of sustainable

neighbourhood infrastructure'. In addition, the site is located within the Rathmichael area which is designated as a 'New Residential Community' as shown on Figure 2.9 'Core Strategy Map' and the subject site is located within the Rathmichael Local Area Plan boundary. Under Section 2.6.1.3 Local Area Plan Plan-Making Programme of the Dún Laoghaire- Rathdown County Development Plan 2022-2028, it is stated that the County Development Plan proposes a programme of LAP plan-making, and that there is a 'New Plan to be Prepared' for the Rathmichael area. Under Section 4.2.1.2 Policy Objective PHP3 it is a Policy Objective to ensure that an appropriate level of supporting neighbourhood infrastructure is provided in conjunction with and as an integral component of residential development in new residential communities as identified in the Core Strategy. The Rathmichael Local Area Plan will guide future development in this area and having regard to the location of the subject site, it is considered that the current proposed development would be premature pending the Rathmichael Local Area Plan, would be contrary to Section 2.6.1.3 Local Area Plan Plan-Making Programme and Section 4.2.1.2 Policy Objective PHP3 Planning for Sustainable Communities of the Dún Laoghaire-Rathdown County Development Plan 2022-2028. The proposed development would, therefore, be contrary to zoning objective A1, which seeks 'To provide for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans' and contrary to the zoning objective SNI which seeks 'To protect, improve and encourage the provision of sustainable neighbourhood infrastructure', would set an undesirable precedent for other similar developments and would therefore be contrary to the proper planning and sustainable development of the area.

2. The Planning Authority considered that the proposed development would require a significant redesign in order to address matters pertaining to proximity to the river, accessibility, impacts on the existing residential amenity of neighbouring properties due to the proposed proximity to boundaries, the layout & design of the proposed structures, quality and quantity of open space, infrastructure capacity and the impact on the

Protected Structures in the vicinity of the subject site. It is considered that the proposed development if permitted, would set an undesirable precedent for other similar developments and would be contrary to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2022-2028. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

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

- 3.2.1. The Planner's Report notes the two zoning designations of the site, Zoning Objective A1 (New Residential Communities and Sustainable Neighbourhood Infrastructure) and Zoning Objective SNI (Sustainable Neighbourhood Infrastructure). It is further noted that the site is within a transitional zonal area and that it is important to avoid abrupt transitions in scale and use, as well as avoiding developments that would be detrimental to the amenities of the environmentally sensitive zone.
- 3.2.2. The report states that independent living units (ILUs) could fall within 'Assisted Living Accommodation', 'Residential', or 'Residential Institution'. These uses are classed as 'Permitted in Principle' or 'Open for Consideration (the latter two)'. It is considered that the nursing home and ILUs are suitable complementary uses within SNI lands and are welcomed, but that a Section 47 Agreement would be relevant.
- 3.2.3. Zoning Objective A1 requires development to be in accordance with approved Local Area Plans and the report notes that the site is within the boundary of the Rathmichael Local Area Plan which is to be prepared. Rose Cottage (26 Cherrywood Road) falls within the A1 zoning designation.
- 3.2.4. The report notes that the zoning designation states that minor modifications/extensions to properties within the LAP area can be considered in advance of the relevant LAP. The report notes that the works proposed for Rose Cottage are limited to works to the curtilage to provide a new access to the wider site (which has zoning designation SNI) but concludes that the development is not considered to constitute minor modifications/extensions and that it would be premature pending the Rathmichael LAP.
- 3.2.5. Concerns are raised that there is limited community infrastructure and amenities within suitable walking distances of the site and that a plan led approach to delivery of new



development and infrastructure is needed. On that basis, the development is also considered premature.

- 3.2.6. The report notes that, a mix of neighbourhood infrastructure will be encouraged on these lands and sharing of facilities will be encouraged where feasible, with delivery meeting existing requirements and anticipating future need. Again, the Planning Authority consider the development to be premature having regard to the site's location within the Rathmichael Local Area Plan area and that neighbourhood infrastructure is required to be provided in conjunction with, and as an integral component of, residential development in new residential communities.
- 3.2.7. In design and layout terms, the Planner's Report considers that the height, scale, and massing, in addition to separation distances, would be overbearing on adjacent properties and would result in overshadowing of properties to the east, west and south-west. There are also concerns that the development would have an impact on the character and setting of nearby Protected Structures, as stated by the Conservation Officer (further detail below). Materials are broadly considered acceptable (subject to condition).
- 3.2.8. The Planning Authority consider the Plot Ratio of 1.04 to be indicative of overdevelopment of the site. Issues are also raised regarding open space calculations which are inconsistent and based on differing site areas. The subject site is located on SNI zoned land and as such requires the provision of additional open space.
- 3.2.9. The report notes that the Daylight and Sunlight Assessment only considers a selection of rooms (ground and third floor of the ILU block and third floor of the nursing home) and that a full assessment would be required, having regard to the site and development characteristics (topography and proximity). Further concerns are raised regarding daylight/sunlight to external amenity spaces. Further Information was not requested due to the substantive reasons for refusal.
- 3.2.10. A significant number of transport issues are raised in the report and the Transportation Division had a significant number of requests for clarification/Further Information relating to cycle parking, car parking, internal layout and connections, permeability, suitability of routes to public transport, traffic survey data, and sightlines. These issues are set out in more detail below.

3.2.11. Other issues raised in the report regarding drainage, biodiversity, archaeology and waste management are set out in more detail below. All of the issues were to be addressed by way of Further Information which was not requested due to the substantive reasons for refusal.

3.2.12. **Other Technical Reports**

3.2.13. **Biodiversity Officer (March 2023):** The response notes that Fehily Timoney and Company were commissioned by DLRCC to assess the application by reviewing the Ecological Impact Assessment and the Natura Impact Assessment. Following review of the Ecological Impact Assessment, Further Information/Clarifications were recommended regarding invasive species (detailed management plan and map), fencing specifications (to allow mammals to pass), and habitat management (monitoring and reporting structure). Various mitigation measures were also recommended by condition including implementation of measures set out in Ecological Impact Assessment and the Natura Impact Statement, appointment of an Ecological Clerk of Works, an 8m exclusion zone from the riparian corridor, pre-construction surveys for badgers, erosion or scour to the riverbed once operational would be subject to further detailed design, construction methodology and approval by Inland Fisheries Ireland.

3.2.14. In terms of the Natura Impact Statement, similar further information/clarifications were recommended regarding invasive species and habitat management. Additionally, the same mitigation measures were recommended as set out previously with the addition of pre-construction surveys for otter holts and mitigation measures in the event that a holt is found within the zone of influence.

3.2.15. **Building Control (03.03.2023):** No objection subject to compliance with taking in charge policy and standards.

3.2.16. **Conservation Officer (21.03.2023):** Concerns are raised that View 3 demonstrates an overbearing impact on Waterfall Cottage and request that the height, scale, and massing be reduced in addition to the submission of photomontages from key vantage points from Cherrywood Road and from within St Columcille's Hospital site to demonstrate the visual impact of any revised scheme on nearby protected structures. It is recommended that the height be reduced.

3.2.17. **Drainage Planning (07.03.2023):** Notes that the development proposes a multi treatment level SuDS solution as part of the surface water management strategy for the subject site which is welcomed and largely in line with the strategic objectives of the Council. Concerns are raised regarding instances of miscalculation and conflicting information which should be addressed by way of Further Information, including:

- Details and calculations of blue and green roofs.
- Updating the calculation of QBAR.
- Details of rainwater harvesting system.
- Clarity on attenuation system proposed.
- Soil infiltration rate testing.
- Provision of freeboard between top outfall and top water level of the 1% AEP Fluvial flood event.

3.2.18. **Environmental Enforcement (14.02.2023):** The submitted Preliminary Construction & Environmental Management Plan is considered to lack relevant detail in relation to mitigation of nuisance during the proposed work. Further Information is recommended to clarify issues regarding construction/demolition waste management, construction management, noise, and operational waste management. Conditions are also requested regarding construction waste, public liaison, monitoring, noise planning, construction environmental management, and operational waste management.

3.2.19. **Environmental Health (02.03.2023):** Further Information is required regarding a Construction Environmental Management Plan; a baseline noise survey report; details of noise, dust, and vibration monitoring and mitigation; and submission of an Operational Waste Management Plan. Further requirements were set out regarding waste management, construction compound facilities, hours of work, control of emissions and heavy construction plant/activities.

3.2.20. **Housing (27.02.2023):** Notes that the unit costs exceed the Council's approved acquisition cost threshold, but acknowledges that the stated costs are estimated, as actual costs cannot be quantified at this preliminary stage. As such, the DLRCC Housing Department consider that the on-site proposal has the potential to comply with the requirements of Part V and the development plan, subject to agreement being reached on land values, development costs, and funding being available. Should

planning permission be granted and validated costs prove to be of similar value, the council may review the proposal and seek an alternative compliance option. A Part V condition is therefore recommended.

3.2.21. **Parks and Landscape Services (03.03.2023):** The response notes the quality of some trees on the site and their protection. The proposed landscaping scheme is also generally considered acceptable, and it is assumed that the open spaces in this site would be maintained privately, long-term. It is noted that a wider riparian buffer zone may be required along the Loughlinstown River than currently proposed. No objections are raised subject to conditions regarding the implementation of landscape plans; provision of a tree bond and arboricultural agreement; and appointment of an arboricultural consultant alongside tree protection measures and prior notification.

3.2.22. **Transportation Planning (21.03.2023):** The response from Transportation Planning raised several requests for revisions/additional information by way of Further Information which was not requested due to the substantive reasons for refusal. Issues raised by the Transportation Planning Team include:

- Requirement to demonstrate the provision of cycle parking in accordance with DLRCC standards and provision of a cycle audit showing how all of the relevant requirements are being met.
- Site location may not be in accordance with housing for older people and residents may be isolated as a result. Isolation of residents may be compounded further by the proposed shortfall in car parking.
- Revised plans to address/increase footpath widths, provision of pedestrian connections, provision of a link through to adjacent hospital site for pedestrians/cyclists, DMURS compliant crossings, provision of a signalised pedestrian crossing on Cherrywood Road, amended drawings to show width and gradient of footpaths/roads.
- Concerns raised regarding suitability of pedestrian routes to public transport which include gradients unsuitable for people with diverse abilities.
- Request to improve the pedestrian access to the north and demonstrate right of way and suitability of this access for use by all users as a pedestrian/cyclist route to the N11.

- Demonstrate the provision of a continuous coherent and complete link through to adjacent hospital site for pedestrians/cyclists (alternative to proposed steps/lift adjacent to south-east boundary.)
- Demonstrate that all proposed pedestrian links are suitable for users of diverse ability and that pedestrians shall not be reliant on the substandard existing pedestrian facilities on Cherrywood Road.
- Demonstration of achievable sightlines.
- Provision of a Quality Audit (inclusive of a road safety, access, cycle and walking audit), revised traffic count, and a Construction Management Plan.

### 3.3. Prescribed Bodies

- 3.3.1. **Department of Housing, Local Government, and Heritage – Archaeology (06.03.2023):** It is noted that the EIAR Screening Report recommends archaeological testing prior to construction works but the Department recommend that a Geophysical Survey be carried out in advance of archaeological testing and that due to the size of the site an Archaeological Impact Assessment (including Geophysical Survey and Archaeological Test Excavation) be carried out as Further Information. A report containing the results of this assessment should be submitted to this Department and the Planning Authority prior to any planning decision so as to facilitate the formulation of an appropriate and informed archaeological recommendation.
- 3.3.2. **Department of Housing, Local Government, and Heritage – Nature Conservation (09.03.2023):** Note that the presence of scrub /transitional broadleaved woodland on site and the proximity to the Bride's Glen Locally Important Biodiversity Area (LIB07). The response states that the loss of most of the site's scrub /woodland must to some extent reduce the ecological value of the Bride's Glen /Loughlinstown River Valley's function as a wildlife corridor and this could be exacerbated by clearance of the site during breeding season. The response notes that it is important that no pollutants that could harm water quality enter the water during either its development or operational phases.
- 3.3.3. It is recommended to consider if the removal of scrub/woodland may result in significant detrimental effects on the function of the Bride's Glen /Loughlinstown River Valley as a wildlife corridor which could be avoided by omitting the independent living

element of the proposed development. Conditions are also recommended regarding clearance of vegetation outside breeding season and the provision of a Construction Environmental Management Plan.

- 3.3.4. **Inland Fisheries Ireland (15.02.2023):** The current WFD status is good for the Loughlinstown River, however the WFD risk status indicates the waterbodies are at risk of failing to meet their Water Framework Directive (WFD) objectives by 2027, with Urban runoff being identified as a significant pressure for the Loughlinstown/Shanganagh system. It is recommended that all the proposed mitigation measures outlined in the NIS are included in the final CEMP to be agreed with the planning authority prior to commencement of development. Inland Fisheries Ireland consider the 8m riparian buffer to be insufficient and that a minimum 10m vegetated buffer zone is maintained where site conditions allow. IFI are becoming aware of the lack of appropriate maintenance on drainage infrastructure at the operational phase of developments. Ongoing maintenance of SuDS measures and drainage infrastructure will be required and should be secured by condition.
- 3.3.5. **Uisce Éireann (03.03.2023):** Request Further Information. The applicant is required to engage with Uisce Éireann through the submission of a pre-connection enquiry to determine the feasibility of connection to the public water/wastewater infrastructure. The Confirmation of Feasibility must be submitted to the Planning Authority as the response to this Further Information Request.
- 3.3.6. **IR:** The information submitted with the appeal confirms that Uisce Éireann have issued a confirmation of feasibility.

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

- 3.4.1. A total of 40 observations were submitted to Dún Laoghaire-Rathdown County Council in response to the planning application. These observations are on file for the Board's information. The observations raise similar issues and concerns as the observations made of the appeal which are set out in detail at Section 6.3 below.

## 4.0 **Planning History**

*Subject Site*

4.1.1. **ABP Ref 309444-21:** A Strategic Housing Development Consultation application was submitted to the Board concerning development comprising 100 apartments, three medical suites, and associated site works. The Board issued an opinion in June 2021, based on the 2016-2022 CDP, advising that the documents submitted with the request to enter into consultations required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development. In summary, the following issues needed to be addressed:

- Further consideration/justification for the quantum of medical facilities proposed (5% of development) having regard to the 'MH' zoning of the site.
- Further consideration and/or justification of the documents as they relate to the 'INST' designation of the overall lands and advise of the need for a masterplan to demonstrate how the proposal assists in securing the aims of the 'INST' designation.
- Justification required for the proposed height, block structure, design strategy and relationship to nearby properties.
- Further consideration needed regarding sightlines and the creation of a traffic hazard as well as pedestrian and cyclist connections, including legibility and permeability through the site. Need to address concerns in relation to pedestrian facilities on Cherrywood Road and pedestrian access to Cherrywood.
- Further consideration also needed regarding car parking provision given the locational context of the site, national and local policy context and proximity of site to public transport facilities.

4.1.2. **Planning Authority Ref D07A/1351:** Dún Laoghaire-Rathdown County Council refused permission in November 2007 for the redevelopment of the site to provide 12 dwellings with associated development works. Permission was refused for the following reasons (summarised):

1. Development would endanger public safety by reason of a traffic hazard due to providing access from the N11 which would interfere with safety and the free flow of traffic as well as contravene objectives to preserve the level of service and carrying capacity of the National Primary Road.

2. Failure to reflect the importance of walking and cycling as transport modes by providing safe and direct connections to local services and public transport.
3. Residential density too low having regard to the site's proximity to public transport and the new urban area at Cherrywood.
4. Inadequate assessment of impacts of the development on biodiversity of the site, existing wildlife habitats and the water quality of the Loughlinstown River.

4.1.3. **Planning Authority Ref D06A/0070:** Dún Laoghaire-Rathdown County Council refused permission in November 2007 for the redevelopment of the site to provide 61 apartments with associated development works. Permission was refused for the following reasons (summarised):

1. High proportion of single aspect units and size of the apartments would result in a poor quality environment for future residents and contravene the CDP.
2. Height and bulk of the building and proximity to northern boundary would be visually overbearing and result in a loss of privacy and excessive overlooking.
3. Insufficient information to determine if the proposal complies with the housing strategy in accordance with Section 96 of the Planning and Development Act and the lack of provision for social and affordable housing.

4.1.4. An appeal was submitted to the Board but subsequently withdrawn.

## 5.0 Policy Context

### 5.1. Development Plan

#### **Dún Laoghaire-Rathdown County Development Plan 2022-2028**

5.1.1. The site is considered to be in a Transitional Zonal Area and has two zoning designations. The portion of the site at Rose Cottage is zoned A1 which seeks to provide for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans. The remainder of the site to the west of the Loughlinstown River is zoned SNI which seeks to protect, improve and encourage the provision of sustainable neighbourhood infrastructure.



- 5.1.2. The site is located within the boundary of the proposed Rathmichael/Ferndale Road Local Area Plan.
- 5.1.3. To the south and south-east of the site there is an objective to preserve trees and woodlands and the following Specific local objectives are of relevance:
- SLO146: To support the retention of the existing Loughlinstown Hospital and facilitate its future development including the provision of supporting facilities.
  - SLO86: To retain the famine grave on the site adjacent to the hospital (to the south-east of the appeal site).
- 5.1.4. Chapter 2 of the CDP is the Core Strategy which sets out the settlement and growth strategy for the County, taking into account housing need, residential capacity, population growth, Compact Growth, and regeneration. Relevant sections of this chapter include:
- Section 2.4.3: Sustainable Neighbourhood Infrastructure
  - Section 2.6.1.3: Local Area Plan Plan-Making Programme
- 5.1.5. Chapter 3: Climate Action sets out the detailed policy objectives in relation to climate and the role of planning in climate change mitigation, climate change adaptation and the transition towards a more climate resilient County.
- 5.1.6. Chapter 4: Neighbourhood – People, Homes and Place, sets out the policy objectives for residential development, community development and placemaking, to deliver sustainable and liveable communities and neighbourhoods. The relevant policy objectives from this chapter include:
- PHP2: Sustainable Neighbourhood Infrastructure
  - PHP3: Planning for Sustainable Communities
  - PHP14: Age Friendly Strategy
  - PHP20: Protection of Existing Residential Amenity
  - PHP27: Housing Mix
  - PHP30: Housing for All (i) and (ii)
  - PHP35: Healthy Placemaking - to ensure that development proposals are cognisant of the need for proper consideration of context, connectivity,

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

5.1.7. Chapter 5: Transport and Mobility, seeks the creation of a compact and connected County, promoting compact growth and ensuring that people can easily access their homes, employment, education and the services they require by means of sustainable transport. The relevant policy objectives from this chapter include:

- T11: Walking and Cycling
- T12: Footways and Pedestrian Routes
- T19: Car Parking Standards
- T23: Roads and Streets

5.1.8. Chapter 8: Green Infrastructure and Biodiversity includes policies for the protection, creation, and management of this resource in an integrated manner by focusing on key themes within GI such as: landscape and the coast; access; biodiversity; and parks.

- Section 8.7: Biodiversity

5.1.9. Chapter 9: Open Space, Parks and Recreation recognises that having safe and easy access to a network of open space and parks, means that the recreational needs of residents are met, while enhancing their health and well-being. The relevant policies from this chapter include:

- OSR4: Public Open Space Standards

5.1.10. Chapter 10: Environmental Infrastructure and Flood Risk recognises the critical importance of high quality infrastructure networks and environmental services in creating sustainable, healthy, and attractive places to live and work.

- EI1: Sustainable Management of Water

5.1.11. Chapter 11: Heritage and Conservation guides decision-making on protection of heritage through protection, management, sensitive enhancement or appropriate repurposing. Relevant sections include:

- HER1: Protection of Archaeological Heritage

5.1.12. Chapter 12: Development Management contains the detailed development management objectives and standards that are to be applied to proposed developments. The relevant sections of this chapter include:

- 12.3.1: Quality Design
- 12.3.2: Sustainable Neighbourhood Infrastructure
- 12.3.3.1: Residential Size and Mix
- 12.3.5: Apartment Development
- 12.3.8: Housing for All
- 12.3.8.2: Nursing Homes /Assisted Living Accommodation
- 12.4.5.1: Car Parking Standards
- 12.5.4.2(i): Assessment Criteria for deviation from Car Parking Standards
- 12.4.6: Cycle Parking
- 12.4.8: Vehicular Entrances and Hardstanding Areas
- 12.7: Green Infrastructure and Biodiversity
- 12.8: Open Space and Recreation
- 12.8.3: Open Space Quantity for Residential Development
- 12.8.3.1: Public Open Space
- 12.8.7.1: Separation Distances
- 12.8.7.2: Boundaries
- 12.8.11: Existing Trees and Hedgerows
- 12.9.6: New Development/Change of Use - Environmental Impacts
- 12.10: Drainage, Flood Risk and Coastal Erosion
- 12.11.2.3: Development within the Grounds of a Protected Structure

5.1.13. Appendices

- Appendix 5: Building Height Strategy
- Appendix 14: Green Infrastructure Strategy
- Appendix 15: Strategic Flood Risk Assessment

## 5.2. Regional Policy

## **Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031**

- 5.3. The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and ten year National Development Plan (NDP), and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region. The RSES seeks to promote compact urban growth by making better use of under-used land and buildings within the existing built-up urban footprint and to drive the delivery of quality housing and employment choice for the Region's citizens.

### **5.4. National Policy**

#### **The National Planning Framework - Project Ireland 2040**

- 5.4.1. The NPF addresses the issue of 'making stronger urban places' and sets out a range of objectives which it considers would support the creation of high quality urban places. Relevant Policy Objectives include:

- National Policy Objective 11: In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.
- National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- National Policy Objective 28: Plan for a more diverse and socially inclusive society that targets equality of opportunity and a better quality of life for all citizens, through improved integration and greater accessibility in the delivery of sustainable communities and the provision of associated services.

- National policy Objective 30: Local planning, housing, transport/ accessibility and leisure policies will be developed with a focus on meeting the needs and opportunities of an ageing population along with the inclusion of specific projections, supported by clear proposals in respect of ageing communities as part of the core strategy of city and county development plans.
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

## **5.5. Section 28 Ministerial Guidelines**

5.5.1. Having considered the nature of the proposal, I consider that the directly relevant section 28 Ministerial Guidelines and other national policy documents are:

- Architectural Heritage Protection Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht 2011). Section 13.8 of the guidelines relates to development affecting the setting of a Protected Structure or an architectural conservation area.
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018). The guidelines state that increased building height and density will have a critical role to play in addressing the delivery of more compact growth in urban areas and should not only be facilitated, but actively sought out and brought forward by our planning processes, in particular by Local Authorities and An Bord Pleanála. These Guidelines caution that due regard must be given to the locational context and to the availability of public transport services and other associated infrastructure required to underpin sustainable residential communities.
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (December 2023). These guidelines seek to achieve both high quality apartment development and a significantly

increased overall level of apartment output. Standards are provided for apartment sizes, dual aspect ratio and private/communal amenity space.

- Sustainable Residential Development and Compact Settlement - Guidelines for Planning Authorities (2024). The guidelines support the application of densities that respond to settlement size and to different place contexts within each settlement, recognising in particular the differences between cities, large and medium-sized towns and smaller towns and villages. They will also allow greater flexibility in residential design standards and cover issues such as open space, car and cycle parking, and separation distances.

## **5.6. Natural Heritage Designations**

5.6.1. The following European Sites are considered to be within the zone of influence of the proposed development:

- Rockabill to Dalkey Island SAC (003000) (2.9km).
- Dalkey Island SPA (004172) (4.2km).
- Wicklow Mountains SAC (002122) (7.5km).
- Wicklow Mountains SPA (004040) (7.5km).

## **5.7. EIA Screening**

### Introduction

5.7.1. The application addresses the issue of EIA within an EIA Screening Report prepared by Environmental Dynamics (January 2023), which seeks to demonstrate that there is no requirement for the preparation of an Environmental Impact Assessment Report for the proposed development. Section 3.2 of the report relates to the screening methodology and confirms that the report has had regard to the criteria set out in in Schedule 7 of the Planning and Development Regulations 2001 as amended (the 2001 Regs), and to the requirements under Schedule 7A of the 2001 Regs. This section also confirms that the assessment has had regard to Annex IIA and III of the Environmental Impact Assessment Directive.

- 5.7.2. Where an application is made for subthreshold development and Schedule 7A information is submitted, the Board must carry out a screening determination in line with the requirements of Article 109(2B)(a) of the Planning and Development Regulations 2001 (as amended), therefore, it cannot screen out the need for EIA at preliminary examination.

#### Mandatory Thresholds

- 5.7.3. This proposed development is of a class of development included in Schedule 5 to the Planning Regulations. Schedule 5 to Part 2 of the Planning Regulations provides that mandatory EIA is required for the following classes of development that are of relevance to the proposal:

- Class 10(b)(i) – Construction of more than 500 dwelling units.
- Class 10(b)(iv) - Urban development, which would involve an area greater than 2 ha in the case of a business district\*, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. \*a 'business district' means a district within a city or town in which the predominant land use is retail or commercial use.

- 5.7.4. The proposal would be significantly below the threshold of 500 homes. In terms of urban development (Class 10(b)(iv)), I consider that the site is within part of a 'built-up area' where the 10ha threshold applies. The application site has a total area of 0.91ha and is therefore significantly below the applicable threshold. A mandatory EIA is therefore not required.

#### Sub Threshold Development

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

- 5.7.6. Environmental Impact Assessment is required for development proposals of a class specified in Part 1 or 2 of Schedule 5 that are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is

required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

5.7.7. The appellant's Screening Report provides the necessary information for screening this sub-threshold development for Environmental Impact Assessment and I am satisfied that the report and the other information submitted with the application includes the information specified in Schedule 7A of the Regulations, and that the information has been compiled taking into account the relevant criteria set out in Schedule 7 of the Regulations.

5.7.8. The reports submitted with the application address a variety of environmental issues and the environmental impacts of the proposed development, including assessing the potential for cumulative impacts from other nearby permitted developments. The reports demonstrate that, subject to the various recommended construction and design-related mitigation measures, the proposed development would not have a significant impact on the environment. I have had regard to the characteristics of the site, the location of the proposed development, and the type and characteristics of the potential impacts. Having regard to the Schedule 7A information, I have examined the sub-criteria and all submissions, and I have considered all information that accompanied the application and appeal, including the following:

- Appropriate Assessment Screening and Natura Impact Statement (January 2023).
- Civil Engineering Report (January 2023 and April Design Note).
- Community Infrastructure Statement (January 2023).
- Daylight and Sunlight Study (January and April 2023).
- Design Concept Statement (and April addendum).
- DMURS Compliance Report (January 2023).
- Ecological impact Assessment (January 2023 and April Technical Note).
- Environmental Impact Assessment Screening Report (January 2023 and April Technical Note).
- Flood Risk Assessment (January 2023).



- Landscape Design Statement.
- Mobility Management Plan (January 2023).
- Outline Invasive Species Management Plan (April 2023).
- Outline Operational Waste Management Plan (January and April 2023).
- Planning Application Report (January 2023).
- Photomontages and CGI's (January and April 2023).
- Preliminary Construction Environmental Management Plan (January and April 2023).
- Preliminary Construction Waste Management Plan (January and April 2023).
- Public Lighting Design Report (January 2023).
- Quality Audit (January 2023).
- Sustainability and Energy Report (January 2023).
- Townscape and Visual Impact Assessment (January 2023).
- Traffic and Transport Assessment (January 2023 including April Technical Note).
- Tree Survey Report (January 2023).

5.7.9. I have completed an EIA screening assessment of the proposed development with respect to all relevant considerations, as set out in Appendix 2 to this report. Having regard to:

- The nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(i)(iv) and 14 of Part 2 to Schedule 5 of the Planning and Development Regulations 2001-2022;
- The location of the proposed development on zoned lands where the proposed uses are either permitted in principle or open for consideration the results of the Strategic Environmental Assessment of the Dún Laoghaire-Rathdown County Development Plan;
- The nature of the existing site and the developed nature of the surrounding area;

- The availability of mains water and wastewater services to serve the proposed development;
- The location of the development outside of any sensitive location specified in Article 109(4)(a)(v)(I-VII) of the Planning and Development Regulations 2001, as revised;
- 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 revised, and;
- The features and measures proposed by the appellant that are envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified to be provided Civil Engineering Report, Preliminary Construction Environmental Management Plan, Preliminary Construction Waste Management Plan Outline Invasive Species Management Plan, Outline Operational Waste Management Plan and the mitigation identified and recommended in the Environmental Impact Assessment Screening Report, Ecological Impact Assessment and the Natura Impact Statement.

5.7.10. I am satisfied 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.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. A First Party appeal has been submitted by Brock McClure Planning Consultants, for and on behalf of the appellant, Galadar Properties Limited, against the decision of Dún Laoghaire-Rathdown County Council to refuse permission for the proposed development. The grounds of appeal can be summarised as follows:

#### Reason for Refusal 1

- The issue of an LAP was not mentioned during pre-application discussions and refusal is unjust as the policy context has not changed since pre-planning.
- Only a small portion of the site is zoned A1 (Rose Cottage) and works are limited to landscaping and provision of an access.
- The Planning Authority's assessment focuses largely on the A1 portion of the site which has led to the view that the development is premature.
- The main proposal is situated on land zoned SNI and the Planning Authority's decision is unsupported.
- The proposal would provide critically required residential care where there is a current undersupply.
- The zonings governing the site and the use classes set out allow for this form of development.
- The Planner's Report failed to appropriately assess the principle of the development with an overriding view that that a refusal is recommended based on the applications prematurity in the context of a LAP and so no further assessment on various issues is required.

### *Zoning*

- Criteria for assessing proposals in line with SNI zoning is set out in Section 12.3.2.1 and the appellant directs the Board to page 26 of the original planning submission report for further detail.
- In terms of the uses proposed on SNI land, 'Assisted Living Accommodation' is permitted in principle and 'Residential Institution' is 'open for consideration'. This covers the proposed nursing home and independent living units which are most akin to Assisted Living Accommodation and can avail of the facilities and services within the nursing home in terms of dining, recreation, hygiene, and healthcare. The uses are complementary to the adjacent hospital and is appropriate.
- The revisions submitted with the appeal include a communal lounge at ground floor in the ILU block which is a significant offering to ensure the nature of the use is fully compliant with the use class and zoning objective.

- The current proposal seeks to deliver a senior living model for a new and inclusive neighbourhood environment for the elderly in tandem with the existing operations at St Columcille's Hospital.
- To argue that the development is premature pending the preparation of an LAP is unsubstantiated on this basis and the current proposal is considered a complementary use to the existing hospital facility.
- The A1 zoning only relates to the Rose Cottage site however, the zoning does provide for 'Assisted Living Accommodation' and 'Residential Institution' as permitted in principle.
- It is noted that this A1 zoning has a specific objective to provide for new residential communities and sustainable infrastructure in accordance with approved Local Area Plans.
- A1 lands are generally zoned on the basis that LAPs will be prepared and future LAPS may include new land use zonings.
- Minor modifications and extensions to existing properties on A1 land can be considered in advance of the relevant Local Area Plan.
- The extent of A1 land is very limited, relating to access and landscaping works to facilitate development of the SNI zoned land.
- The current application does not constitute a new residential community, which the A1 zoning is tailored for. A1 sites are large greenfield sites that require an LAP to guide development. This is a small infill site between an existing hospital and an existing residential development, and the use is therefore an appropriate transitional use that will support the SNI function and not prejudice the potential of any future plan for the area.

#### *LAP Plan Making Programme*

- Reason for Refusal 1 states that the development would be contrary to CDP Section 2.6.1.3: Local Area Plan Plan-Making Programme. With reference made to the prematurity of the proposal in the context of this section of the development plan.
- The proposal does not contradict this section of the CDP, the majority of Local Area Plans have yet to be prepared, and the Council have not indicated an

appropriate timeline for the preparation of such a plan, this could be several years.

- There may be a further change to the LAP process as a result of pending legislative changes and as a result there is uncertainty in terms of bringing an LAP forward in the next five years.
- The scheme should be considered on merit and in line with the relevant zonings governing the site.

#### *Policy Objective PHP3*

- Reason for refusal 1 states that this development would be contrary to Policy Objective PHP3: Planning for Sustainable Communities and it is considered that the development fully complies with this policy as set out in detail in appendix 2 of the appeal statement.

#### *Critical Shortage in Nursing Homes and Assisted Living Accommodation*

- The proposal offers a range of care needs including residential, nursing, dementia, and respite and is not considered a speculative application.
- There is a chronic undersupply for nursing homes and ILU in Ireland and the development delivers a sustainable housing solution.
- The Planner's Report does not mention key development plan policies that the proposal supports, nor does it consider national and regional guidance which supports the use at this location.
- The site is currently idle and has been vacant for some time. The proposal delivers community infrastructure and improves permeability and connectivity which will lead to significant local planning and community gain.
- The site will continue to lie vacant in the absence of an LAP and to preclude nursing home and ILU development on that basis would be a failure.

#### Reason for Refusal 2

##### *Proximity to River and Riparian Buffer*

- The riparian corridor is a significant improvement on the baseline condition.

- The riparian buffer is part of the landscape green infrastructure and an approach to conservation that involves creating a network of green spaces to benefit people and wildlife.
- Excavation and habitat clearance will not take place within the buffer. The retention, restoration, and enhancement of this corridor is proposed, and this would have positive long terms effects.
- The riparian buffer allows for filtering of nutrients, pesticides, and waste from water run off as well as stabilising eroding banks, providing shade, shelter, habitat and a corridor for recreation.
- Section 8.6 of the Ecological Impact Assessment sets out recommendations for the riparian buffer during construction and Section 10 relates to habitat management. These recommendations would be met in the event that planning permission was granted.
- The amended scheme submitted as part of the appeal increases the buffer from 8m to 10m.

#### *Accessibility*

- The site provides enhanced permeability to the surrounding area with new connections delivered to Bray Road and the N11 corridor, to Cherrywood Road, and to the adjoining hospital.
- The site is well connected to public transport (Luas and Core Bus Corridor) and enhanced pedestrian connections are provided to same.
- Further Information was recommended on car parking provision, accessibility of the route to public transport, road specifications, and a Quality Audit. Information has been submitted to address these issues.
- A 3m wide pedestrian link would be provided from the development to the north east corner of the site with onward connections to Bray Road. This laneway route is a Right of Way.
- A new connection to the hospital is proposed (pedestrian/cycle lift), addressing the steep gradient/change in levels, and the hospital are supportive of this.
- The development delivers a pedestrian/cycle crossing on Cherrywood Road which provides an onward connection to the Luas.
- Footpaths within the site comply with DMURS.

### *Amenity Impacts (proximity)*

- The design follows the contours and topography of the site to ensure overbearance and overlooking is minimised.
- Separation distances between the development and adjacent properties on Cherrywood Road and Bray Road are acceptable. The height and mass ensure there would be no direct overlooking/overshadowing on these houses.
- A revised daylight and sunlight assessment submitted with the appeal concludes that there would be no impact.
- The social infrastructure audit sets out the full extent of services available to the site. The proposed use is considered ancillary to the adjoining hospital which is an existing use, and the proposal would have a supporting function on the SNI lands.

### *Height, Scale, and Massing*

- The development ranges in height from four, five, and six storeys. The nearest building is the hospital which is three storeys but at a level well above the subject site and as such the overall height is well in excess of that proposed. The proposal is therefore lower and subservient in scale to the hospital buildings.
- The scheme has been designed to ensure there would be no overbearing impact, with appropriate separation distances for a suburban context.
- The CDP supports increased building heights and the Building Height Strategy advocates for general heights of three to four storeys (including considerations of density, amenity, and character). There are instances when additional floors can be considered, and the proposal complies with policy in this regard.
- The Planner's Report references plot ratio being excessive however the DLR CDP does not set out standards for plot ratio and as such this is unsupported by the development plan.

### *Internal Daylight and Sunlight*

- A revised daylight and sunlight assessment has been submitted that now includes all rooms on all levels of the proposed building and the scheme performs well in terms of daylight and sunlight.

- Private amenity space provided to residents is varied from the shaded ground level amenity space to the sunlit rooftop amenity area. This provides a choice for residents at different times of the year. The varied amenity areas are intentional, functional, and practical.

#### *Communal Facilities*

- Residents of the ILU are encouraged to utilise and have access to the communal facilities in the nursing home. Both facilities work in tandem with each other and complement each other.

#### *Open Space (Quality and Quantum)*

- Open space permeates between the buildings and across the site and there would be an 8m buffer, which could be used as a walking route.
- The buildings provide passive surveillance of the open spaces, enhancing safety for users.
- Public open space is freely accessible by the public and includes amenities, planting, walkways, and seating. Communal open space has been designed for use by the residents. Landscape buffers are not included in open space calculations.
- The proposal exceeds the minimum requirements in terms of open space and public open space.

#### *Infrastructure Capacity*

- Unclear why Reason for refusal 2 gives weight to infrastructure capacity given that all departmental reports either requested Further Information or conditions.
- The Social Infrastructure Audit submitted with the application clearly sets out the extent of local services and infrastructure available to the site.

#### *Impact on Protected Structures*

- The Conservation Officer recommended Further Information to reduce the height/scale/massing and provide key views from Cherrywood Road and within the hospital site.



- The hospital site sits at a much higher level than the appeal site, the overall height of the hospital buildings is well in excess of the proposal, which is subservient in scale due to the topography and separation distances.
- The proposal is not highly visible from the hospital site.
- The separation distance between the site and Waterfall Cottage is significant, separated by trees and the river and the landscaping plan also proposed tree planting.
- The only unobstructed view of Waterfall Cottage from Cherrywood Road is at its entrance which is less than 3.5m wide with dense vegetation. The proposal does not have a material visual impact on Waterfall Cottage.

#### 6.1.2. Transport Note by Martin Hanley Consulting Engineers Ltd.

- Cycle parking provision is in line with DLRC standards and could be secured by condition.
- The CDP is inconsistent in terms of parking standards, with parking requirements higher than the previous CDP and the South Dublin County CDP. Parking requirements for nursing homes is typically low and the proposed provision is acceptable.
- All internal footpaths have a minimum of 1.8m width, meet requirements of DMURS, and a 3m link to the pedestrian connection to Bray Road is provided.
- A signalised crossing can be provided on Cherrywood Road.
- A lift or stair is required to connect to the hospital site and the hospital are supportive of this.
- A Road Safety Audit can be secured by condition.
- Traffic counts were not undertaken during lockdown and updating the traffic count would have no impact on the traffic analysis already undertaken.
- Segregated cycle facilities are not required within this development where speed and traffic volumes are low.
- A Right of Way exists on the road to the north connecting the site to Bray Road.

## 6.2. Planning Authority Response

6.2.1. The Planning Authority consider that the comprehensive Planner's Report deals fully with all of the issues raised and justifies its decision. The rationale behind the decision to refuse permission is set out clearly in the Planner's Report. Points of note include:

- The location of the site is fundamental to the decision to refuse, in particular the location within an area designated as a New Residential Community (Fig 2.9 Core Strategy). In this regard, the two different zonings on the site should not be considered separately but in conjunction with the intention to realise the aims and objectives of the Core Strategy in a plan led approach.
- CDP was adopted in April 2022 and the Local Area Plan making programme for the County is set out in table 2.15 and Section 2.6.1 'Plan Making'.
- Pre-planning advice to the applicant highlighted that development may be permitted where the Planning Authority are satisfied that it would be compatible with the CDP/zone and not have undesirable effects. It also highlighted Section 247 (3) of the Planning Act 2000 (as amended), which states:

*The carrying out of consultations shall not prejudice the performance by a Planning Authority of any other of its functions under this act, or any regulations made under this act and cannot be relied upon in the formal planning processor in legal proceedings.*

- The development was not considered to comply with the relevant policies to the satisfaction of the planning authority as set out in the planning assessment of the Planner's Report.
- Further information should not be requested where there is a fundamental objection to the proposed development on other grounds. Further information was not sought as the development is considered premature pending the Rathmichael Local Area Plan and the development would be contrary to section 2.6.1.3 and 4.2.1.2 of the CDP.
- The Planning Authority note the amendments to the proposal proposed as part of the appeal and have the following comments:

- The reduction in height and massing is welcomed as is the additional set back of the buildings from adjacent properties and increasing the buffer to the river.
- The submitted Daylight and Sunlight Assessment is incomplete to make a comprehensive assessment on the quality of accommodation being provided.
- Amenity space proposed to the east would not meet the requirement for two hours sunlight on 21<sup>st</sup> March. This would be a poor quality space.
- Concerns regarding the provision of quality private open space, noting the nature and location of private open space and the subject demographic.
- Provision of a community space on the ground floor of the ILU block is welcomed, noting the limited community infrastructure and amenities located within suitable walking distance of the site.
- Occupiers of the ILUs are encouraged to utilise and have access to the communal facilities within the nursing home, this is welcomed.
- The Drainage department have recommended conditions to address the issues raised in the Further Information Report, should the Board consider a grant of permission.

### **6.3. Observations**

6.3.1. A total of 17 observations have been received from the following third parties:

- Emily Young, Bray Road, Loughlinstown, Co. Dublin.
- Marie Claire Bennett, Old Priests House, Bray Road, Loughlinstown, Co. Dublin.
- Anita Shaw, 5 Bray Road, Loughlinstown, Co. Dublin.
- James Rooney of Firepro, 19-22 Bray Road, Loughlinstown, Co. Dublin
- Jeff and Mary Morris, Annavale, Cherrywood Road, Loughlinstown, Co. Dublin.

- Stanley and Bernadette Moore, Barny Dún, Cherrywood Road, Loughlinstown, Co. Dublin.
- Brian Bond, Corder, Cherrywood Road, Loughlinstown, Co. Dublin.
- Brian Jackson, Hodi, Cherrywood Road, Loughlinstown, Co. Dublin.
- Loughlinstown Neighbourhood Watch Group, OLK, Cherrywood Road, Loughlinstown, Co. Dublin.
- Barry Devereux and Michele Daly, St Jospeh's, Cherrywood Road, Loughlinstown, Co. Dublin.
- Dan and Gill Buckley, 3 Cherrywood Road, Loughlinstown, Co. Dublin.
- Claire Kennedy, 5 Cherrywood Road, Loughlinstown, Co. Dublin.
- David and Maria Pilkington, 25 Cherrywood Road, Loughlinstown, Co. Dublin.
- Sean O'Farrell, 27 Cherrywood Road, Loughlinstown, Co. Dublin.
- Harriet Greenlee, 50 Cherrywood Road, Loughlinstown, Co. Dublin
- John Whelan, 104A Cherrywood Road, Loughlinstown, Co. Dublin.
- Stewart Clarke, 23 Loughlinstown Road, Loughlinstown, Co. Dublin.

6.3.2. The relevant points raised in the observations are summarised below:

6.3.3. Procedure

- The Site Notice was erected in a private laneway for which no permission was given.
- Errors on site analysis map which states building in Cherrywood Business Park is 10 storeys when it is in fact four, contextual sections are drawn at off angles and some heights are not labelled/mis-stated.
- Photographic quality in reports is poor and appear curated to reinforce the developer's description of the site as wasteland rather than an important link in the green corridor.
- The alternative proposals submitted by the appellant are inadequate and do not address all of the issues.

6.3.4. Policy and Use

- The development fails to comply with the requirements of the CDP and would be premature in the absence of a Local Area Plan.
- The proposal would be better served by pre-existing local infrastructure elsewhere and an alternative amenity purpose for the site would be more appropriate.
- The area lacks the shops, services, social and community infrastructure needed to serve the new development and required by the CDP.
- The amenities in the Design Concept Statement are misrepresented, no longer existing, do not match the description, or are located outside of the 10 minute settlement concept with significant level changes.
- Permission has been refused on this site for less dense applications on at least three occasions since 2006. The site is not developable.
- The site is unsuited to such an extensive development and would require major earth works, the removal of a significant amount of soil and the construction of substantial retaining structures.
- Septic tanks remain on site and need to be inspected on a regular basis.

#### 6.3.5. Amenity

- There would be a significant amount of disruption to the local community during construction works which would start at 7am (Mon-Sat) and last approximately three years.
- Construction works would require heavy excavation plant. This would result in disturbance to residents in terms of vibrations and could undermine the foundations of nearby properties.
- During construction there would be disturbance to residents in terms of noise, dust, nuisance, and dirt. This would also have significant impacts on wildlife.
- There would be amenity impacts on adjacent properties in terms of overlooking, overbearance, loss of daylight/sunlight, and the creation of overshadowing.
- The development would block sunlight to the solar panels of 19-22 Bray Road.

- There would be a significant reduction in property values as a result of the development.
- It is difficult to see how the bridge could be constructed safely and there would likely be impacts/damage to adjacent homes.
- Trees planted along boundaries will, in time, block light and affect structures due to roots.
- Traffic accessing and egressing the operational development will result in disturbance to adjacent properties.

#### 6.3.6. Quality of Accommodation

- The proposal is a poor standard of accommodation and residents would not benefit from a high level of amenity.

#### 6.3.7. Heritage

- The height, scale, and massing of the development would have an impact on the architectural composition, quality and visual character of Protected Structures and properties listed on the NIAH, including Loughlinstown Hospital and Waterfall Cottage and their relationship to the landscape.
- The setting of Loughlinstown Hospital is noted in the NIAH and is of importance, including its location on an elevated, landscaped site. The proposed development would be insensitive in terms of its height and massing in relation to the Hospital, obscuring views and reducing the areas visual connection to the building.
- The application fails to consider the history and morphology of the site and its context in any of its site analysis or context review.

#### 6.3.8. Design

- The buildings are excessive in terms of height, scale and massing and do not align with the scale, proportion, materials or character of the surrounding context which is generally 1-2 storeys in height.
- Rooftop plant effectively adds an additional storey, so the buildings are taller than as described.

- There is no visual or architectural connection to the Cherrywood Business Park and the development fails to comply with the Urban Design Manual 2009.
- Separation distances are insufficient and below the 20-28m stated in the application.
- The proposed buildings would be imposing, visually obtrusive and overbearing due to their excessive scale and massing.
- In the absence of an LAP, building heights should be a maximum of two storeys, in accordance with Appendix 9 of the CDP.
- Previous applications were refused on height and a consistent approach should be taken.
- The TVIA states that the site design was inspired by the Manta Ray, which bears no connection with Loughlinstown.
- The site should not be considered as part of the LCA14 Cherrywood (area 'in transition') Landscape Character Area, purely by reason of being adjacent to it. It is part of a separate and yet to be developed LAP. See LCA 10 (Rathmichael).

#### 6.3.9. Quantum of Development

- The proposal represents overdevelopment of the site.

#### 6.3.10. Archaeology

- No archaeological excavations have been carried out despite the site's proximity to the former Rathdown Union Workhouse and a significant famine graveyard. No investigations have taken place to determine if human remains are buried on the site.

#### 6.3.11. Ecology/Wildlife/Biodiversity

- The site is designated as a Site of Special Scientific Interest and a Locally Important Biodiversity Site and is next to and connected via Loughlinstown River to Loughlinstown Wood, a proposed national heritage area.
- The proposal represents an important ecological corridor connecting other ecological/biodiverse sites. There is a range of wildlife and protected species that could be affected.

- This is the last green valley to the sea in Dublin, the site is located on Badger Hill which is important for wildlife and the river is shrouded in trees and dense shrubbery and an important breeding ground and shelter for wildlife.
- The riparian buffer is insufficient at 8m wide and does not meet development plan policy.
- The appropriate assessment notes that the Loughlinstown and Shanganagh Rivers are at risk of not meeting their WFD objectives and urban run-off is a significant pressure on these river systems. It is unacceptable that increasing the likelihood of surface run off should be allowed.
- The river provides links to nearby SPA's and SAC's which could potentially be negatively impacted by the proposal.
- The development would impact on habitats and food sources (otters) which are protected by the Wildlife Act and the EU Habitats Directive.
- There is a badger sett close to the site and this is a potential holt for otters. Guidance states that no construction works should be undertaken within 20m of an active holt or within 150m of an active breeding holt.
- Construction of the bridge and in stream works could result in modifications to the riverbed, affecting spawning sites, and pollution/sedimentation could negatively impact on aquatic life, including brown trout, and this would harm prey resources for otters.
- By impacting on the breeding activity of otters (reduced breeding activity and loss of genetic diversity), the development would cause significant harm to the otter population of the Wicklow Mountains SAC.
- The development would harm the local badger population which are protected. The biodiversity survey conducted as part of the Cherrywood SDZ found an active badger sett adjacent to the site. Impacts can occur when works are undertaken within 50m of a breeding sett and 30m of a non-breeding sett. There would be overlap between the 50m zone and the development site and the proposal does not address this.



- The badger survey was undertaken for a week in January when badgers are less active and is not conclusive proof that the badger sett is inactive as there were nine counts of badgers in the wider area in 2015.
- There would be impacts on the local bat population and the site has high habitat suitability for bats and the Cherrywood SDZ Biodiversity Report noted significant habitats upstream on the Loughlinstown River. These habitats could be interconnected.
- Only two bat surveys were carried out and given the limited scope of the survey, the recorded use of the site for foraging and commuting, the high suitability of the site as a bat habitat, resident reports of bat activity, the importance of the Loughlinstown River as a bat habitat and the difficulty in excluding bat habitats with any certainty, the loss of the site as bat habitat needs to be considered.
- There would be a long lasting, materially adverse effects on the site's biodiversity, which is contrary to the principle of net gain and the DLR Biodiversity Plan.
- Alternative amenity uses for the site would connect ecologically to other sites such as those in the green network, Loughlinstown Woods pNHA, and the range of public parks in addition to the beach at Shankhill. This would comply with development plan objectives and enhance ecology and connectivity of green infrastructure.
- Removing the boundary wall of the site, which extends into the river, would further impact on the biodiversity of the river and the surrounding area.
- In the absence of a Local Area Plan, it is premature to damage such an ecologically valuable and uniquely positioned site through construction of a building that would be better served by existing local infrastructure available elsewhere.
- No details on the construction of the bridge are provided and this would be very disturbing to wildlife.

#### 6.3.12. Flood Risk/Water

- The access bridge would be constructed in the flood plain with the highest risk of flooding, contrary to objective 57 of the NPF.
- The development, and location of the bridge, would increase the risk of flooding to nearby homes, affecting residents who are vulnerable and mobility impaired due to age.
- The development would lead to increased water pollution. The sewage connection would travel across the bridge in the high risk flood area, damaging the water quality of Loughlinstown River and potentially Killiney Bay.
- Sewage would have to be pumped out of the site due to the difference in levels. Should power fail then the sewage pumps would not work, and this would risk discharge to the river.
- Construction works and transferring materials across the river would also risk pollution of the water.
- There would be implications in terms of drainage and water supply.
- Only 41% of the site would be soft landscaped, this would increase the likelihood of flooding.

#### 6.3.13. Transport

- The development would result in excessive traffic generation and pressure on Cherrywood Road and the surrounding junctions.
- Dispute the findings of the traffic survey which was undertaken when the country was in lockdown. The road is currently at 94% capacity and future development of the Rathmichael area would greatly increase traffic and make the junction even more unsafe.
- The pedestrian footpath on Cherrywood Road is limited to one side of the road and is narrow, meaning that passing pedestrians have to step onto the road. The footpath is uneven and would not meet accessibility requirements.
- There would be safety implications for pedestrians, cyclists, and other road users as a result of the proposed development, the location and form of the access and the additional traffic resulting from the development.

- Cherrywood Road is a busy, narrow road with dangerous bends and the increase in traffic would result in traffic chaos, congestion, increased difficulty accessing and exiting properties, and the creation of a traffic and pedestrian safety hazard.
- A pedestrian entrance is indicated to the north of the site, but this is via a private laneway for which no consent has been sought or given. This walkway would not be safe for pedestrians.
- Construction vehicles and the number of vehicle movements associated with the construction phase would place a significant amount of pressure on Cherrywood Road, with significant and negative impacts on traffic flows in either direction on Cherrywood Road.
- Access to the site is constrained, located on a dangerous bend, and the proposed sightlines are not possible.
- Traffic movements at this junction would be around 160 vehicles a day. This would have a significant impact on the road and the local area.
- It is not clear how construction vehicles/plant and delivery/refuse trucks would be able to access and egress the site safely.
- Sightlines are obstructed and create a safety hazard onto Cherrywood Road where the existing access is already dangerous. This includes the obstruction caused by the boundary treatment to Rose Cottage.
- The development would have insufficient parking and does not meet development plan standards in terms of number of parking spaces and level of accessible parking spaces. This would cause excess parking to be displaced to the street, impacting traffic and pedestrian safety as well as access for emergency services.
- The development fails to demonstrate how the development would avoid being car dependant and the Mobility Management Plan fails to address the low quality pedestrian infrastructure around the site.
- The site is not within a 10 minute settlement concept as outlined in the CDP. The Luas is 20 minute walk away with steep inclines and narrow footpaths

which present obstacle and accessibility issues for the proposed residents/users of the facility.

- Works to provide additional paved areas on both sides of Cherrywood Road would narrow the width of the road which would create another serious hazard.
- It is unclear how the bridge could be constructed without either a complete or partial closure of Cherrywood Road.

#### **6.4. Further Responses**

6.4.1. None.

### **7.0 Assessment**

7.1.1. In responding to the concerns of the Planning Authority, the appellant has submitted an amended scheme for the Board to consider, should they not be satisfied with the originally submitted scheme. The proposed revisions include:

- Amendments to the site layout to set the buildings further back from the adjacent properties, set the nursing home back from the southern boundary, and to increase the riparian buffer to the river to 10m.
- Reduction in height of the ILU block by one storey and reduction of the nursing home by a partial storey.
- Reduction of 18 nursing home rooms, six ILU units, four parking spaces, and six cycle parking spaces.
- Provision of a 3m cycle path to the link with Bray Road.
- Additional trees along the riparian buffer.
- Redesign of southern retaining wall as a vertical garden.
- Provision of a community space at ground floor in the ILU block.
- Removal of the roof garden in the nursing home block to assist in reducing form, scale, and massing. The roof garden is relocated to fourth floor, adjacent to the dining room.
- Set back of facades of nursing home block and reduced form and mass to increase separation distance to Waterfall Cottage.
- Internal amendments to nursing home block to relocate dining room.

- Revised open space calculations on foot of the above changes and amendments to the landscaping/open space strategy.

7.1.2. The most significant changes relate to the reduction in building height and the number of units, which reduces the overall scale and quantum of the development. Whilst the buildings have been re-positioned in relation to the site boundaries, I note that they would move away from the boundaries, increasing the separation distance to adjacent properties, and that the degree of movement would be very minor in context. Whilst collectively there are a number of amendments (as outlined above), I do not consider them to be so significant, either alone or cumulatively, that they would represent a significant change and I am satisfied that the amendments can be considered as part of the appeal. They will be addressed, where relevant, in my assessment below.

7.1.3. Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

- Zoning and Policy Matters
- Design, Quantum of Development, and Heritage
- Quality of Accommodation
- Open Space Provision
- Residential Amenity
- Transport
- Flood Risk and Water Resources
- Ecology and Biodiversity
- Other Matters

## **7.2. Zoning and Policy Matters**

7.2.1. The primary issue in the Planning Authority's first reason for refusal is that the development would be contrary to the zoning objectives governing the site by reason

of the development being premature pending the preparation of the Rathmichael Local Area Plan (RLAP), which is considered to be a prerequisite for guiding development in the area and ensuring that an appropriate level of neighbourhood infrastructure is provided in line with Policy Objective PHP3 of the CDP. These concerns are echoed by observers on the appeal who also consider the area to be lacking in the shops, services, and infrastructure that is needed to serve the new development, which would be better located elsewhere, where the requisite facilities and services are already in place.

- 7.2.2. The appellant considers that the proposal complies with the zoning designation, that there is a need for this type of development due to existing shortages of accommodation and that the requirement to comply with an LAP only relates to the small A1 part of the site where development would be limited to landscaping and the provision of a new access. It is argued by the appellant that the development would comply with PHP3, and that the development should be judged on its merit, against the relevant zonings governing the site, as preparation of an LAP may be several years away.

#### *Zoning and Local Area Plan*

- 7.2.3. As previously mentioned, the site has two zoning designations. The small part of the site contiguous to Rose Cottage is zoned objective A1 which has the stated objective to provide for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans. The zoning designation allows for a 'Residential Institution' which includes nursing homes. The designation also allows for 'Assisted Living Accommodation' and I agree with the appellant that this would include the independent living units as they have access to the facilities and services of the nursing home. In my opinion, both proposed uses are therefore permitted in principle on A1 zoned lands.
- 7.2.4. The remainder and majority of the site is zoned SNI where the objective is to protect, improve, and encourage the provision of sustainable neighbourhood infrastructure. On these lands, the provision of a 'Assisted Living Accommodation' is permitted in principle, whilst 'Residential Institution' is open for consideration. I am therefore satisfied that the proposed uses are also in accordance with the SNI zoning designation, subject to wider considerations.

- 7.2.5. The general acceptability of the proposed uses on these lands is not disputed by the Planning Authority, subject to development being compatible with the overall policies and objectives for the zone, not having undesirable effects, and otherwise being consistent with the proper planning and sustainable development of the area. The core issue is that the development is proposed in advance of the Rathmichael Local Area Plan.
- 7.2.6. It is important to note that the requirement for development to be in compliance with an LAP relates solely to the A1 designation and as previously mentioned, this is restricted to the Rose Cottage site where proposed works are limited to landscaping, alterations to the curtilage of the existing property, and the provision of a new access. In my opinion it is unreasonable to apply this requirement to the remainder of the site, which is covered by the SNI designation.
- 7.2.7. Section 2.6.3.1 of the current CDP states “It is noted that within the A1 zoned lands at both Old Connaught and Rathmichael that there are a number of existing properties. Minor modifications and extensions to these properties can be considered in advance of the relevant Local Area Plans”.
- 7.2.8. Whilst the part of the proposal at Rose Cottage may be minor in respect of that property and plot, the provision of the vehicular access is a key enabler of the overall development of the SNI lands and as such I would caution against considering the issue in such singular terms. The key issue, therefore, is the status of the Rathmichael Local Area Plan.
- 7.2.9. Although the CDP notes at section 2.6.1.3 (Table 2.16) that a new LAP is to be prepared for this area, this has been a long held objective of the Council and at the current time there is no draft LAP or Issues Paper available. Section 18(3)(a) of the Planning and Development Act 2000 (as amended), states that, when considering an application for permission under section 34 of the Act, a planning authority, or the Board on appeal, shall have regard to the provisions of any local area plan prepared for the area to which the application relates, and the authority or the Board may also consider any relevant draft local plan which has been prepared but not yet made.
- 7.2.10. Given that there is no current draft LAP or Issues Paper available, and the Council have not indicated any potential timeline in terms of plan preparation, I consider that such a restriction would be disproportionate and contrary to section 7.16.1 of the

Development Management Guidelines which state that prematurity should not be used as a reason for refusal unless a specific time frame is stated within which there is a reasonable prospect of the plan being completed. No such timeframe for completion is given by the Planning Authority.

7.2.11. Section 34(2)(a) of the Planning and Development Act 2000 (as amended), states that when making its decision in relation to an application, the planning authority shall be restricted to considering the proper planning and sustainable development of the area, having regard to

- i. the provisions of the development plan,
- ii. the provisions of any special amenity area order relating to the area,
- iii. any European site or other area prescribed for the purposes of section 10(2)(c),
- iv. where relevant, the policy of the Government, the Minister or any other Minister of the Government.

7.2.12. In the absence of an LAP or a draft LAP as referred to in Section 18 of the Act, applications for permission must be decided in accordance with the provisions of Section 34 outlined above in addition to the development plan that applies at the time a decision is made. In the absence of an approved LAP, it is my opinion that the proposed development should be assessed against the zoning objective for the area and the development management criteria relevant to the proposed development. In zoning terms, I am satisfied that the proposed development would be acceptable and in accordance with the designations. On that basis, I am of the opinion that the prematurity reasons given in the first reason for refusal should be set aside.

*Policy PHP3: Planning for Sustainable Communities*

7.2.13. The remaining issue relevant to the first reason for refusal relates to compliance with Policy Objective PHP3. I will address the transport, access, and design related elements of this policy objective later in the report under the relevant sections. The substantive part of this policy of relevance to the first reason for refusal and raised by both the Planning Authority and observers relates to the provision of an appropriate level of supporting neighbourhood infrastructure in conjunction with and as an integral component of residential development in new residential communities as identified in the Core Strategy.



- 7.2.14. The implementation of this part of PHP3 by the Planning Authority appears to be contingent on the development being a new residential development. Whilst I would agree that the independent living units certainly fulfil a residential function and would largely be residential in character and use, the proposed nursing home has a much wider ranging function and a very different character to traditional residential use due to the significant care element that is fundamental to its operation.
- 7.2.15. The main thrust of this part of PHP 3 is to ensure that there is appropriate and sufficient sustainable neighbourhood infrastructure to serve the new development. I note the specific concerns of observers regarding the disparity in services and infrastructure in the area, but in my opinion, it is important to note that the nursing home itself would provide 24 hour nursing care, dementia care, treatment rooms, communal facilities for dining and socialising, as well as other elements such as a hairdresser, an oratory/reflection room, and a shop. I note that the shop, whilst referred to in the appellant's documentation, is not shown on either the original plans or the amended plans but in my opinion, this is a minor issue that could be addressed by way of a condition if the Board were minded to grant permission. In this respect, the nursing home would, in my opinion, provide appropriate services to support the development.
- 7.2.16. Whilst the independent living units would have a more traditional residential function in many respects, occupiers of these units have the ability to avail of the facilities and services offered by the nursing home. I am also cognisant of the amended scheme provided by the appellant that provides a community room at ground floor level that would be beneficial to the development. Overall, given the provisions of the development itself, in addition to the various community and social facilities identified by the appellant, I am satisfied that the social infrastructure element of PHP3 has, on balance, been satisfied and I am of the view that there are clear and significant benefits to locating a nursing home and independent living units in such close proximity to St Columcille's Hospital. On that basis, I am of the view that reason for refusal 1 should be dismissed.

### **7.3. Design, Quantum of Development, and Heritage**

- 7.3.1. Key issues raised by the Planning Authority and observers are that the height, scale, and massing of the proposed development, in addition to separation distances, would be overbearing on adjacent properties and would not align with the scale, proportion,

or character of the surrounding context. Further concerns are that the development would have an impact on the character and setting of nearby Protected Structures. It is stated in observations and in the Planner's Report that the proposal would represent overdevelopment.

#### *Quantum of Development*

- 7.3.2. In terms of the quantum of development, the Planner's Report references the plot ratio of 1.04 and considers that this represents overdevelopment of the site. This view is echoed by observations made on the appeal. The CDP does not reference appropriate ranges for either plot ratio or site coverage, although I note that these parameters would be 1.04 and 22.2% respectively. Given that the CDP does not set out indicative/appropriate ranges for either parameter, it is, in my opinion, unreasonable that a standard is being applied that is not contained within the CDP. In any event, I do not consider a plot ratio of 1.04 or a site coverage of 22.2% to be representative of overdevelopment. On that basis, the appropriate gauge of acceptable development quantum on this site should be informed by the height, scale, and massing of the proposal with consideration given to potential amenity impacts.

#### *Height, Scale, Massing and Heritage*

- 7.3.3. The surrounding topography varies significantly, with levels rising to the south and west on the opposite side of Cherrywood Road towards the Cherrywood Business Park and SDZ. The immediate surrounding context is generally single and two storey detached and semi-detached dwellings and in my opinion this is the appropriate context within which to assess the scale of the proposed buildings. The proposed nursing home building would rise to a maximum of five storeys whilst the ILU block would rise to six storeys.
- 7.3.4. Appendix 5 of the CDP sets out the County's Building Height Strategy that aligns with the Building Height Guidelines. Policy BHS3 states that it is an objective to promote a general building height of three to four storeys in the residual suburban areas of the County. However, Policy Objective BHS1: Increased Height, states that it is a policy objective to support the consideration of increased heights and also to consider taller buildings where appropriate, including in areas well served by public transport links, subject to the protection of existing amenities/sensitivities, and compliance with the criteria outlined in Table 5.1 of the Strategy. Specific mention is made of Core Bus

Corridors and the N11 which is adjacent to the site is well supported by public transport. Taller buildings are defined as those that are more than two storeys above prevailing heights. On that basis, both of the proposed buildings would be classed as taller buildings.

- 7.3.5. Table 5.1 of the Strategy outlines performance based criteria for the assessment of applications at various levels, which is similar to the criteria outlined in the Building Height Guidelines. Having considered the Table 5.1 criteria, I would summarise as follows:

County Level

- 7.3.6. Part (a) of the criteria relates to securing the objectives of the NPF in terms of focussing development in key urban centres, fulfilling targets in relation to brownfield/infill development, and delivering compact growth. The location of the development is not in an area that I would characterise as a key urban centre. However, it would be located on a zoned and serviced site and as such would assist in securing the objectives of the NPF with regards to compact growth.
- 7.3.7. Part (b) requires that the site be well served by public transport, with high capacity, frequent service, and good links to other modes of public transport. I consider the site to be well served by public transport with several high frequency bus services provided on Bray Road (N11) (c. 260m). The Bride's Glen Luas station is located approximately 750m to the south west however its benefit to the development would be hampered by the pedestrian connection that is circuitous and has a significant change in levels that would not be ideal for the target demographic. Despite this, overall access to public transport is acceptable in my opinion, based on the bus service provision in close proximity to the site.
- 7.3.8. Part (c) requires developments to successfully integrate into/enhance the character and public realm of the area, having regard to topography, cultural context, setting of key landmarks. In relation to character and public realm the proposal may enclose a street or crossroads or public transport interchange to the benefit of the legibility, appearance, or character of the area.
- 7.3.9. I accept that the topography of the site is challenging and in many respects the proposed development is successful in managing the change in levels across the site. The proposed building heights at five and six storeys would be a significant increase

in scale having regard to the existing character and surrounding context. In views from the east across the N11 the Cherrywood Business Park and SDZ are clearly visible, and the St Columcille's Hospital site is significantly elevated to the south. From this prospect, the site is somewhat enclosed by the surrounding topography and viewed within the context of buildings that sit at higher levels, and despite being taller than the surrounding townscape, I consider that the proposed buildings would successfully fit into the backdrop without having any significant impact on visual amenity.

- 7.3.10. This transition in scale is more challenging when viewed from Cherrywood Road. In my opinion, the abrupt transition from single /two storey to five and six storeys would not successfully integrate into or enhance the character of the area in its current form, being located on what is effectively a backland site that lacks a prominent street frontage and is surrounded on at least three sides by buildings of a much lower scale.
- 7.3.11. When considering the immediate context on Cherrywood Road, both the originally proposed scheme (maximum of five and six storeys) and the amended scheme (maximum of five storeys) would rise significantly proud of the rooflines of adjacent properties. Whilst taller buildings are not in themselves objectionable on this site, the height and mass proposed would, in my opinion, be obtrusive on the surrounding Cherrywood Road townscape, and would bear little relationship or cognisance of the surrounding context in terms of scale, presenting an overbearing form of development that would be an abrupt transition in height/scale at odds with the surrounding character. In a more urban context the proposed height would be entirely acceptable, however the character on Cherrywood Road is low rise suburban and in my views a more balanced approach to increased height is warranted.
- 7.3.12. I acknowledge that buildings taller than the prevailing heights could be successfully accommodated on this site. However, in my opinion the heights would have to be more recessive with a gradual increase in height/appropriate setbacks, particularly when viewed from Cherrywood Road where the surrounding topography and backdrop does not mediate the increased height in the same way as the view from Bray Road. As such, I consider the height, scale and massing of the proposed development to be excessive.
- 7.3.13. Part (d) relates to protected views and prospects. Whilst there are no protected views or prospects, the appellant has submitted a Townscape and Visual Impact

Assessment which considers the development from various viewpoints within the local area. I will address this matter under Part (d) of the Site/Building criteria at section 7.3.28 below.

- 7.3.14. Part (e) requires developments to have regard to the infrastructural carrying capacity of the area as set out in the CDP. The site is in a serviced urban area and neither Irish Water nor the Council's Transport and Drainage Planning Teams have raised any objection to the proposal, although Further Information was requested. This was not actioned given the Planning Authority's substantive reasons for refusal, but I am of the view that this could be appropriately dealt with by way of conditions.

#### District/Neighbourhood/Street Level

- 7.3.15. Part (a) requires proposals to respond to the overall natural and built environment and make a positive contribution to the urban neighbourhood and streetscape. The site is effectively enclosed on all sides and lacks any prominent street frontage. Whilst a vehicular access would be provided from Cherrywood Road, the site would still be backland in nature and as such has limited potential to make any beneficial impact on the streetscape. Whilst that is not necessarily a negative aspect of the development and there would be positive elements in terms of pedestrian connections through the site, for the reasons set out previously, I am of the view that the development fails to respond to the existing built environment in terms of its height, scale and massing for the reasons set out in section 7.3.8.
- 7.3.16. Part (b) states that developments should not be monolithic and should avoid long, uninterrupted walls of building in the form of slab blocks. In my opinion there is sufficient variation in the form of facades and materials to ensure that the development would not appear monolithic.
- 7.3.17. Part (c) the proposal must show use of high quality, well considered materials. I am satisfied that the material palette is appropriate in terms of colour, texture, and form and would be of a sufficiently high quality. I note observations regarding the materials not contextualising with the character of the surrounding built form but in my opinion, the proposed masonry and cladding would be acceptable and further refinements to materials could be achieved by condition.
- 7.3.18. Part (d) states that proposals, where relevant must enhance the urban design context for public spaces and key thoroughfares and marine or river/stream frontage. The

originally proposed development included an 8m riparian buffer from the Loughlinstown River which has been extended to 10m as part of the amended scheme submitted with the appeal. I consider that both riparian buffers would be sufficient to maintain the river frontage.

- 7.3.19. Part (e) requires that proposals must make a positive contribution to the improvement of legibility through the site or wider urban area. Where the building meets the street, public realm should be improved. The development proposes an access from Cherrywood Road where a raised table and pedestrian crossing would be provided that would link to the pedestrian access to the open space to the rear of the dwellings on the west side of Cherrywood Road and onwards to the Cherrywood Business Park and SDZ. In my opinion this is a positive aspect of the development. A pedestrian connection through the site would be provided however I have concerns regarding how legible this would be from the street and signage may be required. Insufficient details are provided regarding a potential link to St Columcille's Hospital and these issues are addressed in more detail in the Transport section below.
- 7.3.20. Part (f) states that the proposal must positively contribute to the mix of uses and /or building/dwelling typologies available in the area. The introduction of a nursing home and independent living units would be positive and in accordance with CDP policy. The amended scheme provides a community room within the ILU block which would be of benefit to residents. Overall, the proposed development would enhance housing choice in the area and the inclusivity of the neighbourhood.
- 7.3.21. Part (g) requires that proposals should provide an appropriate level of enclosure of streets or spaces. Whilst the site does not have any prominent street frontages to enclose, the positioning of the buildings within the site is positive with regards to providing open space and sufficient relief to the river.
- 7.3.22. Part (h) Proposal should be of an urban grain that allows meaningful human contact between all levels of buildings and the street or spaces. I am satisfied that the layout of the proposal, the ground floor amenity space, and public open spaces would facilitate human contact. This would be further supplemented by the roof terraces/gardens that would allow for interaction between residents.
- 7.3.23. Part (i) Proposals must make a positive contribution to the character and identity of the neighbourhood. For the reasons set out previously, the height, scale, and massing

of the development, as originally proposed and as amended as part of the appeal submission, would be excessive and would not make a positive contribution to the character and identity of the neighbourhood.

- 7.3.24. Part (j), the proposal must respect the form of buildings and landscape around the site's edges and the amenity enjoyed by neighbouring properties. As above, the height, scale and massing fails to respond to the scale of the immediate site context. Residential amenity will be discussed in the amenity section below.

#### At Site/Building Scale

- 7.3.25. Part (a) requires that the proposed design should maximise access to natural daylight, ventilation and views and minimise overshadowing. I address this matter in detail in section 7.4 below. In summary, I am satisfied that the development would be acceptable in terms of ventilation, views and daylight/sunlight/overshadowing.
- 7.3.26. Part (b) states that the proposal should demonstrate how it complies with quantitative performance standards on daylight and sunlight as set out in BRE guidance "Site Layout Planning for Daylight and Sunlight" (2nd Edition). Where a proposal does not meet all the requirements, this must be clearly identified and the rationale for any alternative, compensatory design solutions must be set out. On relatively unconstrained sites requirements should be met. This is addressed detail at section 7.4, in summary I consider the development to be acceptable in this respect.
- 7.3.27. Part (c) the proposal should ensure no significant adverse impact on adjoining properties by way of overlooking, overbearing and/or overshadowing. These issues are addressed in detail in the amenity section below. In summary, I am satisfied that there would be no overlooking or overshadowing impacts on any properties, however I have concerns regarding the ILU block being overbearing on the property at 25 Cherrywood Road.
- 7.3.28. Part (d) the proposal should not negatively impact on an Architectural Conservation Area (ACA) or the setting of a protected structure. The site is in close proximity to two Protected Structures, St Columcille's Hospital which sits to the south/south east of the site, and Waterfall Cottage which is located on Cherrywood Road to the north of the site. The impact of the proposed development on the Protected Structures is illustrated in the photomontages/CGI's and Townscape and Visual Impact Assessment submitted with the application and supplemented by an addendum submitted as part

of the appeal, which also illustrates the impacts of the amended scheme. Concerns were raised by the Conservation Officer regarding the impact of the development on the Protected Structures.

- 7.3.29. In terms of St Columcille's Hospital, the scheme originally submitted at planning would have a limited impact on the Protected Structure largely as a result of the significant change in levels between the appeal site and the elevated hospital site. In my opinion, the level of impact is not significant, and the amended scheme further minimises any potential impact as the reduced height of the buildings results in a much less visible scheme when viewed from the hospital site.
- 7.3.30. Waterfall Cottage is a substantial thatched cottage with block ridge detailing. Both the originally proposed scheme and the amended appeal scheme would be highly visible in views 3 and 7 of the photomontages/CGI submission. In both of these views, the scale and massing of the nursing home building would, in my opinion, harm the character and setting of the protected structure and the nursing home would benefit from being reduced by a further storey with the aim of setting the nursing home below the block ridge detail of the thatched roof. I note the points made by the appellant regarding separation distances, tree cover, and limited scope to appreciate the affected view. However, in my opinion there is a clear and unobstructed view of Waterfall Cottage from Cherrywood Road and the scale and massing of the nursing home would harm the character and setting of the protected Structure in this view, filling the backdrop and sitting above the ridgeline detail of the roof.
- 7.3.31. Part (e) requires that proposals must demonstrate regard to the relative energy cost of and expected embodied and operational carbon emissions over the lifetime of the development. Proposals must demonstrate maximum energy efficiency to align with climate policy. Building height must have regard to the relative energy cost of and expected embodied carbon emissions over the lifetime of the development.
- 7.3.32. A Sustainability and Energy Report has been submitted which details the various Be Clean, Be Green, and Be Lean design interventions and technologies to contribute to the energy efficiency of the building, including Air Source Heat Pumps and Photovoltaic Panels. In my opinion the proposals are acceptable in this respect.

#### County Specific Criteria



- 7.3.33. In my opinion the County Specific criteria are not of specific relevance to the proposal. Environmental impacts, impacts on wildlife/ecology, residential amenity and quality of accommodation are discussed in more detail below.

#### Conclusions on Design, Quantum of Development and Heritage

- 7.3.34. I consider that the height, scale, and massing of the proposed development would present an obtrusive and overbearing form of development that would be an abrupt transition in scale at odds with the surrounding character on Cherrywood Road. In my opinion the development would be overbearing on both Cherrywood Road and immediately surrounding properties, in addition to having an adverse impact on the character and setting of Waterfall Cottage, a Protected Structure. Whilst I accept that the provision of nursing home and independent living accommodation would be a significant benefit, it does not outweigh my concerns regarding the height within the immediate context. As such, the development would be contrary to the Dún Laoghaire-Rathdown Building Height Strategy and would, therefore, be contrary to the proper planning and sustainable development of the area.

#### **7.4. Quality of Accommodation**

- 7.4.1. Concerns have been raised in the observations that the proposal would provide a poor standard of accommodation. I note that the nursing home accommodation would comply with the HIQA space standards for residential nursing settings and whilst I acknowledge that there are a significant number of single aspect units in the nursing home, this is a consequence of the type of accommodation being provided where it is difficult to provide a volume of single occupancy rooms with dual aspect.
- 7.4.2. Some of the rooms on the lower levels of the southern elevation would have limited outlook due to the change in levels to the south and the need for a retaining wall, which at first floor level would be just 6m away. However, this is a limited number of rooms on both the originally submitted scheme and the amended appeal scheme and I'm satisfied that they would be compensated by the communal sitting rooms which are located on the opposite façade and have open views towards the outdoor amenity spaces and the river. Additionally, outlook from the south facing rooms improves significantly on upper floors. I am also satisfied that the selection of amenity spaces being provided for the nursing home are acceptable and that on balance, they would be well lit with adequate access to sunlight.

- 7.4.3. The ILU block would exceed the dual aspect requirements of the CDP and the room and unit sizes would meet housing quality standards and I am satisfied that the private and communal amenity spaces would also be acceptable.

*Internal Daylight*

- 7.4.4. The submitted Daylight and Sunlight Assessment demonstrates compliance with the BRE guidelines in terms of lux values, also known as a Spatial Daylight Autonomy Test. The assessment demonstrates that all rooms meet the requirements, including five rooms that pass on the basis of external shadings being excluded from the design/assessment which I consider reasonable. The Planning Authority initially raised concerns with the Daylight and Sunlight Assessment due to the fact that only select floors of both buildings had been assessed (ground and third floor of the ILU block and third floor of the nursing home). Whilst an updated assessment was provided as part of the appeal, this still restricted the assessment to ground/third floor of the ILU block and first floor of the nursing home.
- 7.4.5. Notwithstanding, I consider that the new homes and nursing home units would be well lit. In terms of the ILU block, this is because the ground floor units all meet the BRE requirements in terms of lux values. As ground floor units are generally subjected to more shading and obstructions than upper levels, it would be reasonable to conclude that upper floor units/rooms would also meet these standards given the stacking arrangement of the homes. This is evidenced by the fact that the third floor results also meet the BRE standards.
- 7.4.6. With regard to the nursing home, the assessment undertaken of the first floor demonstrates that all rooms pass. Using the same logic, upper floor windows would also pass and I note that the level of obstruction due to the topography to the south reduces markedly on each upper level of the building. Despite the ground floor rooms having not been assessed, these are located on the northern arm of the building and have unobstructed outlook to the east and west. Given the lux levels achieved at comparable rooms at first floor level and the unobstructed nature of the ground floor units, it is reasonable to assume that they would also meet the BRE standards.
- 7.4.7. It is unclear why the appellant did not provide a comprehensive assessment of all floors, but I am satisfied that the BRE standards would be met. The Board should note that no Sunlight Exposure Assessment has been provided for the proposed units in

the ILU block and that the lux value assessment of the scheme does not consider European Daylighting Standard EN 17037. These standards have a higher pass threshold than the BRE and it is likely that there would be at least some instances of non-compliant rooms. Should the Board be minded to grant permission then it may be necessary to request this assessment by way of Further Information, however, based on the information on file, I consider that on balance, the proposed accommodation would have adequate access to daylight and sunlight.

## **7.5. Open Space Provision**

- 7.5.1. Issues regarding the quantum and quality of open space have been raised by the Planning Authority who consider the calculations for site area to be inconsistent. The CDP requires nursing homes and assisted living accommodation to provide at least 20% of the site area as open space. Section 12.8.4 of the CDP also sets a figure of 15sqm of open space to be provided for each resident in nursing home/assisted living accommodation.
- 7.5.2. The appellant has provided two calculations for the open space provision. The first considers the open space requirements against the total site area whilst the second considers the requirements excluding the Rose Cottage site. Regardless of the calculation used the development would comply with both the 20% site area requirement and the 15sqm per resident requirement. Compliance would be achieved on both the originally submitted scheme and the amended appeal scheme where public open space would amount to 29.4% and 31.7% respectively. I note that there is an inconsistency on the development site area provided on the open space calculation between the original scheme and the amended scheme, but this is minor at 33sqm and even adopting the higher of the two figures, the scheme would remain compliant with the policy standards. I am therefore satisfied that the quantum of open space is acceptable. In terms of quality, the open space retains many trees, would be well planted, provides areas for seating and would, in my opinion, generally be of an acceptable standard.

## **7.6. Residential Amenity**

- 7.6.1. The Planning Authority have raised concerns that the development would have an adverse impact on the residential amenity of existing properties due to the proximity of the proposed buildings to the boundaries. Observations on the appeal argue that

the development would be overbearing and that there would be impacts in terms of a loss of daylight and sunlight, overshadowing, overlooking/loss of privacy, depreciation in property values and disturbance during construction.

*Separation Distances, Overlooking, and Overbearance*

- 7.6.2. Separation distances to all adjacent properties exceeds 16m and the development complies with SPPR1 of the Compact Settlement Guidelines in this respect, with separation distances to the properties on Bray Road of between approximately 20m and 26m and distances to the nearest properties on Cherrywood Road of between approximately 19.7m and 22m. I am satisfied that these separation distances are sufficient to ensure that there would be no overlooking or loss of privacy to any adjacent properties.
- 7.6.3. The height and form of the building adjacent to the properties on Bray Road is such that I do not consider that it would be overbearing. However, on Cherrywood Road, I consider that the height and massing of the proposed development (on both the originally submitted application and the amended appeal scheme) is such that it would be overbearing on the property and garden ground at no. 25 Cherrywood Road. This single storey property has a fairly constrained rear garden that in my opinion would be dominated by the ILU block which would have an overbearing appearance that would harm residential amenity.

*Daylight, Sunlight, and Overshadowing*

- 7.6.4. The Daylight and Sunlight Assessment originally submitted with the application did not consider the impacts on adjacent properties and garden ground. An updated Daylight and Sunlight Assessment was submitted with the appeal, based on the amended scheme. This addresses the impact on the immediately adjacent properties on Cherrywood Road and Bray Road in terms of VSC, Annual and Winter Probable Sunlight Hours (APSH/WPSH), and Sunlight to amenity spaces.
- 7.6.5. With regard to VSC, the results demonstrate that all of the assessed windows would pass and would all maintain VSC levels in excess of 27%. Three windows would see reductions in sunlight that would be below the BRE targets. Of these three windows, two would fall below the targets for both APSH and WPSH, whilst the remaining window would meet APSH but fall below on WPSH. In all three cases the reductions are very minor, and the windows were not meeting the BRE requirement in the

baseline condition. On that basis I acknowledge that the impact of the development on sunlight would be very slight.

- 7.6.6. Impacts of sunlight to the garden ground of adjacent properties has also been considered. The BRE sets a target of at least 50% of the garden ground to achieve two hours of direct sunlight on the 21<sup>st</sup> March. In all instances this is significantly exceeded, and the adjacent gardens would remain well lit. On the basis of the information submitted and the daylight/sunlight levels proposed, I am satisfied that the development (both original and amended) would not have a significant adverse impact on residential amenity in terms of a loss of daylight/sunlight or the creation of overshadowing.

#### *Disturbance*

- 7.6.7. It is stated in the observations that the construction of the development would result in disturbance to adjacent properties in the area by way of noise, dust, dirt, and vibration. I note that concerns are also raised with regards to these impacts on wildlife which I address further in the Ecology section below.
- 7.6.8. The construction stage of the development would be governed by a Construction Environmental Management Plan which would be secured by condition in the event that the Board grant permission. A preliminary version of this document was submitted as part of the application and further updated as part of the amended appeal submission. This document sets out the broad methods for how issues such as dirt, dust, vibration, and noise would be managed, and takes account of the mitigation recommended in the EIA Screening Report. The principles established in the preliminary CEMP for managing and monitoring air quality, noise, dust, dirt and vibration are acceptable and represent established best practice.
- 7.6.9. I note that this would be a large scale development in comparison to the surrounding environment however, there is nothing unique or inherently challenging regarding the proposed construction methods and site development works. Whilst deep excavations would be required on the southern boundary, preliminary surveys indicate that there is no bedrock. In my view, all construction projects lead to some degree of disturbance, particularly during the early stages of construction. In many respects, some level of disturbance is inevitable if sites are to be brought forward for development. In my opinion, the temporary disturbance associated with the construction phase of the

proposed development would be suitably managed subject to compliance with the Construction Environmental Management Plan, a more detailed version of which would be required by condition and would incorporate the mitigation measures identified in supplementary reports such as the EclA and NIS.

- 7.6.10. No Noise Assessment was submitted as part of the application and as such I consider that a baseline noise survey should also be required by condition in the event that permission is granted. This would allow background noise levels to be established and more effective noise management as part of the CEMP.

#### *Depreciation of Property Values*

- 7.6.11. I note the observations made on the appeal that state that the proposed development would have a depreciative impact on property values in the area. However, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

### **7.7. Transport**

- 7.7.1. The second reason for refusal raises access as an issue. The Planning Authority's Transportation Planning report also raised issues regarding cycle parking, car parking, pedestrian connections and linkages through the site, footpath widths, sightlines, and issues regarding the traffic survey. Further issues were raised regarding the appropriateness of the location for a nursing home having regard to footpaths and linkages beyond the site.
- 7.7.2. Many of these concerns are shared by observers on the appeal who also consider the development would cause disturbance and traffic issues during construction, that the proposal is deficient in parking, and that the development would be inappropriately located and a risk to traffic and pedestrian safety.

#### *Traffic*

- 7.7.3. Initial concerns raised by both the Planning Authority and observers relate to the baseline traffic surveys being undertaken during a period of covid restrictions. The Technical Note submitted by the appellant as part of the appeal states that the surveys were undertaken on the 3<sup>rd</sup> December at a period when all restrictions had been lifted

and as such represent peak traffic. It is also stated that updated surveys would have no impact on the traffic analysis undertaken in the Traffic and Transport Assessment.

- 7.7.4. Level 5 Covid restrictions were lifted on the 1<sup>st</sup> December 2020 in advance of the traffic survey, but I acknowledge that some restrictions remained in place. In my opinion, reasonable steps could have been taken by the appellant to update the traffic survey data in advance of submission of the application in 2023, and it is likely that the surveys undertaken indicate a somewhat reduced traffic volume, although not as reduced as would have been the case under the previous Level 5 restrictions. Notwithstanding, I am satisfied that the trip/traffic generation data provided in the TTA has been compiled using appropriate methods by consulting the TRICS database. Updated figures have not been provided for the appeal scheme and in that respect, the data provided in the TTA represents a worst case scenario.
- 7.7.5. I note concerns by observers that Cherrywood Road is operating at 94% capacity however, from the information on file, this is not evidence based. The TTA provides data on traffic generation during the morning and evening peak which is given as 08:00-09:00 and 16:30-17:30. In my view these periods could reasonably be extended to reflect longer peak periods, but I accept that on balance, these periods do represent the busiest times on the local road network. The TTA demonstrates that the scheme would generate a total of 24 peak two-way trips in the morning (11 arrivals and 13 departures) and 18 peak two-way evening trips (11 arrivals and 7 departures) and I agree with the conclusion that nursing homes and independent living units generate relatively low levels of traffic given the nature of their use/occupation. I am satisfied that, in terms of traffic generation, the development would not have a significant impact on the local road network.
- 7.7.6. Modelling of key junctions has been undertaken using the growth estimates provided by Transport Infrastructure Ireland and demonstrate that the key junctions (appeal site entrance and Cherrywood Road/N11 Bray Road), would be operating well within capacity up to 2039, with the maximum degree of saturation being 87.7% on the Bray Road/Cherrywood Road junction and significantly less than this on earlier design years, including 44.7% on Cherrywood Road and 44.2% on the Bray Road in 2029. I consider that this demonstrates adequate capacity to absorb the development and sufficient headroom exists to accommodate potential increases in traffic post covid restrictions. In my view the levels of traffic associated with the proposed development

and the performance of local roads and junctions in that scenario are not of a level that would result in significant impacts on traffic or pedestrian safety, nor would the development result in significant congestion or difficulty access/egressing properties.

#### *Access and Sightlines*

- 7.7.7. The Planning Authority raise concerns that sightlines could be obstructed by the boundary treatment of Rose Cottage and the Transportation Report recommended seeking Further Information to address this. Observations on the appeal consider the site access onto Cherrywood Road to be compromised due to the nature of Cherrywood Road and the location of the access on a bend.
- 7.7.8. Whilst there is a bend on the road, it is not significant and, in my opinion, adequate sightlines have been demonstrated which show that the boundary treatment of 26 Rose Cottage would not cause an obstruction. I do not consider that the point of access is particularly constrained and with the sightlines provided, in addition to the proposed pedestrian crossing and raised table, I am satisfied that the access would not result in a traffic or pedestrian hazard, nor would it compromise the safety of road users or pedestrians. I note further concerns raised by observers that the provision of the pedestrian crossing on Cherrywood Road would narrow the carriageway and create another hazard but in my opinion the narrowing is minimal and a 6m clear width would continue to be provided. Furthermore, the appellant, as part of the amended scheme, has complied with the Planning Authority's requirement to make this a signalised junction which I consider would secure the safety of this crossing point and provide an appropriate link to the footpath leading to Cherrywood Business Park and the open space to the west.

#### *Pedestrian Connections and Footpaths*

- 7.7.9. Concerns regarding footpath widths were raised by the Planning Authority in addition to a request to provide a pedestrian connection through Loughlinstown Hospital. Observers on the appeal raise issues with the pedestrian link to the north which is considered to be a private road and unsafe for pedestrians. Further concerns raised are that the footpaths surrounding the site are narrow and would be inappropriate for the proposed use by not meeting accessibility requirements.
- 7.7.10. I note at the outset that the pedestrian linkages within the site are, in my opinion, acceptable in terms of width, layout and form. With regard to connections through the



St Columcille's Hospital site, the appellant has shown on plan (both as part of the original submission and the amended appeal scheme), provision for a lift/stair connection. The Planning Authority requested that a suitable link for pedestrians and cyclists be provided, specifically that this be an alternative to the proposed lift/stairs proposed by the appellant. Given the significant change in levels between the appeal site and the St Columcille's Hospital site, I am of the opinion that it would not be feasible to provide a pedestrian/cycle link without the intervention of a lift or staircase. Providing a graded link would require extensive ramps across the site which would not be practical or an efficient use of the lands. On that basis a lift/stair connection is most appropriate.

7.7.11. However, the information provided by the appellant is limited to showing a potential lift/stair enclosure on plan only. No elevations are provided or details as to how this would link to the hospital site at upper levels. It is my view that this would require a significant structure, rising to potentially five storeys with a bridge at the upper level to provide a connection to the hospital land. In the absence of any of this information and having regard to the scale of works required, I consider that this would represent a material change that would necessitate a planning application. Whilst this information could be requested by the Board, it would be a significant amendment and would require readvertisement. I am therefore of the view that the Board should disregard the proposed link to the hospital as it cannot be provided in its current form as part of the appeal scheme. I acknowledge that a pedestrian link to the hospital would be beneficial however, the absence of the link would not in my view, justify refusal of the application.

7.7.12. I note concerns regarding the gradient of the pathway linking to the Cherrywood Business Park and would agree that the path is too steep for people with increased mobility needs. However, the nearby bus stop on Bray Road provides a short bus connection to Cherrywood Business Park and this would be an acceptable solution in my view. The key issue is therefore pedestrian links to public transport/bus stop. From the appeal site, pedestrian links to the bus stop would be possible via Cherrywood Road and the link to Bray Road at the north east corner of the site.

7.7.13. Pedestrian access along Cherrywood Road would be reliant on the single footpath that is located on the east side of the carriageway. Whilst this footpath is generally in good condition it is narrow, c. 1.5m in width, with several interventions such as lighting

columns and utility cabinets further narrowing the pathway to 1m in places, which is not wide enough for two people to pass. Whilst this may be acceptable in terms of standard residential accommodation, in the context of the provision of a nursing home/independent living units, I have significant concerns that this would not be an appropriate or safe route, particularly for people with mobility/visual impairments which I consider to be relevant given the proposed use and target demographic. The Quality Audit submitted by the appellant notes the limited width of the footpath but considers it to be fit for purpose. Despite this the Quality Audit recommends that the footpath on Cherrywood Road be increased to 1.8m minimum width, but I note that this is not proposed as part of the application. Recognising the substandard pedestrian infrastructure on Cherrywood Road, the Transportation Planning Division required the appellant to demonstrate that all proposed pedestrian links are suitable for users of diverse ability, so that pedestrians would not be reliant on Cherrywood Road. This relates specifically to the proposed pedestrian link to Bray Road from the north east corner of the site.

- 7.7.14. I note the view of observers that the link from the site to Bray Road is a private road and unsuitable for pedestrians. A letter from the appellant's solicitor claims a right of way based on long use and prescription which, *prima facie*, is reasonable given the long established existing gated access to the site, which is the sole access to the site at present. Based on the information in file, I am not in a position to adjudicate on the conflicting claims regarding the Right of Way and the Board may wish to seek clarity on this matter.
- 7.7.15. Provided there is a right of way to use this route, it would need to operate as a shared surface, and I have significant concerns regarding its suitability for such in its current form. The route from the north-east site access to Bray Road is a single carriageway vehicular route, ranging in width from approximately 4.2m to 2.8m at its narrowest. The road is gated mid-way with electric gates that prohibit access. The part of the route closest to the appeal site has a long curve that impedes visibility with no footpath or areas suitable as a pedestrian refuge in the event of vehicles passing pedestrians or cyclists, with one edge marked by a boundary wall and the other edge comprising the sloping riverbank. This arrangement becomes even more constrained where the carriageway narrows as it approaches Bray Road.

7.7.16. I consider that this route could operate successfully as a shared surface, subject to interventions that would be required for a shared surface to operate safely, including signage, road markings (to indicate appropriate pedestrian refuge areas) and opening up the gated access. However, this land lies entirely outside of the appellant's control and as such there is no feasibility of securing these improvements as part of the proposed development.

7.7.17. Whilst I acknowledge that this would be a low traffic and low speed environment, I am not satisfied that it would be an appropriate vehicular/pedestrian/cyclist route in its current form, for what would be a significant uplift in pedestrian/cycling numbers (noting that the link would be used by the public in addition to residents/staff), particularly taking into account the specific demographic that would live in a nursing home/independent living units, potentially with mobility/visibility impairments. The issues of pedestrian safety on the Bray Road link were not addressed in the Quality Audit and whilst a Road Safety Audit could be secured by condition, the appellant would not have the ability to implement potential recommendations as the land is outside of their control. The failure to provide safe pedestrian links to the surrounding area, not least to the bus stop for access to public transport, could leave residents isolated. It is therefore my opinion that the development would be contrary to Section 12.3.8.2 which requires nursing homes and assisted living accommodation to be served by the provision of good footpath links and that the immediate site context with regards to footpath links and access, would not be suitable to serve the proposed nursing home and ILUs.

#### *Cycle Parking*

7.7.18. The proposed quantum of cycle parking for both the originally submitted scheme and the amended appeal scheme is compliant with the standards required by the Dún Laoghaire-Rathdown CDP and I am satisfied that conditions could be applied to secure full compliance with DLRCC's Standards for Cycle Parking and associated Cycling Facilities for New Developments – January 2018 in the event that permission is granted.

#### *Car Parking*

7.7.19. The Transportation Planning Report raises concerns that the level of car parking would be deficient, particularly for the ILUs. Additional concerns raised are that the

accessible parking bays do not meet the required dimensions. Observations on the appeal share the concern that insufficient parking is proposed and that this would cause excess parking to be displaced to the street, impacting traffic and pedestrian safety as well as access for emergency services.

7.7.20. The Technical Note submitted by the appellant as part of the appeal considers that there is an inconsistency in the CDP parking requirements for nursing homes/ILUs as there is a greater parking requirement when compared to both the 2016-2022 CDP and the South Dublin County CDP.

7.7.21. Having regard to the CDP standards, the originally submitted scheme has a requirement of 89 spaces comprising 29 parking spaces for the ILUs and 60 spaces for the nursing home. The proposed level of car parking would be 40 spaces comprising 25 spaces for the ILUs and 15 spaces for the nursing home, inclusive of visitor parking.

7.7.22. On the amended appeal scheme the total requirement reduces to 74 spaces, comprising 23 spaces for the ILUs and 51 spaces for the nursing home. The proposed level of car parking for this scenario is 36 spaces, comprising 20 spaces for the ILUs and 16 spaces for the nursing home, inclusive of visitor parking.

7.7.23. I note the comments from the appellant's transport consultant that the maximum car parking provision appears to have increased from the former to the new CDP. In any event, these are maximum, not minimum standards and I accept that nursing homes in general have a lower requirement for parking than traditional residential. Additionally, the site is well located for public transport, including Luas and bus routes that can be availed by visitors to the nursing home. Having regard to the location of the nursing home in close proximity to high frequency public transport, such as the various bus routes operating along Bray Road, the likelihood that some future residents will come from the local area, and the general move towards reducing car parking advocated by the Compact Settlement Guidelines, I am satisfied that the proposed on-site car parking, for both the original and amended scheme, is acceptable in terms of quantum and would not give rise to traffic hazard, pedestrian safety or barriers to the emergency services as a result of displaced parking.

7.7.24. In terms of the issues raised regarding the dimensions of accessible parking bays, I agree with the Planning Authority that the dimensions and layout do not meet the

requirements. Whilst the appellant has attempted to address this on the amended scheme, parts of the parking spaces would oversail the carriageway and the footpath. Notwithstanding, I am satisfied that this issue could be suitably addressed by condition in both scenarios should the Board grant permission.

### *Construction Impacts*

7.7.25. Concerns have been raised by observers regarding disturbance during construction in relation to traffic, including that vehicles would not be able to access/egress the site safely, that traffic would place increased pressure on Cherrywood Road, and that a complete or partial closure of Cherrywood Road would be required in order to construct the new bridge.

7.7.26. I acknowledge that few details have been provided on the construction methodology on the basis that a detailed Construction Method Statement and Construction Environmental Management Plan would be a conditioned requirement of permission. I also note that all construction projects involve a level of disturbance associated with the construction phase and that mitigation is a necessity to manage and reduce potential impacts and disturbance. In my opinion, there is sufficient land within the 26 Rose Cottage site to provide suitable space for preliminary construction works to allow the construction of a site access and temporary bridge, and that sufficient access to the wider site would be possible without compromising the operation of Cherrywood Road. I am satisfied that, subject to a detailed Construction Method Statement and Construction Environmental Management Plan (incorporating the relevant mitigation identified in the accompanying reports on the application), the proposed construction works would have a limited and temporary impact on adjacent residents.

## **7.8. Flood Risk**

7.8.1. It is stated in observations that the development would be at risk of flooding as well as increasing the risk of flooding to nearby homes due to its location and the form of development proposed. There are concerns that the development would lead to increased water pollution as a result of surface water and the need for sewage to be pumped out of the site via the new bridge and that this could damage the water quality of Loughlinstown River and potentially Killiney Bay. Construction works and transferring materials across the river are also considered to be a risk in terms of water pollution.

- 7.8.2. The Flood Risk Assessment submitted with the application confirms that a relatively small section of the site is located within Flood Zone A, relating to land immediately adjoining the eastern edge of the Loughlinstown River. A small section of the existing rear plot of 26 Rose Cottage is designated as Flood Zone B and the remainder of the site appears to be in Flood Zone C which is the lowest level of flood risk. Although the main site access and new bridge would come through the Rose Cottage site, I note from the FRA that this would be constructed above the 0.1% AEP flood level with adequate room under the road to allow potential flood water to dissipate and that no construction would take place within the 0.1% AEP flood extent.
- 7.8.3. Parts of the site within Flood Zone A and the Coastal Flood Plain would not experience a change in ground levels and the FRA concludes that there would be no increase in flood risk elsewhere as there would be no decrease in the volume of the existing flood plain storage which I agree with. Whilst I accept that the proposal represents highly vulnerable development due to its residential nature, the finished floor levels of all buildings would be constructed above the 0.1% AEP fluvial flood level with further allowances for freeboard and climate change and in my opinion, this is acceptable and would appropriately mitigate against flood risk to the proposed buildings.
- 7.8.4. I have also considered the extensive surface water management scheme proposed as part of the development which would incorporate green/blue roofs, permeable surfaces, and rain gardens and I am satisfied that appropriate attenuation of surface water would be achieved with appropriate safeguards in place to control potential polluting materials such as hydrocarbons which would be filtered prior to discharge. Additional safeguards include hydro brakes to control discharge of surface water during a flood event. Potential pollution during construction can be suitably addressed by way of mitigation through a Construction Environmental Management Plan and a Construction Method Statement that would impose appropriate measures such as silt fencing and settlement ponds during construction phase in order to minimise the risk of polluting material entering the waterway. This mitigation is set out in more detail in Section 8 below and I am satisfied that it would appropriately protect the integrity of the river.

## 7.9. Ecology and Biodiversity

- 7.9.1. Observations on the appeal raise a significant number of concerns regarding the location of the proposed development within an important ecological corridor with links to the Loughlinstown Wood Proposed Natural Heritage Area and the Bride's Glen Locally Important Biodiversity Site. Much of the concern stems from the view that development of the site would have an unacceptable impact on biodiversity/ecology with many protected and non-protected species likely to be affected. Specific concerns have been raised as to the potential impacts on badgers, otters and bats and it is argued that the surveys undertaken are insufficient. Additional issues raised are that the construction of the bridge would impact on the river in terms of water quality and that this would have consequent effects on wildlife. It is the view of observers that the site would be better suited as an amenity space and that development is premature in the absence of a Local Area Plan.

*Impacts on Adjacent Natural Heritage and Biodiversity Sites*

- 7.9.2. Observations have raised the sites important links to the Loughlinstown Wood pNHA and the Bride's Glen Locally Important Biodiversity Area. In terms of the Loughlinstown Wood pNHA which sits downstream of the site, the main risk is the transfer of invasive plant species along the river corridor. An Outline Invasive Species Management Plan (OISMP) was submitted with the application setting out the various invasive species present on site, most notably Giant Rhubarb which is listed on the Third Schedule of the Birds and Habitats Regulations. The OISMP details the management options for invasive species which includes four phases as follows:

- Phase 1 Inspect: Further site survey for occurrence of all invasive species and species mapping, to be undertaken in the growing season.
- Phase 2 Construction Stage Invasive Species Management Plan: Drafted with the Ecological Clerk of Works and setting out the species to be treated, the method to be employed and further control and biosecurity measures.
- Phase 3 Control: This includes implementation of biosecurity and control methods and treatment reporting.
- Phase 4 Monitor: Ongoing monitoring for re-growth for a period of at least 5 years.

- 7.9.3. The treatment options presented are acceptable and the biosecurity measures prior to and during construction would, in my opinion, minimise the risk of spread. Subject to conditions to secure the objectives of the Invasive Species Management Plan, I am satisfied that the development would not pose a risk to the Loughlinstown Wood pNHA through the spread of invasive species. These requirements are echoed in the EclA and the NIS.
- 7.9.4. When considering impacts on the Bride's Glen Locally Important Biodiversity Site, I note that the appeal site sits downstream of the LIB and as such would have little potential to impact on water quality, water flow or ground water due to the flow direction and topography of the site. The site is separated on the southern boundary by a stone wall which prevents direct incursion and limits the potential for recreational disturbance. I acknowledge that there could be potential for damage to trees along the southern boundary during construction and that damage to the root zones of these trees could have significant impacts should the trees fall, more moderate damage could lead to dieback. The EclA notes that this would be a temporary impact as the woodland would be expected to recover over the long term. However, these trees are located on the opposite site of the retaining wall that marks the boundary of the site and the proposed building would be set well back from the retaining wall. On balance, I consider that the development would be acceptable on this matter, subject to conditions regarding a detailed survey of root zones and tree protection measures to protect the root zones of these trees throughout the construction phase. I am therefore satisfied that the development would not have a significant adverse impact on the Bride's Glen LIB.

*Impacts on Loughlinstown River*

- 7.9.5. The Planning Authority have raised concerns regarding the proximity of the development to the river. These concerns are shared by observers on the appeal who also consider the buffer to be insufficient and raise concerns that construction works and transferring materials across the river would also risk pollution of the water.
- 7.9.6. The main risk to water quality, the river bed, and spawning sites/aquatic species, is associated with the construction phase such as pollution and/or sedimentation of the watercourse due to cement residues or hydrocarbons entering the water during construction of the new road bridge and the new surface water outfall, in addition to



contaminants from the construction site in general and potential contamination of groundwater during excavations. Significant damage to the riverbed or water quality could impact on local brown trout and migratory sea trout. This could result in a significant temporary effect at county level and any significant decline in fish species could cause a decline in prey resources for local otters.

7.9.7. Firstly, I would note that the amended scheme submitted as part of the appeal increases the riparian buffer to 10m which meets the requirements of Inland Fisheries Ireland as well as CDP policy. The bridge construction would have foundations set back at least 2.5 m from the existing riverbank/retaining walls and would be a single clear span construction with no interference with the riverbed. Subject to the mitigation measures included in the EclA (and NIS, set out in more detail in Section 8.0 below) regarding construction methodology and protective measures, in addition to pre-construction consultation with Inland Fisheries Ireland regarding the final design and construction method, I am satisfied that the construction stage of the development would not have a significant impact on the Loughlinstown River or aquatic species.

7.9.8. In terms of potential operational impacts, these would be limited to surface water drainage issues. The proposed development incorporates SuDS and incorporates green roofs, blue roofs, permeable surface and attenuation. Whilst there would be a new outflow to the river, this would incorporate a flow control device in addition to a downstream defender that would remove fine and coarse particles, hydrocarbons, and floatable debris. Run off from the new bridge would be collected and discharged to an attenuation tank via an oil/petrol interceptor and onward discharge from the attenuation tank would be controlled by a hydrobrake. Given the mitigation incorporated into the design of the development, in addition to the proposed SuDS scheme and the remaining surface water drainage elements, I am fully satisfied that the operational development would not result in any significant adverse impacts on the water course either in terms of pollution, sedimentation, or erosion.

#### *Bats*

7.9.9. No bat roosts were recorded on the site although one tree was noted as having low to moderate potential as a bat roost. Four bat species were recorded using the site and surrounding woodlands during the bat survey. The development would result in the loss trees, scrub, shrubbery and approximately 0.7 hectares of foraging area,

however, retention and enhancement of the riparian corridor would continue to provide foraging and commuting habitat for bat species. The EclA concludes that the removal of habitat is not anticipated to have a negative impact on the local conservation status of any bat species. The habitat is primarily foraging habitat and the impact from its loss would be temporary and moderate negative.

7.9.10. Taking into account the proposed landscaping and once this landscaping and the riparian corridor have matured, the residual effects are considered to be minor negative. I am satisfied with the conclusions of the EclA with regards to bats and note that potential impacts could be reduced by conditions securing pre-construction surveys and enhancement in the form of bat boxes and bat tubes, which would provide appropriate mitigation.

7.9.11. Concerns have been raised by observers that the bat surveys undertaken are insufficient. I note that the field survey was undertaken to check for roosts in April 2020 with bat activity surveys undertaken at dusk in September 2020 and August 2022. Overall, I am satisfied that the bat surveys undertaken are proportionate and sufficient for the purposes of assessing the site for bat roosts and foraging/commuting activity. Should the Board consider it necessary in the event of a grant of permission, further pre-commencement bat surveys could be conditioned.

#### *Badgers*

7.9.12. At the outset it is important to note that no signs of badgers were detected on site, including badger setts, trails or foraging signs. The EclA states that the stone wall that surrounds parts of the site is potentially a barrier to movement and I consider this to be a reasonable assumption. Known setts and badger trails are located within the woodland adjacent to the site, with the nearest sett being 40m from the site. Last surveyed in January 2023, the EclA states that this sett is inactive and that previous surveys in 2020 and 2021 did not detect badgers, although signs of occasional use were detected.

7.9.13. Guidance from the National Roads Authority regarding ecological impacts recommends a setback of 30m from setts for heavy construction machinery to avoid damage/disturbance. The nearest identified sett is 40m off site in the adjacent woodland and I am satisfied that the development would not affect this sett given the separation distance. The EclA recommends pre-construction surveys for badgers in

order to check the level of activity at the sett and to survey for any new setts, particularly breeding setts, in suitable habitat within the zone of influence (150m) of the proposed development site. I am satisfied that this is appropriate and reasonable and would mitigate any potential impacts on badgers. I note the concerns raised by observers that the badger survey was insufficient. However, I disagree and consider that the surveys undertaken in January 2020, March/April 2020, January 2021 and January 2023 to be robust in terms of recording badger activity.

#### *Otters*

- 7.9.14. Otters are protected under the Wildlife Act and are also a qualifying interest of the Wicklow Mountains SAC. The survey results demonstrated that there were no signs of otter along the riverbank or the retaining wall and no otters were recorded along the river. Furthermore, no opportunity for a holt has been observed along either river bank on the site and no holts were identified on site. However, previous surveys commissioned by the Council in addition the Ecological surveys for the Cherrywood SDZ identified the presence of otters along the Loughlinstown River. This included two active holts, one within the Loughlinstown Woods and another upstream of the M50.
- 7.9.15. The EclA considers the potential impact of the development on otters during both the construction and operational phase. The report concludes that the riverbanks through the site are not suitable for the location of otter holts, being comprised of retaining walls/scrub on one side and residential gardens on the other. The surveys do not indicate any otter activity on the site, and it is anticipated that otters commute along the riverbed as opposed to accessing the site and riverbanks at this location.
- 7.9.16. Otter holts identified outside of the site are approximately 300m away which is a sufficient distance to ensure that there would be no impacts during construction although further pre-construction surveys would be undertaken as a precautionary measure which I consider to be appropriate. Although construction is to last for two years, potential impacts would be reduced as a result of the proposed riparian buffer, the fact that otters are most active at dawn and dusk when construction activities would be reduced, and the fact that otters are likely to be used to noise from traffic and human activities given the suburban character of this stretch of the river.

7.9.17. In terms of the operational development, the riparian buffer would be retained and enhanced with additional planting and the new bridge would not interfere with movement along the river. The presence of the development on the site, in an area characterised by suburban use, is not anticipated to increase disturbance to otters. Threats to water quality and barriers to movement are the more significant threats to otters along the watercourse. In terms of the development itself, no barriers to movement would be present on the site and suitable mitigation is proposed (both in the EclA and the NIS, discussed in more detail below) to protect water quality during construction. Operationally, I am satisfied that the proposed drainage scheme for the development would protect against significant adverse impacts on water quality.

#### *Other Species*

7.9.18. The EclA notes that there is suitable habitat on the site for other species protected under the Wildlife Act, such as hedgehog, stoat, and pygmy shrew although the presence of these species was not confirmed during the site surveys and it was noted that due to the small size of the habitat available at the site, the population of these species is likely to be small and of local value. Potential displacement of these species from the site is not anticipated to have a significant negative impact on the conservation status of their local populations and retention and enhancement of the 8m riparian buffer zone (10m on the amended appeal scheme) would provide a small area of suitable habitat for these species once the planting has matured. I am satisfied that the potential impact on these species would be low and could be further minimised by supervision of vegetation clearance which is provided for in the recommended mitigation in the EclA.

7.9.19. The EclA states that two bird species of conservation concern, Grey Wagtail and Starling, either breed or are likely to breed on the site. Grey Wagtail was not recorded on the site during site survey, but the river corridor is a very suitable habitat for this species. No significant impact is anticipated should the grey wagtail occur or breed along the river at the site and the enhanced riparian buffer would serve to protect suitable habitat and nesting sites for this species. Whilst construction of the bridge and the surface water outfall could cause disturbance this would be temporary, limited to a single breeding season, and the EclA does not anticipate this to be a potential significant negative effect on local conservation status. I am satisfied with the report conclusions on this matter.

- 7.9.20. Starling was recorded on the site and is anticipated to breed there. The report notes the downward trend in population of the Starling whilst noting that it remains a common and widespread bird with a range of habitats including urban, suburban and farmland environments. As the species can make use of the surrounding built suburban environment surrounding the site, no significant negative effects to the local conservation status of the Starling are anticipated. Whilst the site is used by a diverse range of birds, reductions in bird use of the site due to displacement is expected to be moderate and unlikely to have a significant effect on the local conservation status of any bird species. Birds can continue to make use of the scrub, woodland habitats and garden habitat which are adjacent to the site and are common habitats throughout the local area.
- 7.9.21. The overall effect on bird species is expected to be minor negative and the bird population is expected to recover over the short term. Mitigation measures are proposed to avoid direct harm or disturbance to nesting birds on the site during site clearance, bridge construction works and works to the river wall. With the proposed mitigation which would be secured by condition in the event that permission is granted, I am satisfied that there would be no long term significant adverse impact on birds as a result of the proposed development.
- 7.9.22. The EclA also considers impacts on amphibians, common lizards, and invertebrates. The site and adjacent lands do not contain any suitable breeding habitats for amphibians. No significant impacts are anticipated on common lizards as suitable habitat would be retained on site as well as on adjacent sites and within the wider area. In terms of invertebrates, I note concerns raised by third parties regarding Gatekeeper Butterfly which is a threatened species. The EclA notes that whilst this species has been previously recorded in the wider area at Shanganagh, it is unlikely to occur at the site due to the small area. Should the species occur then the riparian buffer and meadow grassland proposed for the top of the retaining wall would provide habitat. Additionally, the proposed landscaping would provide resources for pollinating insects and other invertebrates and no significant impacts are anticipated with effects considered negligible once planting matures. I concur with the report's conclusions on these matters.

#### *Impacts from Lighting*

7.9.23. External lighting can potentially impact on nocturnal wildlife such as bats as well as otters. Artificial lighting can cause bats to avoid foraging and roosting and result in more habitat loss whilst other bats can be attracted to lighting and insects that gather at the lights. Lighting can increase predation of bats and otters by increasing their visibility and susceptibility. I agree with the findings of the Public Lighting Report submitted with the application which aims to mitigate potential lighting impacts by design and the details design features that have been adopted to minimise lighting impacts including low lux levels along the riparian zone and the provision of bollard lighting on amenity trails. I am satisfied with the range of mitigation measures proposed. Should the Board be minded to granted permission, then these measures should be subject to a condition in line with the conclusions of the EclA and would be subject to approval from an on-site ecologist.

#### 7.10. **Other Matters**

##### *Procedure Matters*

7.10.1. Concerns have been raised by observers that the site notices were inappropriately located on a private laneway. In my opinion these concerns are unfounded as site notices were also placed on Cherrywood Road and Bray Road. Furthermore, I note that the site notices were considered acceptable by the planning authority. I am satisfied that this did not prevent the concerned party from making representations. The above assessment represents my de novo consideration of all planning issues material to the proposed development.

##### *Archaeology*

7.10.2. Observations on the appeal raise archaeological concerns regarding the proximity to the former Rathdown Union Workhouse and a famine graveyard and that no investigations have taken place to determine if human remains are buried on the site. I also note the response from the Department of Housing, Local Government, and Heritage in relation to archaeology, notably the recommendation that that a geophysical survey be carried out in advance of archaeological testing and that an Archaeological Impact Assessment be carried out as Further Information with a report containing the results of the assessment to be submitted to the Department prior to any planning decision.

7.10.3. I note that the famine graveyard (specific Local Objective 89 in the DLR CDP) and former Rathdown Union Workhouse are located some distance to the south on the St Columcille's Hospital site and at a higher level than the appeal site. The EIAR Screening Report recommends archaeological testing prior to construction works and the Department have confirmed that they do not disagree with this recommendation, albeit their recommendation is that these surveys are carried out in advance of a decision being made. In my opinion, the issue of archaeological assessments in this instance can be suitably addressed by way of pre-commencement conditions, should the Board grant permission.

#### *Plan Errors*

7.10.4. The Planning Authority have raised issues concerning the orientation shown incorrectly on some plans and observations have flagged errors on the site analysis map regarding Cherrywood business park building heights. I have taken note of these points in my assessment. I also draw the Boards attention to a number of the technical drawings submitted with the amended appeal scheme (junction layout, SuDS, and roof garden landscaping scheme) that do not show the increased riparian buffer and landscaping layout associated with the amended scheme. The Board could opt to seek amended drawings addressing these inconsistencies should permission be granted for the amended scheme. However, these drawings relate to technical details for specific discrete elements of the development and the amended site layout and riparian buffer are shown correctly on the proposed layout plans and landscaping drawings.

## **8.0 AA Screening**

### **8.1. Compliance with Article 6(3) of the Habitats Directive**

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

### **8.2. Background on the Application**

8.2.1. The appellant has submitted an Appropriate Assessment Screening and Natura Impact Statement (NIS) as part of the planning application. It has been prepared by

Deborah D'Arcy, Ecologist, dated January 2023. The statement provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development.

- 8.2.2. The appellant's report identified the potential for significant effects on the Rockabill to Dalkey Island SAC, Dalkey Island SPA, and the Wicklow Mountains SAC due to potential impacts on water quality as a result of the construction process, such as the transfer of pollution and sediment, and through the operational phase as a result of wastewater discharges. More specifically, impacts on water quality could affect aquatic life and prey resources, which could potentially impact on otters and foraging seabirds.
- 8.2.3. Ecological field surveys of the site and adjacent areas were initially carried out in March, April, July and September 2020 which included a habitats and flora survey, bat surveys, bird surveys and mammal surveys. Additional survey work was carried out in the summer and autumn of 2022 in order to update the surveys in advance of submission. Supplementary reports and studies submitted with the application include an Ecological Impact Assessment, Flood Risk Assessment, and an Outline Invasive Species Management Plan.
- 8.2.4. Having reviewed the documents and submissions, I am satisfied that the information allows for a complete examination and identification of all the aspects of the project that could have an effect, alone, or in combination with other plans and projects on European sites.

### **8.3. Screening for Appropriate Assessment- Test of likely significant effects**

- 8.3.1. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).
- 8.3.2. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

### **8.4. Brief Description of the Development**



- 8.4.1. The appellant provides a description of the project on pages 8-15 of the statement. In summary, the development comprises:
- Provision of a 120 bedroom nursing home in a building rising to five storeys.
  - Provision of 29 independent living units in a building rising to six storeys.
  - Creation of a new access from Cherrywood Road including a new road bridge over the Loughlinstown River.
  - All associated ancillary development works and landscaping to include an 8m riparian buffer from the river.
- 8.4.2. The development would include provision of a surface water drainage system incorporating SuDS and a new outfall to the Loughlinstown River along with associated works to the existing retaining wall to create the new outfall. The new road bridge would be a single clear span bridge with foundations away from the river edge.
- 8.4.3. For the construction of the buildings the development proposes to use a reinforced concrete structure, cast in-situ flat slab floors, cast in-situ podium level transfer slab (which will be deeper than the floor slabs). Pre-cast concrete would be used for lift stairs and cores with blockwork to external and internal walls.
- 8.4.4. The development site is described on page 7 in addition to pages 15-23. The statement notes that the site overlaps with the Bride's Glen DLR Wildlife Corridor in the DLR Biodiversity plan 2021-2025 and that the adjacent woodland to the south has been identified as the Bride's Glen Locally Important Biodiversity Site (LIB07) in the CDP. The site includes the Loughlinstown River, an eroding watercourse that flows along the western and northern boundary of the site, joining the Carrickmines Stream and becoming the Shanganagh River as it flows through the Loughlinstown Wood pNHA to the north/north-west.
- 8.4.5. The site itself comprises large areas of scrub and transitional woodland although there is a treeline along most of the western riverbank comprising ash, sycamore and elder trees. The level land within the central east/north parts of the site comprises rough meadow grassland. Only the small portion of the site contiguous to Rose Cottage contains any buildings of note.

8.4.6. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

- Construction related impacts on water quality, the river bed and spawning sites/aquatic species associated with the construction phase. This includes pollution and/or sedimentation of the watercourse due to cement residues or hydrocarbons entering the water during construction of the new road bridge and the new surface water outfall, in addition to contaminants from the construction site in general and potential contamination of groundwater during excavations.
- The spread of invasive species could contribute to riverbank erosion and therefore affect water quality/habitats.
- Significant damage to the riverbed or water quality could impact on local brown trout and migratory sea trout. This could result in a decline in fish species and a consequent decline in prey resources for local otters with implications regarding potential interactions/breeding with Wicklow Mountain otters.
- Disturbance to habitats during construction as a result of noise/lighting.

## **8.5. Submissions and Observations**

8.5.1. Various submissions were made by observers on the appeal and these are set out in detail at Section 6.4 above. Fehily Timoney and Company were commissioned by DLRCC to assess the application by reviewing the Ecological Impact Assessment and the Natura Impact Assessment. Further Information/Clarifications were recommended regarding invasive species (detailed management plan and map), fencing specifications (to allow mammals to pass), and habitat management (monitoring and reporting structure). Various mitigation measures were also recommended by condition including implementation of measures set out in Ecological Impact Assessment and the Natura Impact Statement, appointment of an Ecological Clerk of Works, an 8m exclusion zone from the riparian corridor, pre-construction surveys for badgers and otters, erosion or scour to the riverbed once operational would be subject to further detailed design, construction methodology and approval by Inland Fisheries Ireland.

## **8.6. European Sites**

- 8.6.1. The development site is not located in or immediately adjacent to a European site. The closest European site is the Rockabill to Dalkey Island SAC, within 2.9km of the proposed development.
- 8.6.2. A summary of European Sites that occur within a possible zone of influence of the proposed development is presented in the table below. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail.

European Sites within a possible zone of influence of the proposed development.				
European Site (code)	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source, pathway receptor)	Considered further in screening Y/N
Rockabill to Dalkey Island SAC (003000)	1170 -Reefs  1351 - Harbour porpoise <i>Phocoena phocoena</i>	2.9	Hydrological connection via the Loughinstown River which discharges to the Irish Sea at the Shanganagh Estuary. Wastewater discharges from Shanganagh WwTP.	<b>Y</b>
Dalkey Island SPA (004172)	A192 - Roseate Tern <i>Sterna dougallii</i> A193 - Common Tern <i>Sterna hirundo</i> A194 - Arctic Tern <i>Sterna paradisaea</i>	4.2	Hydrological connection via the Loughinstown River which discharges to the Irish Sea at the Shanganagh Estuary. Wastewater discharges from Shanganagh WwTP.	<b>Y</b>
South Dublin Bay SAC (000210)	1140 - Mudflats and sandflats not covered by seawater at low tide.	5.9	No, qualifying interests at a significant distance in addition to dispersal and dilution effects.	<b>N</b>
South Dublin Bay and River Tolka Estuary SPA (004024)	A046 – Light-bellied Brent Goose <i>bernicle hrota</i>  A130 - Oystercatcher <i>Haematopus ostralegus</i>  A137 - Ringed Plover <i>Charadrius hiaticula</i>  A141 - Grey Plover <i>Pluvialis squatarola</i>  A143 - Knot <i>Calidris canutus</i>  A144 - Sanderling <i>Calidris alba</i>  A149 - Dúnlin <i>Calidris alpina alpina</i>	9.5	No, qualifying interests at a significant distance in addition to dispersal and dilution effects.	<b>N</b>

	A157 - Bar-tailed Godwit <i>Limosa lapponica</i> A162 - Redshank <i>Tringa totanus</i> A179 - Black-headed Gull <i>Chroicocephalus ridibundus</i> A192 - Roseate Tern <i>Sterna dougallii</i> A193 - Common Tern <i>Sterna hirundo</i> A194 - Arctic Tern <i>Sterna paradisaea</i> A999 - Wetlands			
North Dublin Bay SAC (000206)	1140 - Mudflats and sandflats not covered by seawater at low tide 1210 - Annual vegetation of drift lines 1310 - <i>Salicornia</i> and other annuals colonising mud and sand 1330 - Atlantic salt meadows ( <i>Glaucopuccinellietalia maritimae</i> ) 1395 - Petalwort <i>Petalophyllum ralfsii</i> 1410 - Mediterranean salt meadows ( <i>Juncetalia maritim</i> ) 2110 - Embryonic shifting Dunes 2120 - Shifting Dunes along the shoreline with <i>Ammophila arenaria</i> (white Dunes) 2130 - Fixed coastal Dunes with herbaceous vegetation (grey Dunes) 2190 - Humid Dune slacks	11.3	No, qualifying interests at a significant distance in addition to dispersal and dilution effects.	<b>N</b>
North Bull Island SPA (004006)	A046- Light bellied Brent Goose <i>Branta bernicla hrota</i> A048 - Shelduck <i>Tadorna tadorna</i> A052- Teal <i>Anas crecca</i> A054 - Pintail <i>Anas acuta</i> A056 - Shoveler <i>Anas clypeata</i> A130 - Oystercatcher <i>Haematopus ostralegus</i> A140 - Golden Plover <i>Pluvialis apricaria</i> A141 - Grey Plover <i>Pluvialis squatarola</i>	9.5	No, qualifying interests at a significant distance in addition to dispersal and dilution effects.	<b>N</b>

	A143 - Knot <i>Calidris canutus</i> A144 - Sanderling <i>Calidris alba</i> A149 - Dúnlin <i>Calidris alpina alpina</i> A156 - Black-tailed Godwit <i>Limosa limosa</i> A157 - Bar-tailed Godwit <i>Limosa lapponica</i> A160 - Curlew <i>Numenius arquata</i> A162 - Redshank <i>Tringa totanus</i> A169 - Turnstone <i>Arenaria interpres</i> A179 - Black-headed Gull <i>Chroicocephalus ridibundus</i> A999 Wetlands			
Wicklow Mountains SAC (002122)	1355 - Otter <i>Lutra lutra</i> 3110 - Oligotrophic waters containing very few minerals of sandy plains ( <i>Littorelletalia uniflorae</i> ) 3130 - Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto-Nanojuncetea</i> 3160 - Natural dystrophic lakes and ponds 4010 - Northern Atlantic wet heaths with ( <i>Erica tetralix</i> ) 4030 - European dry heaths 4060 - Alpine and Boreal heaths 6130 - Calaminarian grasslands of the <i>Violetalia calaminariae</i> 6230 - Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) 7130 - Blanket bogs (* if active bog) 8110 - Siliceous scree of the montane to snow levels ( <i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i> ) 8210 - Calcareous rocky slopes with chasmophytic vegetation	7.5	Ecological linkage via breeding otters.	Y

	8220 - Siliceous rocky slopes with chasmophytic vegetation  91A0 - Old sessile oak woods with <i>Ilex</i> and <i>Belchnum</i> in the British Isles			
Wicklow Mountains SPA (004040)	A098 - Merlin <i>Falco columbarius</i>  A103 - Peregrine <i>Falco peregrinus</i>	7.5	No.	N

- 8.6.3. Following an examination of sites within the zone of influence, and upon an examination of the connectivity between the appeal site and these sites (see Table 8.1 above), Rockabill to Dalkey Island SAC, Dalkey Island SPA, and Wicklow Mountains SAC have been screened in having regard to the potential connectivity via the Loughlinstown River between the appeal site and the coastal European Sites at Rockabill and Dalkey Island and noting the potential for otters on the Loughlinstown River to travel along the river to the Wicklow Mountains SAC where breeding may occur with the local otter population.

## 8.7. Identification of Likely Effects

- 8.7.1. In light of the above Conservation Objectives, the main elements of the proposal which may give rise to impacts on the European sites listed above are as follows;

### Rockabill to Dalkey Island SAC

- 8.7.2. During the construction phase there is a risk of transfer of pollution and/or sediment/siltation which if significant, could impact negatively on water quality and the conservation objectives for reefs and harbour porpoise, either alone or in combination with other sources of sedimentation/pollution. There is a risk of spreading the high impact invasive plant species 'Giant Rhubarb' which could contribute to riverbank erosion and increased sedimentation. No impacts are anticipated from the operational stage of development in terms of wastewater or surface water drainage.

### Dalkey Island SPA

- 8.7.3. Negative effects could arise as a consequence of impacts on coastal water quality only in combination with other plans and projects. Deterioration in water quality could impact on prey abundance for tern species. During the construction phase there is a risk of transfer of pollution and/or sediment/siltation which if significant, could impact negatively on river water quality which could affect prey abundance for tern species

foraging in Killiney Bay. No significant impacts are anticipated during the operational stage of development.

#### Wicklow Mountains SAC

- 8.7.4. The development does not pose a risk to any habitats in the Wicklow Mountains SAC and there are no increased risks or obvious pathways for invasive species. The Loughlinstown River is important for otters and as otters are a wide ranging species. It is therefore possible that there could be interactions between the local population of otters at Loughlinstown and the Wicklow Mountains SAC otters, either within the boundaries of the SAC or within an ex situ habitat. Any significant impact on the Loughlinstown otter population could have a negative impact on the Wicklow Mountains population through reduced breeding success or reduced reservoir of genetic resources. Impacts on water quality during construction as a result of pollution or sedimentation could impact on prey resources for otters. No significant impacts on otters are anticipated during the operational phase.
- 8.7.5. In the absence of mitigation, the proposed development has the potential to result in negative impacts on the Rockabill to Dalkey Island SAC, Dalkey Island SPA, and the Wicklow Mountains SAC. Such impacts could be significant in terms of the stated conservation objectives when considered on their own in relation to the impacts on water quality and prey resources and in relation to the potential for the proposed development at construction phase to result in adverse effects on mobile species such as otters and the ecological interaction with the otters associated with the Wicklow Mountains SAC.

#### In-combination Impacts

- 8.7.6. The Cherrywood SDZ development is ongoing and is subject to conditions and Appropriate Assessment of each development project and compliance with the Cherrywood SDZ Biodiversity Plan. Based on the information submitted, I am satisfied that the development would not have an in-combination effect with any other plans, projects, or activities and significant in combination effects are not anticipated.

Table 7.2 - Summary Screening Matrix
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European Site	Distance to proposed development/ Source, pathway receptor	Possible effect alone	In combination effects	Screening conclusions:
Rockabill to Dalkey Island SAC (003000)	2.9km	<p>During the construction phase there is a risk of transfer of pollution and/or sediment / siltation which if significant, could impact negatively on water quality and the conservation objectives for reefs and harbour porpoise, either alone or in combination with other sources of sedimentation/pollution.</p> <p>There is a risk of spreading the high impact invasive plant species 'Giant Rhubarb' which could contribute to riverbank erosion and increased sedimentation.</p> <p>No impacts are anticipated from the operational stage of development in terms of wastewater or surface water drainage.</p>	No effect	Screened in for AA
Dalkey Island SPA (004172)	4.2km	<p>Deterioration in water quality could impact on prey abundance for tern species.</p> <p>During the construction phase there is a risk of transfer of pollution and/or sediment / siltation which if significant, could impact negatively on river water quality which could affect prey abundance for tern</p>	No effect	Screened in for AA



		<p>species foraging in Killiney Bay.</p> <p>No significant impacts are anticipated during the operational stage of development.</p>		
Wicklow Mountains SAC (002122)	7.5km	<p>The Loughlinstown River is important for otters and as otters are a wide ranging species, it is possible that there could be interactions between the local population of otters at Loughlinstown with the Wicklow Mountains SAC otters, either within the boundaries of the SAC or within an ex situ habitat. Any significant impact on the Loughlinstown otter population could have a negative impact on the Wicklow Mountains population through reduced breeding success or reduced reservoir of genetic resources. Impacts on water quality during construction as a result of pollution or sedimentation could impact on prey resources for otters.</p>	No effect	Screening in for AA

#### Mitigation Measures

8.7.11. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

#### **8.8. Screening Determination**

- 8.8.1. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act, 2000, as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually could have a significant effect on the Rockabill to Dalkey Island SAC, Dalkey Island SPA, and the Wicklow Mountains SAC in view of the Conservation Objectives of these sites, and Appropriate Assessment is therefore required.

## 8.9. **Stage 2 – Appropriate Assessment**

- 8.9.1. The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177U and 177V of the Planning and Development Act, 2000, as amended, are considered fully in this section. The areas addressed in this section are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive.
- Screening the need for appropriate assessment.
- The Natura Impact Statement and associated documents.
- Appropriate assessment of implications of the proposed development on the integrity each European site.

### Compliance with Article 6(3) of the EU Habitats Directive

- 8.9.2. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

### Screening The Need for Appropriate Assessment

- 8.9.3. Following the screening process, it has been determined that Appropriate Assessment is required as it cannot be excluded on the basis of objective information that the

proposed development, individually or in-combination with other plans or projects will not have a significant effect on the following European sites:

- Rockabill to Dalkey SAC (003000)
- Dalkey Island SPA (004172)
- Wicklow Mountains SAC (002122)

8.9.4. The possibility of significant effects on other European sites has been excluded on the basis of objective information and noting that there is no possible ecological connection or pathway between the appeal site and other Natura 2000 sites surrounding the proposed development. Measures intended to reduce or avoid significant effects have not been considered in the screening process.

#### **8.10. The Natura Impact Statement**

8.10.1. A NIS, prepared by Deborah D'Arcey, Ecologist, examines and assesses potential adverse effects of the proposed development on the Rockabill to Dalkey Island SAC, Dalkey Island SPA, and the Wicklow Mountains SAC. The NIS identifies the main potential impact from the proposed development as being impacts on water quality as a result of pollution, sedimentation and spread of invasive plant species and consequent impacts on aquatic species and prey abundance for Tern species as well as otters. The NIS includes an examination of recent planning applications where permission has been granted in the vicinity of the appeal site. I note that there are no recent planning applications for the surrounding area that share a direct link with the subject site and the NIS states that the proposed development, by itself or in combination with other plans or projects, in light of best scientific knowledge, will not result in a significant impact on any of the Natura 2000 sites screened in for Appropriate Assessment.

#### **8.11. Proposed Mitigation Measures**

8.11.1. The NIS sets out a range of mitigation measures that would be implemented during both the construction and operational phases of the development. In summary, these measures include:

Ecological Clerk of Works

- Appointment of an Ecological Clerk of Works prior to the commencement of development in order to oversee the construction phase and implementation of the mitigation measures outlined in the NIS (as well as the measures outlined in the EclA).

#### Pre-construction Surveys

- A preconstruction survey of the site and adjacent lands up to approximately 200m by an ecologist will be required to check for any new otter holts in the vicinity, consultation with the NPWS if holts/otters found with mitigation measures will be implemented under derogation licence if necessary. A preconstruction survey of the site is required to resurvey the site for invasive plant species on the site.

#### Vegetation Clearance and Invasive Species

- Vegetation clearance restricted to taking place outside of the bird breeding season and supervised by an ecologist.
- Invasive Species Management Plan to be submitted prior to commencement providing for eradication and control of the spread of giant rhubarb as well as any other species listed on the Third Schedule of the Birds and habitats Regs.
- Implementation of biosecurity measures during construction and treatment/control of other invasive non-native plants along the river corridor. Pesticide usage to comply with S.I 155 of 2012 European Regulations and approved for use near waterbodies.
- Implementation of an appropriate monitoring period.

#### Construction Site Management

- Provision of a detailed site specific Construction Environmental Management Plan setting out procedures and methods for protection of groundwater and river water at the site and to avoid pollution and sedimentation/siltation.
- Compliance with best practice including Inland Fisheries Ireland (2016) Guidelines on Protection of Fisheries During Construction Works in and Adjacent to Waters, CIRIA (2001) (C532), CIRIA (2005) (C692), and ongoing liaison with Inland Fisheries Ireland for approval of the design and construction

method statements for the construction of the bridge (including any temporary crossings), repair and modifications to the retaining walls and the construction of the surface water outfall and the measures for the protection of water quality throughout the construction phase of the development to ensure protection of the fisheries resource and other aquatic life.

- If cast in place concrete is required for the works, all work must be done in the dry and isolated from any flowing water for a period to ensure no leachate of concrete.
- Any temporary bridge crossings must be approved by Inland Fisheries Ireland (IFI) with regard to sizing, location, duration and timing and have regard for IFI (2016) guidelines.
- Design and choice of temporary crossing must provide for passage of fish and macroinvertebrates, protect spawning habitats, and prevent erosion and sedimentation.
- Any in stream works required for the construction of the surface water outfall or the temporary or permanent bridge will take place between July 1st and September 30th to avoid the spawning season for salmonid species.
- The approach and departure routes to the bridge (temporary or permanent structure) should be designed and installed such that that drainage will fall away from the watercourse being crossed.
- The bridge crossing must be fenced with terram or similar material to prevent wind blow or surface water runoff to the watercourse during construction.
- Side armour (reinforced concrete traffic barriers must be provided on temporary crossing structures to ensure machinery cannot drive over the edge or force the discharge of material from the bridge deck to the watercourse.
- During construction the surface water runoff from the site must be controlled. Silt traps and settlement ponds shall be constructed and employed as necessary to intercept any run-off to the stream.
- The riparian 8m vegetation buffer will be retained and fenced during construction. Robust silt fencing will be attached to the fence to protect the river

from dust and sediment runoff. This should be monitored and maintained for the entire construction phase and then removed.

- All haul routes are to be surfaced with clean stone to prevent soil erosion and the generation of mud and silt.
- Material stockpiles must be located as far as possible from the riverbank with a minimum separation distance of 20m from the river (approx. 10 m from 8m buffer zone).
- Silt fencing will be erected at the toe of stockpiles to contain any runoff. All stockpiles will be compacted and/or covered at the end of working day to reduce silt run-off and dust generation.
- Designated impermeable cement washout areas must be provided and located away from the watercourse.
- Concrete batching plant and concrete mixers must be located and operated on an area of concrete hardstanding with a curb to contain run-off and located away from the watercourse.
- Waste concrete residues must be cleaned regularly and disposed to landfill. All oils and fuel shall be stored in secure bunded areas at least 20m from the watercourse.
- Refueling will take place in a bunded area and fuel storage systems shall be double bunded at a minimum. All mobile fuel bowzers shall have spill kits. Spill kits will be kept on site and employed promptly if there are accidental spillages.
- Appropriate protection methods will be implemented for the protection of groundwater during excavations. Any pumping of groundwater encountered or excavations will be discharged in a manner that does not impact on surface water quality, nor deposition of silt on the river bed.
- Settlement, filtration systems and temporary hydrocarbon interceptors will be used to treat the waters prior to discharge. IFI must be consulted prior to any discharge to the river. Any abstraction of water from the stream for dust suppression will be first approved by IFI and will be screened so as to ensure

that fish and aquatic plants are not removed from waters in the abstraction process.

- Construction security lighting should not illuminate the adjacent river corridor. The construction site should be fenced to prevent entry by deer and other mammals.
- Appropriate construction site management must be implemented to prevent harm to badgers and other mammals that may enter the construction site (despite fencing) including secure storage of chemicals, covering of excavations and open-end pipes and/or providing a ramped means of escape from deep excavations.

#### Protection of Riparian Corridor During Construction

- The integrity of the riverbank should be maintained during the construction of the clear span bridge. Any damage should be rectified immediately and replanted.
- The recommendations outlined in the Flood Risk Assessment Report with regard to maintaining existing ground levels along the western side of the site close to the Loughlinstown River will be maintained to ensure that the existing floodplain storage is maintained.
- Mature trees to be retained should be protected with the Root Protection Areas (RPA) clearly demarcated in advance of construction commencing to prevent damage by machinery or compaction in accordance with BS 5837:2012 to maintain the existing vegetation cover along the riverbank.
- The proposed 8m riparian buffer zone must be fenced prior to vegetation clearance to protect the areas of vegetation to be retained along the river (with access only permitted for invasive plant treatment, and construction of the surface water outfall and landscape planting).
- The riparian buffer zone fence should be covered with silt fencing to prevent construction site sediment runoff to the river.
- Invasive species management in the protected riparian buffer zone should be undertaken prior to commencement to allow maximum time for the vegetation to re-establish.

- Any external security lighting should be on motion sensors and short (1 min) timers and should not over spill onto the riparian corridor.
- The construction site should be to prevent deer and other mammals accessing the site from the hospital lands.
- A specific Demolition Waste plan & Construction Waste management plan for the site must be submitted to the local authority prior to commencement and strictly adhered to. No litter shall be allowed to enter the watercourse. The river will be monitored daily of litter and any litter will be removed immediately.

#### Construction Dust

- Air quality and dust monitoring will be carried out on a regular basis in accordance with DLRCC requirements or as stipulated in the planning conditions. Records will be kept of all monitoring undertaken for review by the Planning Authority.
- Any material stockpiles shall be located as close as possible to the location where they are to be used so as to minimise associated vehicle activities and therefore minimise the potential for noise and dust nuisance on the site.
- Material stockpiles will compacted and/or covered to minimise dust generation and silt runoff.
- All haul routes will be surfaced with stone to reduce soil erosion. • Contractors delivering fine aggregate materials in open top delivery trucks to the site shall be instructed to use a suitable cover so as to minimise the potential for wind to generate airborne dusts.
- The contractor will ensure that all construction vehicles that exit the site onto the public roads will not transport wheel dirt or construction dust. This will be achieved as follows: Ensuring construction vehicles have clean internal road surfaces where possible; Ensure that all vehicles are processed through an on-site wheel washing facility; Ensure all vehicles carting away demolition materials are covered to avoid dust spread; and ensuring all vehicles are inspected for compliance with cleanliness requirements prior to exiting the site.



- Water based dust suppression will be used to reduce air born dust spread caused particularly during the demolition and excavation phases and when the weather is dry for an extended period.

### Construction Noise

- Noise monitoring will be set-up and recorded on site throughout the construction period. Noise monitoring will commence approx. 2 weeks before construction activities commence to get a base level which is to be shared with DLRCC to act as a baseline.
- Construction activities to be carried out in compliance with the recommendations of BS5228, Code of Practice for noise and vibration control on construction and open sites, and BS6187 Code of Practice for Full & Partial Demolition.
- Noise monitoring will take place on site and in vicinity of site to record background and construction noise activity.
- Best construction practice to be used to minimise noise produced by construction activity on site.
- All site plant and equipment to include noise reducing systems where possible and at a minimum to be fitted with effective exhaust noise reducers. Regular maintenance of plant will be undertaken to ensure noise emission compliance.
- Acoustic lining covers to be added to all site compressors.
- All plant to be operational outside working hours, such as pumps and generators, will be located in acoustic enclosures.
- Site working hours, as set out by the local authority, will be strictly adhered to.

### Maintenance

- On completion of the development a maintenance schedule is required for SuDs in accordance with the Engineers Recommendations contained in the Civil Engineering Report (DMA, 2023).
- All maintenance of the blue and green roofs, permeable paving, soakaway tank system and petrol interceptor are to be maintained in accordance with the manufacturers/supplier's instructions.

- In addition:
  - Following any significant storm event, the blue roof outlets should be visually inspected to ensure no blockage has occurred
  - Following any significant traffic or remedial works that take place on or around the roof, each of the outlets should be visually inspected to ensure all drainage holes are clear and free draining.
  - Quarterly each outlet, should be inspected and cleared of any build up or debris. All leaf litter mainly autumnal visit should be removed from the roof surface. Debris must be removed from the roof and not simply flushed down rainwater pipes.
  - Cut back tree limbs that overhang the roof to give at least a 1 metre clearance, this will significantly reduce any risk of any blockage to outlets.
- It is also recommended during maintenance visits to visually inspect the waterproofing system at all upstands, to ensure it is firmly adhered to the detail that it is waterproofing.
- The discharge outfall headwall shall be fitted with a stainless-steel grating to ensure no debris builds up in front of the low level outlet. The outfall to the watercourse should be inspected every 6 months and after flooding events to ensure the outfall is free from debris.
- The petrol interceptors should be inspected every 6 months by experienced personnel. This will determine if an interceptor service is required and if removal of oil/silt build up is required. These works should be carried out in accordance with the manufacturer's maintenance plan and requirements.

#### Lighting Design

- Once built the lighting levels at the site must be checked by the lighting designer and the ecologist to check the lighting design is successful in avoiding over spill of light to the river corridor. If any excessive overspill is evident then additional measures must be installed to reduce the levels of light further.

#### Habitat Management

- The 8m riparian buffer must be monitored in accordance with the Invasive Species Management Plan for a sufficient period to ensure eradication of *Gunnera tinctoria* from the site and the effective control of the other non-native invasive species on the site.
- The restoration and enhancement of the riparian buffer should be monitored by the ecologist in conjunction with the landscape architect for at least 5 years following completion of the development and landscape planting to ensure the successful establishment of tree species, understorey and native ground flora and that the end result of a good quality effective ecological corridor has been achieved at the site. Any issues such as invasive species spread, failed planting or significant gaps etc should be addressed.
- Once established and mature the riparian buffer should be side trimmed every 3 years on the development side only if necessary to allow a tall treeline with dense flowering hedge understorey to develop.

## **8.12. Conclusion on Appropriate Assessment**

- 8.12.1. Having regard to the foregoing, I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, and subject to the implementation of the identified mitigation measures which I also consider sufficient to cover the points raised in submissions, that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the Rockabill to Dalkey SAC (003000), the Dalkey Island SPA (004172), the Wicklow Mountains SAC (002122) , or any other European site, in view of the site's Conservation Objectives. No reasonable scientific doubt remains as to the absence of such adverse effects.

## **9.0 Recommendation**

- 9.1. From my assessment above, I consider that the Board should uphold the decision of Dún Laoghaire-Rathdown County Council and refuse planning permission for the proposed development based on the reasons set out below.

## 10.0 Reasons and Considerations

1. Having regard to height, scale, and massing, it is considered that the proposed development would present an obtrusive and overbearing form of development that would be an abrupt transition in scale at odds with the surrounding character and context on Cherrywood Road. Additionally, the proposed development would have an adverse impact on the character and setting of Waterfall Cottage, a Protected Structure. The proposed development would therefore seriously injure the visual, residential, and heritage amenity of the area, would be contrary to the Dún Laoghaire-Rathdown Building Height Strategy, and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the site location and the poor quality of pedestrian connections as a result of deficient footpaths and pedestrian infrastructure linking to the site, it is considered that the development would fail to provide safe and accessible means of pedestrian access to and from the development which would not be suitable to serve the proposed nursing home or independent living units. The proposed development would therefore be prejudicial to pedestrian safety and would be contrary to Section 12.3.8.2 of the Dún Laoghaire-Rathdown County Development Plan, which requires nursing homes and assisted living accommodation to be served by the provision of good footpath links.

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.

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Terence McLellan  
Senior Planning Inspector

30<sup>th</sup> April 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	ABP-316429-23		
<b>Proposed Development Summary</b>	Construction of a 120 no. bed nursing home facility (4 and 5 storeys in height) and 29 no. 1 bed Independent living units in a new residential block (6 storeys) with a new access from no. 26 Cherrywood Road, including a new road bridge over the Loughlinstown River and all associated site clearance, excavation, landscaping, and development works. A Natura Impact Statement has been submitted to the Planning Authority with the application.		
<b>Development Address</b>	Rose Cottage, 26 Cherrywood Road, and lands generally bounded by existing residential development to the north, woodland area to the south, Saint Columcille's Hospital to the east and Loughlinstown River to the west, at Bray Road, Loughlinstown, Co. Dublin		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	No further action required
<b>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?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>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]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>			No EIAR or Preliminary

				Examination required
<b>Yes</b>	X	<p>Class 10(b)(i) – Construction of more than 500 dwelling units.</p> <p>Class 10(b)(iv) - Urban development, which would involve an area greater than 2 ha in the case of a business district*, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. *a 'business district' means a district within a city or town in which the predominant land use is retail or commercial use.</p>		Proceed to Q.4

4. Has Schedule 7A information been submitted?		
<b>No</b>		<b>Preliminary Examination required</b>
<b>Yes</b>	X	<b>Screening Determination required</b>

Inspector: \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix 2 – EIA Screening

A. CASE DETAILS		
<b>An Bord Pleanála Case Reference</b>	ABP-316429-23	
<b>Development Summary</b>	Construction of a 120 no. bed nursing home facility (4 and 5 storeys in height) and 29 no. 1 bed Independent living units in a new residential block (6 storeys) with a new access from no. 26 Cherrywood Road, including a new road bridge over the Loughlinstown River and all associated site clearance, excavation, landscaping, and development works. A Natura Impact Statement has been submitted to the Planning Authority with the application.	
	Yes / No / N/A	
<b>1. Was a Screening Determination carried out by the PA?</b>	Yes	On the basis of the information submitted on the file, which the Planning Authority considered adequate in order to issue a screening determination, the Planning Authority consider it is reasonable to conclude that there is no real likelihood of significant effects on the environment arising from the proposed development and an environmental impact assessment is not required.
<b>2. Is an IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?</b>	No	
<b>3. Has Schedule 7A information been submitted?</b>	Yes	The applicant has submitted Schedule 7A information in the Environmental Impact Assessment Screening Report (January 2023).
<b>4. Has an AA screening report or NIS been submitted?</b>	Yes	An Appropriate Assessment Screening and Natura Impact Statement was submitted with the application.

5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	SEA and AA were undertaken in respect of the Dún Laoghaire-Rathdown County Development Plan 2022-2028. Additionally, an Ecological impact Assessment has been submitted.	
<b>B. EXAMINATION</b>		<p><b>Where relevant, briefly describe the characteristics of impacts ( ie the nature and extent) and any Mitigation Measures proposed to avoid or prevent a significant effect</b></p> <p>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)</p>	<p><b>Is this likely to result in significant effects on the environment?</b></p> <p><b>Yes/ No/ Uncertain</b></p>
<b>1. Characteristics of proposed development</b> (including demolition, construction, operation, or decommissioning)			
<b>1.1</b> Is the project significantly different in character or scale to the existing surrounding or environment?		There is a clear consistency in the nature and scale of development in the surrounding area, primarily comprising low rise residential and limited low rise commercial with larger scale commercial development located at Cherrywood Business Park to the west on a much more elevated site. The proposal would provide development in a built up suburban location and whilst there would be impacts in terms of scale of development, particularly when viewed from Cherrywood Road, it is not regarded as being of a scale or character at such odds with the immediate area that it would have impacts warranting Environmental Impact Assessment.	<b>No</b>



<p><b>1.2</b> Will construction, operation, decommissioning or demolition works causing physical changes to the locality (topography, land use, waterbodies)?</p>	<p>No demolition works are proposed due to the undeveloped nature of the site although removal of a septic tank would be required. Development would require a degree of excavation and levelling due to site topography however this is not significant in the context of the surrounding environment and with measures to address potential impacts on surface water and groundwaters in the locality, no significant issues are evident.</p>	<p><b>No</b></p>
<p><b>1.3</b> Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</p>	<p>Construction materials will be typical for an urban development of this nature and scale. The loss of natural resources or local biodiversity as a result of the development of the site whilst of some local significance, are not regarded as significant in nature in terms of the wider environment.</p>	<p><b>No</b></p>
<p><b>1.4</b> Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances which are typical for construction sites. Any impacts would be local and temporary in nature and the implementation of the construction practice measures outlined in the Construction Management Plan, Operational Waste Management Plan, Ecological Impact Assessment and NIS would satisfactorily mitigate potential impacts. No significant operational impacts in this regard are anticipated.</p>	<p><b>No</b></p>
<p><b>1.5</b> Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other similar substances and give rise to waste for disposal. The use of these materials would be typical for construction sites. Noise and dust emissions during construction are likely. Such construction impacts</p>	<p><b>No</b></p>

	would be local and temporary in nature, and with the implementation of the measures outlined in the Construction Environmental Management Plan Operational Waste Management Plan, Ecological Impact Assessment and NIS would satisfactorily mitigate the potential impacts. Operational waste would be managed through an Operational Waste Management Plan. Other operational impacts in this regard are not anticipated to be significant.	
<b>1.6</b> Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?	No significant risk identified. Operation of the measures listed in the Construction Environmental Management Plan, Ecological Impact Assessment and NIS will satisfactorily mitigate emissions from spillages during construction and operation. The operational development will connect to mains services and discharge surface waters only after passing through fuel interceptors and SUDS. Surface water drainage will be separate to foul services within the site as required by Dún Laoghaire-Rathdown County Council.	<b>No</b>
<b>1.7</b> Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	There is potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised and short term in nature, and their impacts would be suitably mitigated by the operation of measures listed in a Construction Environmental Management Plan.	<b>No</b>
<b>1.8</b> Will there be any risks to human health, for example due to water contamination or air pollution?	Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of measures within a Construction Environmental Management Plan would satisfactorily address potential risks on human health, including dust	<b>No</b>

	monitoring, suppression, and abatement. No significant operational impacts are anticipated for the piped water supplies in the area.	
<b>1.9</b> Will there be any risk of major accidents that could affect human health or the environment?	No significant risk is predicted having regard to the nature and scale of the development. Any risk arising from demolition and construction will be localised and temporary in nature. The site is not at risk of flooding.	<b>No</b>
<b>1.10</b> Will the project affect the social environment (population, employment)	Development of this site would result in an increase in the population in this area. The development would provide increased accommodation as a nursing home in addition to new homes as part of an independent Living facility for over 55's.	<b>No</b>
<b>1.11</b> Is the project part of a wider large scale change that could result in cumulative effects on the environment?	Cumulative impacts have been considered, including permitted schemes in the area. No significant cumulative impacts are anticipated.	<b>No</b>
<b>2. Location of proposed development</b>		
<b>2.1</b> Is the proposed development located on, in, adjoining or have the potential to impact on any of the following: a) European site (SAC/ SPA/ pSAC/ pSPA) b) NHA/ pNHA c) Designated Nature Reserve d) Designated refuge for flora or fauna e) Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan	The site is not located within a European Site. The nearest European sites are the Rockabill to Dalkey SAC (003000) (2.9km), the Dalkey Island SPA (004172) (4.2km), and the Wicklow Mountains SAC (002122) (7.5km). The Loughlinstown Rover runs through the site. The site is also close to the Loughlinstown Wood pNHA and the Bride's Glen Locally Important Biodiversity Area. The site is on zoned lands and the development would include a riparian buffer of at least 8m. Subject to the mitigation measures proposed in the application documents, including the Construction Environmental Management Plan, Outline Invasive Species Management Plan, Ecological impact Assessment, and NIS, it	<b>No</b>

	is not considered that the proposed development would result in significant impacts to any protected sites.	
<b>2.2</b> Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?	The proposed development would not result in significant impacts to protected, important or sensitive species subject to implementation of mitigation measures identified in the Ecological impact Assessment and the NIS.	<b>No</b>
<b>2.3</b> Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	There are two Protected Structures nearby and the site in addition to a Famine Grave at Loughlinstown Hospital. Pre-commencement conditions regarding archaeology would be required and this would appropriately mitigate any risk to buried heritage. There would be impacts on Waterfall Cottage, a Protected Structure on Cherrywood Road however these would not be so significant as to affect the wider receiving environment warranting an Environmental Impact Assessment.	<b>No</b>
<b>2.4</b> Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?	No such features are in this suburban urban location, with the site separated from agricultural areas by intervening urban lands and road infrastructure.	<b>No</b>
<b>2.5</b> Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	The Loughlinstown River runs through the site. The development will implement SUDS measures to control surface water run-off, would have separate foul and surface water drainage, and would not increase risk of flooding to downstream areas. Subject to the mitigation proposed as part of the Outline Invasive Species Management Plan, Ecological Impact Assessment, and NIS, it is not considered that the	<b>No</b>

	proposed development would result in significant impacts to any water resources.	
<b>2.6</b> Is the location susceptible to subsidence, landslides or erosion?	<b>No</b>	<b>No</b>
<b>2.7</b> Are there any key transport routes(eg National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	The site is served by a local road network including the nearby N11. There are sustainable transport options available for future residents and employees in terms of buses and Luas. No significant contribution to traffic congestion is anticipated to arise from the proposed development.	<b>No</b>
<b>2.8</b> Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?	The site is located close to Loughlinstown Hospital but on a separate site, at a much lower level and with an independent access. No negative impact anticipated as a result of the proposal.	<b>No</b>
<b>3. Any other factors that should be considered which could lead to environmental impacts</b>		
<b>3.1 Cumulative Effects:</b> Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	Other permitted schemes in the wider area have been considered, including Cherrywood Business Park and Ticknock Park however these are no considered to give rise to significant cumulative environmental effects in combination with the subject project.	<b>No</b>
<b>3.2 Transboundary Effects:</b> Is the project likely to lead to transboundary effects?	<b>No</b>	<b>No</b>
<b>3.3</b> Are there any other relevant considerations?	<b>No</b>	<b>No</b>
<b>C. CONCLUSION</b>		
<b>No real likelihood of significant effects on the environment.</b>	<b>Agreed</b>	Yes
		<b>EIAR Not Required</b>

Real likelihood of significant effects on the environment.



## D. MAIN REASONS AND CONSIDERATIONS

Having regard to

- The nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(i)(iv) and 14 of Part 2 to Schedule 5 of the Planning and Development Regulations 2001-2022;
- The location of the proposed development on zoned lands where the proposed uses are either permitted in principle or open for consideration the results of the Strategic Environmental Assessment of the Dún Laoghaire-Rathdown County Development Plan;
- The nature of the existing site and the developed nature of the surrounding area;
- The availability of mains water and wastewater services to serve the proposed development;
- The location of the development outside of any sensitive location specified in Article 109(4)(a)(v)(I-VII) of the Planning and Development Regulations 2001, as revised;
- 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 revised, and;
- The features and measures proposed by the applicant that are envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified to be provided in the Civil Engineering Report, Preliminary Construction Environmental Management Plan, Preliminary Construction Waste Management Plan, Outline Invasive Species Management Plan, Outline Operational Waste Management Plan and the mitigation identified and recommended in the Environmental Impact Assessment Screening Report, Ecological Impact Assessment and the Natura Impact Statement.

Inspector \_\_\_\_\_

Date \_\_\_\_\_

Approved (DP/ADP) \_\_\_\_\_

Date \_\_\_\_\_