



An
Bord
Pleanála

Inspector's Report

ABP-316470-23

Development

The construction of 64 no. apartment units in the form of a 5-6 storey apartment blocks, the provision of a ground floor retail/café unit, and Public Realm upgrades to Dundrum Road and all other associated site works above and below ground associated with the proposed development. An NIS has been submitted with the application.

Location

Site of approx. 0.24 ha on lands at Frankfort Centre, Dundrum Road, Dublin 14

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D22A/0255

Applicant(s)

Macenas Limited

Type of Application

Permission

Planning Authority Decision

Refuse x 6

Type of Appeal

First Party

Appellant(s)

Macenas Limited

Observer(s)

- 1) Morgan Costello
- 2) Clive & Carmel Niven
- 3) Adrian Fogarty
- 4) Michael Morris
- 5) Patricia Hickson
- 6) Aileen and Asad Sheh

Date of Site Inspection

27th November 2024

Inspector

Mary Crowley

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1.0 Site Location and Description

- 1.1. The subject site is located at Frankfort Centre, Dundrum Road, Dublin 14. The site is approx. 2,397 sqm (0.24 ha) in size and is located on the corner of Dundrum Road and Frankfort Road. The site gains its vehicular access via Dundrum Road.
- 1.2. The site comprises an existing two storey building consisting of offices, American Golf retail unit, signage, and 27 car parking spaces that directly exit onto the Dundrum Road. The building is set back from the road frontage and has car parking located to its north and east within the site. To the rear of the building is the heavily vegetated / extensively tree-lined and steep bank leading down to the Slang River, which separates the site from the side garden of a residential property at Old Frankfort (Road).
- 1.3. The streetscape consists of commercial units, four and five storey apartment blocks, and housing and is very much an area in transition. The building line on the west side of the Dundrum Road is set back a few meters and heights in the area vary considerably; there are a number of mature trees along the street. This area hosts a wide range of shops, offices, facilities, and services to cater for differing needs and jobs. approx. 10 min walk to the retail and employment centre of Dundrum
- 1.4. I refer to the photos and photomontages available to view throughout the file. Together with a set of photographs of the site and its environs taken during the course of my site inspection serve to describe the site and location in further detail.

2.0 Proposed Development

- 2.1. The proposed development will provide for
 - a) the demolition of the existing two-storey retail and office dwelling (1,170 sqm) with 27 existing car spaces and surface site curtilage,
 - b) the construction of 64 no. apartment units in the form of a 5- 6-storey apartment block (5,525 sqm) over basement (1,135 sqm),
 - c) the provision of a ground floor retail/café unit (105 sqm) fronting Dundrum Road, and
 - d) Public Realm upgrades to Dundrum Road.

- 2.2. The development shall provide for 32 no. 1 bed apartment units and 32 no. 2 bed apartment units all with balconies facing north, south, east, and west.
- 2.3. Communal open space is provided in the form of a centrally located landscaped courtyard (499 sqm) that includes 85 sqm of play area for children and a woodland riverbank of 570 sqm. A south facing communal roof terrace (45 sqm) is located at the fifth-floor level.
- 2.4. The development will also comprise repositioning and upgrade to the vehicular access from the Dundrum Road to Frankfort Road and the provision of a loading bay at Frankfort Road.
- 2.5. The proposed development shall also provide for 33 no. car parking spaces at basement level with 62 sqm of plant, 31 sqm of bin storage, ESB, switch room and 84 no. secure Sheffield bicycle spaces, (71 no. interior residential spaces, 3no. interior visitor spaces & 10 no. exterior visitor spaces), accessed from Frankfort Road at Ground Level; sedum roofs; solar photovoltaic panels; lighting; boundary treatments; public space; hard and soft landscaping including tidy of river corridor planting; and all other associated site works above and below ground associated with the proposed development.
- 2.6. A Natura Impact Statement (NIS) was prepared in respect of the proposed development.
- 2.7. The application was accompanied by the following:
- DLRCC Part V Compliance letter
 - Planning Application Report
 - Architectural Design Statement & Drawings
 - Engineering Drawings
 - Schedule of Accommodation
 - Water Services & Flood Risk Assessment
 - Traffic & Transport Assessment
 - Mobility Management Plan
 - Preliminary Construction and Environmental Management Plan

- Construction and Demolition Waste Management Plan
- Landscape Statement & Report
- Landscape Report
- Arboriculture Report
- Verified Views / CGIs
- Daylight / Sunlight Analysis
- AA Screening Report
- Ecological Impact Assessment Report
- Bat Survey Report
- Hydrological & Hydrogeological Risk Assessment Report

2.8. Further Information

- 2.8.1. A time extension in relation to returning the further information (FI) response was approved by DLRCC on the 30th November 2023.
- 2.8.2. Revised floor plans in compliance with Table 12.1 of the Development Plan submitted. In relation to Policy Objective PHP27 (Housing Mix) it is submitted that there is sufficient supply of larger, 3-bed+ type unit developments in the surrounding area and the unit mix as now proposed is appropriate at this location. A number of developments are referenced including:
- Frankfort – 109 units
 - Westbrook – 78 units
 - Annville Park – 108 units
 - Summerville / Larchfield – 125 units
- 2.8.3. The proposal provides the following unit mix:
- 32 x 1-bed unit (50%)
 - 27 x 2-bed units (42%)
 - 5 x 3-bed units (8%)

- 2.8.4. The majority of apartments exceed the minimum floor area standard by a minimum of 10%. The Housing Quality Assessment refers. All residential units are designed to be fully accessible and the scheme is fully compliant with Part M of the Building Regulations. All apartments as proposed are adaptable and considered appropriate for cross-generational use. The design of the 6th storey roof garden has been amended to ensure that no undue overlooking occurs to the west and south of the development. A building height strategy has been submitted in compliance with Section 6.21 Appendix B - Compliance with DLR CDP Building Height Strategy. The proposed development now provides for 52% dual aspect units in accordance with Section 12.3.5.1 of the County Development Plan 2022-2028. In accordance with Section 12.3.5.3 of the County Development Plan, bulk storage is provided at Basement Level. Proposed palette of materials/colours also confirmed.
- 2.8.5. All inconsistencies identified in the original submission between the submitted floor plan numbering and the Housing Quality assessment have been remedied and checked as part of this response.
- 2.8.6. The subject proposal fulfils the objective of the 'NC' zoning "to protect, provide for and/or improve mixed-use neighbourhood centre facilities" by providing an appropriate mixed-use scheme of residential units and a ground floor café unit. The provision of additional convenience retail would result in an overprovision and would not be viable on the subject site. The café unit is of high quality design and incorporates a layout that encourages an active and engaging frontage with an appropriate public realm improvement.
- 2.8.7. The communal open space requirement for the subject proposal is as follows:

Unit type Minimum Area per unit Requirement

1-bed 5 sqm 32 x 5 = 160 sqm

2-bed (4 persons) 7 sqm 27x7 = 189 sqm

3-bed 9 sqm 5x 9 = 45 sqm

Total 394 sqm

Table 2 - Communal Open Space Standards

- 2.8.8. The current proposal exceeds the requirements for communal open space provision and provides for a total of 438 sqm of communal amenity space.

- 2.8.9. Proposed areas to be Taken in Charge by the Planning Authority outlined. Public footpaths are to be Taken in Charge and the open spaces will remain under the control of a management company.
- 2.8.10. The southern elevation has been amended and windows facing south have been removed and replaced with scalloped windows that will not result in any undue overlooking.
- 2.8.11. The discharge rate for the site has been limited to the minimum orifice size of 50mm which limits the discharge to 1.6 l/s. The Planning Authority is referred to Water Services and Flood Risk Assessment Report which uses the updated runoff coefficients for the green roof areas as per the Dun Laoghaire-Rathdown County Development Plan 2022-2028 Appendix 7.2. 70% of the total roof areas shall be reserved for green roofs.
- 2.8.12. The Site Specific Flood Risk Assessment has been updated and now references only the current Dún Laoghaire-Rathdown County Development Plan 2022-2028 . No development is proposed in Flood Zone B. No alterations are now proposed to the banks of the river and all basement accesses and vents are located in Flood Zone C and will be above the flood level of the adjoining river.
- 2.8.13. Under the provisions of the County Development Plan 2022-2028, the following car parking standards apply to the subject site within Parking Zone 2:

Zone 2	Standard	Proposed
1 – bed	1 space	Total of 33 no car parking spaces proposed at basement level to include 2 no accessible parking spaces and 2 no designated car sharing parking spaces
2 – bed	1 space	
3 – bed	2 space	
Other		
Restaurant / Café / Bar / Lounge >100 sqm (GFA)	1 per 50	
Total	71.3	33

- 2.8.14. When the above standards are applied to the proposed development, a total of 69 spaces are required for the residential proposal. The proposal provides for 33 no spaces including 2 no. accessible spaces and 2 no. GoCar sharing spaces. It is acknowledged the scheme does not meet the standards set out in the Development Plan 2022-2028. Submitted that a deviation from the car parking standards may be considered as long as it complies with the assessment Criteria 12.6 of the Development Plan. Submitted that the level of car parking proposed is acceptable for the scheme given the sites public transport accessibility and proximity to services.
- 2.8.15. No visitor car parking spaces are provided given the availability of on-street parking in the vicinity of the proposed development. 6 no. locations for the proposed fully operation electric vehicle charging points identified. This provision also includes 1 no. EV charging point for accessible parking. The Planning Authority is referred to the accompanying car sharing scheme letter from GoCar. 132 no. bicycle parking spaces are now proposed within the development.
- 2.8.16. The details requested by the Planning Authority for a revised Outline Construction Management Plan can be provided when a Contractor for the site has been appointed and can be appropriately addressed by way of condition.
- 2.8.17. The revised Traffic & Transport Assessment includes up-to-date traffic survey and junction analysis including 2 no. adjoining developments. Visibility splays in accordance with DMURS have been undertaken for access onto Frankfort from the development. There is no vehicular access proposed from the development onto Dundrum Road. No emergency or refuse vehicles will access the basement. Bins stored in the basement will be brought to surface level on waste collection days and refuse vehicles will use the loading bay to load refuse. A continuous footpath is shown across the entrance to the basement carpark with the stop line relocation to the rear of the footpath.
- 2.8.18. The existing masonry wall was inspected and it was concluded that due to the condition of the wall featuring a number of cracks and the nature of the cracking resulting from the root growth of adjoining trees, in the long term the wall will not sustain further damage by the root structure and should be replaced. Where it has been necessary to remove trees to facilitate development, a commensurate programme for replacement planting has been delivered.

2.8.19. Public Lighting Report and an ecological assessment of the proposed public lighting in relation to nocturnal species submitted.

2.8.20. Drawing No. P-01 prepared by Enviroguide Consulting which details the proposed boundary treatments around the site. Drawing no. P-02 which details the proposals for public realm improvements at Dundrum Road and Frankfort Road.

2.9. The FI response was accompanied by the following:

- Planning Report
- Revised Architectural drawings
- Revised Civil Drawings
- Water Services and Flood Risk Assessment Report
- Amended Traffic and Transport Assessment
- Quality Audit
- Revised Landscape Drawings and Visualisations
- Tree Report
- Ecological Assessment Report
- Public Lighting Plan Report and Drawings
- Revised Verified Views / CGIs

3.0 Planning Authority Decision

3.1. Decision

3.1.1. DLRCC issued a notification of decision to refuse planning permission for the following 6 no reasons relating to (1) overlooking and loss of privacy, (2) inadequate open space, (3) unit mix, (4) impact on the River Slang, (5) sub-standard pedestrian and cycle layout and (6) surface water drainage.

1) Having regard to the overall design, scale, bulk and massing in close proximity to adjacent residences at Cranley House and by reason of the lack of sufficient setback from same, it is considered that the proposed development would appear overbearing and visually dominant when viewed from Cranley House to the north

due to the height and massing in close proximity. The proposed development would give rise to **significant overlooking impacts and undue loss of privacy due** to its close proximity with Cranley House to the north. The proposed development would, therefore, be contrary to policy objectives PHP18 and PHP20 in relation to the protection of residential amenity of the Dun Laoghaire Rathdown County Development Plan 2022 - 2028, and be contrary to the Building Height Strategy, Appendix 5, Table 5.1, and would be contrary to the proper planning and development of the area.

- 2) The majority of the communal and public open space would not be appropriately laid out or considered useable as quality open space by the future residents of the scheme and by local residents due to the position and depth of the spaces around the building, the sloping nature of the site and the proposed arrangement, treatments, and uses for the spaces. The inability of the development to provide such quality open space as part of the proposed development is considered to be indicative of the overdevelopment of the site. The provision of **communal and public open space is significantly below the standards required** in Sections 12.8.3.2 and 12.8.3.1 of the Dun Laoghaire Rathdown County Development Plan 2022 - 2028 and is thus contrary to policy and to the proper planning and sustainable development of the area.
- 3) As more than 30% of the units would be one bedroom units and a the required minimum of 20% three bedroom units has not been met, it is therefore considered that the proposed development **does not comply with the unit mix required by the Dun Laoghaire Rathdown County Development Plan 2022 - 2028** and is contrary to Policy Objective PHP27 in that the proposed development cannot be considered to be a sustainable residential community with a wide variety of housing and apartment types, sizes and tenures in accordance with the HNDA of the County Development Plan. The proposed development would be contrary to the proper planning and sustainable development of the area.
- 4) The proposed development would represent an undue **impact on the River Slang and its associated biodiversity corridor**, both directly, and in terms of the clearance of vegetation required to accommodate construction in such close proximity to the top of the riverbank. The applicant has not demonstrated in detail the full impact of the measures proposed in and around the river corridor, and it is

considered that the proposed development would fail to enhance local biodiversity and protect local natural heritage and biodiversity and ecological networks. It has also failed demonstrate that significant negative impacts on local biodiversity would not occur and is thus contrary to Sections 8.7.1.1, 8.7.1.2, 8.7.1.5, 8.7.1.6 and 8.7.1.7 of the Dun Laoghaire Rathdown County Development Plan 2022 - 2028. The inability of the applicant to demonstrate compliance with the above policies is considered to be development driven, indicative of the overdevelopment of the site and contrary to the proper planning and sustainable development of the area.

- 5) *The proposed development fails to deliver a 2 metre wide footpath along the entire site extent from Dundrum Road to the Frankfort access lane bridge and it fails to provide sufficient setback to allow for the delivery of a 5.5 metre wide carriageway as required by Transportation Planning and in accordance with DMURS whereby a commensurate standard of provision for safe pedestrian and cyclist movement should be provided. Due to the **substandard layout in this regard, which fails to adequately cater for pedestrian and cyclist movements in accordance with DMURS**, the proposed development would be contrary to Policy Objectives T12 and T23 of the Dun Laoghaire Rathdown County Development Plan 2022 - 2028 and would be contrary to the proper planning and development of the area.*
- 6) *The applicant has **failed to demonstrate acceptable surface water drainage proposals in relation to the proposed development with regard to the separation of foul and surface water discharges**. The proposed development is thus contrary to the drainage standards required in the County Development Plan and contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The Case Planner noted that there was an extensive planning process summarised as follows:

- Pre-Planning Stage
- Planning Application Stage
- Planning Authority Further Information Request Decision

- Extension of Time of Further Information Response Stage
- Further Information Stage
- Planning Authority Refusal Decision

3.2.3. The Case Planner in their first report and having regard to the internal reports (Drainage Planning (Water Services), Housing Department, Parks & Landscape Services, Parks Department, Transportation, Biodiversity Officer, Environment, Enforcement Section and Environmental Health Officer) requested the following FI as summarised. DLRCC requested FI on 3rd June 2022 in relation the following 28 no items.

3.3. Further Information

- **Item 1**
 - a) Revised floor plans that complies with the requirements of Table 12.1 and is consistent with Policy Objective PHP27 of the Development Plan 2022-2028.
 - b) Treatment of the proposed 6th storey roof garden to ensure no undue overlooking occurs
 - c) Justification for the proposed building height in accordance with Table 5.1 (Appendix5) of the Development Plan
 - d) Consistent floor plan numbering system
 - e) Provision of a minimum of 50% dual aspect units in accordance with Section 12.3.5.1 of the Development Plan 2022-2028.
 - f) Provision of external storage In accordance with Section 12.3.5.3 of the County Development Plan.
 - g) Justification for the provision of only 105sqm of net retail/café space having regard to the 'NC' (Neighbourhood Centre)
 - h) Revised drawings clarifying the amount of useable communal open space in accordance with Section 12.8.3.2 of the Development Plan 2022-2028.
- **Item 2** - Expand the proposed palette of materials/colours proposed to assist with breaking up the building

- **Item 3** - Clarify whether any part of the proposed development is intended to be Taken in Charge by the Planning Authority"
- **Item 4** - Revised drawings showing the proposed development not significantly impacting on the future development potential of the 'NC' zoned lands to the immediate south (Hyundai Site).
- **Item 5** - Drainage Matters relating to imported soil and impact on Rover Slang, existing soil ground conditions in terms of infiltration, how potential erosion of existing river bank will be prevented, protection of imported soil in Flood Zone B and impact of import soil on exiting trees adjacent to proposed detention basins.
- **Item 6** - The applicant is requested to apply an appropriate outfall discharge rate for the site and recalculate the attenuation volume using the revised discharge rate.
- **Item 7** - Updated runoff coefficients for the green roof areas to ensure attenuation volumes are adequately sized
- **Item 8** - A calculation demonstrating the proposal the requirements of Appendix 7.2: Green Roof Policy of the County Development Plan 2022-2028
- **Item 9**
 - a) Revised cross sections of the River Slang to extend to the building footprint clearly showing both existing and proposed ground levels to demonstrate no alterations to the existing riverbank within the flood extents.
 - b) Flood resilience measures and in particular the protection and location of basement vents, access points etc."
- **Item 10** - Car parking ratio consistent with the requirements of the County Development Plan
- **Item 11** - Revised drawings and details which demonstrate the allocation of visitor parking at the proposed development."
- **Item 12** - Letter of support from an established car sharing scheme operator who intends to provide a car sharing scheme at the proposed development"
- **Item 13** - Revised drawings and details which demonstrate the provision of a minimum of 6 No. fully operational electric vehicle charging points

- **Item 14** - Revised drawings and details which demonstrate the provision of required road marking within the basement area including the access ramp."
- **Item 15** - The Applicant shall submit revised drawings and details which demonstrate the provision of a minimum of a minimum of 128 No. cycle parking spaces
- **Item 16** - A revised Traffic and Transport Assessment which includes up-to-date survey data.
- **Item 17** - Revised drawings and details which demonstrate how the proposed vehicular access will function in the context of the existing/proposed changes to Frankfort access lane.
- **Item 18** - Revised drawings and details which demonstrate the provision of a 2m wide footpath to the south side of Frankfort access lane, spanning from Dundrum Road to the existing bridge.
- **Item 19** - Revised Outline Construction Management Plan with detailed items provided to be addressed.
- **Item 20** - Detailed Quality Audit (which shall include a Road Safety Audit, Access Audit, and a Walking Audit)
- **Item 21** - Unobstructed visibility splays on to Dundrum Road and Frankfort access lane in accordance with DMURS.
- **Item 22** - Swept path analysis for emergency and refuse vehicles accessing the proposed development.
- **Item 23** - Provision of a continuous footpath across the proposed vehicular entrance
- **Item 24** - Biodiversity Matters relating to existing and proposed section elevation drawings detailing the River Slang and associated riverbank, amended plans with a view to increase the retention of all trees/vegetation within the riparian corridor and setbacks of development from the top of the River Slang bank in accordance with Section 8.7.1.7 of the County Development Plan 2022 – 2028
- **Item 25** - Lighting plan and ecological assessment of the lighting plan in relation to nocturnal species."

- **Item 26** - Revised Tree Survey Report
- **Item 27** - Landscape Layout to include boundary detail and details of the interface of the proposed development with Dundrum Road and Frankfort Road.
- **Item 28** - Cross sections and material finishes along all boundaries

3.3.1. The Case Planner in their second report and having considered the FI recommended that permission be refused for 6 no reasons. The notification of decision to refuse permission issued by DLRCC reflects this recommendation.

3.4. **Other Technical Reports**

3.4.1. **DLRCC Drainage Planning (Water Services)** - In their first report requested FI in relation to imported soil, erosion of existing riverbank, detention basins, discharge rate for attenuation, run off for green roof, green roof details and maintenance and flood risk assessment. In their second report and having considered the FI was satisfied that for the most part the FI request had been addressed. However, Clarification of Further Information was requested in relation to the provision of an updated surface water drainage layout.

3.4.2. **DLRCC Housing Department** – No stated objection subject to a condition be attached requiring the applicant/developer to enter into an agreement in accordance with Part V of the Planning and Development Act, 2000, as amended.

3.4.3. **DLRCC Parks and Landscape Services** – Having considered the FI submitted that the submitted tree survey report lacks detail required, that the submitted landscape plan is lacking in detail in relation to proposed boundary treatment at different interfaces around the site and that there is inadequate information in relation to the interface of the proposed development with Dundrum Road and Frankfort Road. Recommended that FI be sought in this regard. In addition number of conditions are recommended in relation to:

- Landscape and Urban design layout and detail
- Tree Bond and Arboricultural Agreement
- Open Space Provision (Section 48(2)(c) Special Levy)
- Retention of Qualified Arborist/Tree Works
- The retention of the Landscape Architect

3.4.4. Having considered the FI there was no stated objection to the scheme subject to conditions outlined in the report. The conditions are the same as those outlined in the initial report above and relate to:

- Tree Bond and Arboricultural Agreement
- Open Space Provision (Section 48(2)(c) Special Levy)
- Retention of Qualified Arborist/Tree Works
- Retention of the Landscape Architect

3.4.5. **DLRCC Transportation Planning Section** – In their first report requested FI in relation to the following together with a condition in relation to the details of a Mobility Management Plan Planner

- Car Parking Provision
- Visitor Parking
- Car Sharing Scheme
- Disabled Parking
- Electrical Vehicle Charging Points
- Road Markings
- Cycle Parking Provision
- Traffic and Transport Assessment
- Proposed Road Layout (Access Road)
- Construction Management Plan
- Quality Audit
- Visibility
- Swept Path Analysis
- General Site Layout in relation to vehicular entrance footpath, relation of stop line and boundary treatment to access and Dundrum Road.

3.4.6. In their second report and having considered the FI requested Clarification of FI in relation to the following:

- future fitting of electric vehicle charging points
- provide details of a car sharing scheme
- assessment of the location of surface level cycle parking on the public footpath

- proposed cycle parking arrangement at surface level
- provision of a footpath along the entire site boundary onto the Frankfort access lane (from Dundrum Road to the river bank/bridge).
- Taking in charge areas to DLRCC standards
- refuse vehicle movements on Frankfort access lane

3.4.7. **DLRCC Biodiversity Officer** – In their report requested FI in relation to the following as summarised:

- consultation with DLR's Biodiversity Officer, NPWS and Inland Fisheries is required.
- the treatment of the wildlife corridor along the stream requires very careful consideration and will be retained to provide continuing protection of this wildlife corridor from any proposed construction and operation activities associated with existing, proposed or future development.
- The EclA and proposed development will have regard to the CIEEM Guidelines for Ecological Impact Assessment in the UK and Ireland
- Given the likely presence of protected bat species, appropriate surveys by a bat specialist are required
- Breeding bird surveys are required including riparian species.
- A lighting plan and ecological assessment of the lighting plan in relation to nocturnal species is required.
- Assessment of the Landscape plan in the EclA. No seed packets for pollinator mixes to be used
- Detailed large mammal surveys
- Demonstrate how bird strikes will be avoided.
- Construction Method Statement for Fisheries

3.4.8. **DLRCC Environmental Enforcement Section Planning Report (14/02/2023)** - Generally unhappy with the Construction & Demolition Management Plan and the Preliminary Construction & Environmental Management Plan, which are considered to be superficial and lacking in any relevant detail. In the event that planning permission based on the submitted documents it was recommended that a number of conditions be attached relating to Construction Waste, Liaison with Public,

Construction Environmental Management, Monitoring, Noise Planning and Operational Waste Management.

- 3.4.9. **DLRCC EHO** – In their report note the response to Item 19 of the FI request (Outline Construction Management Plan) and state that this matter can be appropriately addressed by way of condition.

3.5. **Prescribed Bodies**

- 3.5.1. **Inland Fisheries Ireland (IFI)** - Noted that the closest watercourse to the site is the River Slang, which abuts the west boundary of the Site, and flows into the River Dodder approximately 1.2km to the north of the Site, and ultimately into Dublin Bay. Any future development in the area should not cause any degradation of fishery habitat. Only clean, uncontaminated surface waters must be permitted to discharge to the surface water network so that the ecological integrity of the system is protected. The construction phase of the proposed development should be in line with the project specific Construction Environmental Management Plan (CEMP). Any discharges to surface streams present on or near the site must not impact negatively on the system. Ringsend WWTP is currently working at or beyond its design capacity and won't be fully upgraded until 2023. It is essential that local infrastructural capacity is available to cope with increased surface and foul water generated by the proposed development in order to protect the ecological integrity of any receiving aquatic environment. The use of nature-based solutions to manage surface water (where appropriate) rather than hard engineered solutions are encouraged by IFI.

3.6. **Third Party Observations**

- 3.6.1. There are 11 no of observations recorded on the planning file from (1) Morgan Costello, (2) Michael Morris, (3) Edmund Morris, (4) Patricia Hickson, (5) Justin Carton, (6) Brian Holland, (7) Anne Fitzpatrick, (8) Adrian & Geraldine Fogarty, (9) Ilona Byrne, (10) Clive Niven and (11) Aileen & Asad Shah.
- 3.6.2. The issues raised relate to land use zoning and associated policy, loss of daylight / sunlight and shadowing impact, height of the proposed development, density, unit mix, parking requirements, traffic management, inadequate traffic survey, cycling on Dundrum Road, flawed conclusion on Traffic Assessment Report, laneway cannot

support the infrastructure suggested, pedestrian, cyclist and car safety, decrease in property value, impact to River Slang, impact to character of the area, foul drainage, ventilation, destruction of natural habitat, loss of mature trees, access, overlooking, impact on Cranley House and inadequate mitigation, poor precedent.

- 3.6.3. Following the submission of further information there are 6 no of observations recorded on the planning file from (1) Aileen & Asad Shah, (2) Michael Morris, (3) Justin Carton, (4) Caroline Byrne, (5) Clive & Carmel Niven and (6) Morgan Costello.
- 3.6.4. Additional comments relate to changes to the planning context for the scheme, excessive density, height is not justified, under provision of car parking, visual impact, housing mix, narrow laneway and side access, DLRCC objection to SHD Frankfort Castle relevant, proximity to Badger Sett and inadequate provision of 3 bed units,

4.0 Planning History

- 4.1. There was a previous planning application on this site that may be summarised as follows:

- **Reg Ref D09A/0564** – DLRCC granted permission for 2 no. free standing flagpole signs and refused permission for new front signage.

- 4.2. There are a number of housing appeals in the immediate area that are referenced in documents on the appeal file and that may be summarised as follows:

- **ABP-311287-21** – To the west permission was granted for 115 no. apartments, creche and associated site works at Frankfort Castle, Old Frankfort, Dundrum, Dublin 14.
- **ABP-312935-22** – To the east permission was refused for the demolition of all structures, construction of 111 no. apartments and associated site works at Sommerville House, Dundrum Road, Dublin 14.
- **ABP -310640, ABP-310640 & ABP-320912** – To the north east there are 3 no applications for large scale housing schemes at the Central Mental Hospital. No decisions have issued to date.

5.0 Policy Context

5.1. National Planning Policy

5.1.1. Project Ireland 2040 - National Planning Framework

5.1.2. The NPF comprises the Government's proposed long-term strategic planning framework to guide national, regional and local planning and investment decisions over the next 25 years. Part of the vision of the NPF is managing growth and targeting at least 40% of all new housing in existing built-up areas of cities, towns and villages through infill and brownfield sites while the rest of new homes will be targeted on greenfield edge of settlement areas and within rural areas. The NPF also sets out a number of National Strategic Outcomes which include Compact Growth and Strengthened Rural Economies and Communities. These include:

- NSO 1 - Compact Growth
- NSO 7 - Enhanced Amenity and Heritage
- NPO 3a - Securing Compact & Sustainable Growth
- NPO 3c - Securing Compact & Sustainable Growth
- NPO 4 - Why Urban Places Matter (Community)
- NPO 5 - Why Urban Places Matter (Economy/Prosperity)
- NPO 6 - Why Urban Places Matter (The Environment)
- NPO 9 - Planning for Ireland's Urban Growth (Ireland's Towns)
- NPO 11 - Achieving Urban Infill/Brownfield Development
- NPO 13 - Performance-Based Design Standards
- NPO 32 - Housing
- NPO 33 - Housing (Location of Homes)
- NPO 34 - Housing (Building Resilience in Housing - Lifetime Needs)
- NPO 35 - Housing (Building Resilience in Housing - Density)

5.1.3. Climate Action Plan 2024

5.1.4. The Climate Action Plan 2024 sets out the measures and actions that will support the delivery of Ireland's climate action ambition. Climate Action Plan 2024 sets out the roadmap to deliver on Ireland's climate ambition. It aligns with the legally binding economy-wide carbon budgets and sectoral ceilings that were agreed by Government in July 2022. Ireland is committed to achieving climate neutrality no later than 2050, with a 51% reduction in GHG emissions by 2030. These legally binding objectives are set out in the Climate Action and Low Carbon Development (Amendment) Act 2021.

5.1.5. **National Biodiversity Action Plan (NBPA) 2023-2030**

5.1.6. The 4th NBAP strives for a “whole of government, whole of society” approach to the governance and conservation of biodiversity. The aim is to ensure that every citizen, community, business, local authority, semi-state and state agency has an awareness of biodiversity and its importance, and of the implications of its loss, while also understanding how they can act to address the biodiversity emergency as part of a renewed national effort to “act for nature”. This National Biodiversity Action Plan 2023-2030 builds upon the achievements of the previous Plan. It will continue to implement actions within the framework of five strategic objectives, while addressing new and emerging issues:

- Objective 1 - Adopt a Whole of Government, Whole of Society Approach to Biodiversity
- Objective 2 - Meet Urgent Conservation and Restoration Needs
- Objective 3 - Secure Nature's Contribution to People
- Objective 4 - Enhance the Evidence Base for Action on Biodiversity
- Objective 5 - Strengthen Ireland's Contribution to International Biodiversity Initiatives

5.2. **National Guidance**

- Design Manual for Urban Roads and Streets (2013)

5.3. **Section 28 Ministerial Guidelines**

5.3.1. The following national policy, statutory guidelines, guidance and circulars are also relevant:

- Housing for All: A New Housing Plan for Ireland (2021)
- Rebuilding Ireland: Action Plan for Housing & Homelessness (2016)
- Appropriate Assessment Guidelines (2009)
- Architectural Heritage Protection Guidelines (2011)
- Childcare Facilities Guidelines (2020)
- Environmental Impact Assessment Guidelines (2018)
- Flood Risk Management Guidelines (2009)
- Regulation of Commercial Institutional Investment in Housing Guidelines (2021)
- Sustainable Urban Housing: Design Standards for New Apartments (2020)
- Urban Development and Building Heights Guidelines (2018)
- Best Practice Urban Design Manual (2009)
- Quality Housing for Sustainable Communities (2007)
- Circular Letter: NRUP 02/2021 (Residential Densities in Towns and Villages)
- Housing Circular 28/2021 (Affordable Housing Act 2021 - Amendments to Part V)
- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)¹
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020)
- Urban Development and Building Heights Guidelines for Planning Authorities (2018)
- Childcare Facilities Guidelines for Planning Authorities (2020)
- Guidelines for Planning Authorities on the Planning System and Flood Risk Management (2009)
- Part V of the Planning and Development Act 2000 Guidelines (2017)
- Local Area Plans Guidelines for Planning Authorities (2013)

¹ The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) have been revoked.

- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment (2018)

5.4. Regional Guidelines

5.4.1. Eastern and Midland Regional Assembly - Regional Spatial and Economic Strategy 2019-2031 (EMRA-RSES)

5.4.2. The Strategy supports the implementation of Project Ireland 2040 and the National Planning Framework (NPF). The RSES provides a development framework for the region through the provision of a Spatial Strategy, Economic Strategy, Metropolitan Area Strategic Plan (MASP), Investment Framework and Climate Action Strategy. The Dublin MASP is an integrated land use and transportation strategy for the Dublin Metropolitan Area, which seeks to manage the sustainable and compact growth of the Dublin Metropolitan Area.

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

5.4.4. **RPO 3.3** notes that Local authorities shall, in their core strategies, identify regeneration areas within existing urban settlements and set out specific objectives relating to the delivery of development on urban infill and brownfield regeneration sites and provide for increased densities as set out in the national policy.

5.4.5. **Regional Policy Objective 4.3** supports the *consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built-up area and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport.*

5.4.6. The site lies within the Dublin Metropolitan Area (DMA). The aim of the Dublin Metropolitan Area Strategic Plan is to deliver strategic development areas to ensure a steady supply of serviced development lands to support sustainable growth.

5.4.7. Section 5.3 identifies guiding principles for development of the MASP area including:

Compact sustainable growth and accelerated housing delivery – To promote sustainable consolidated growth of the Metropolitan Area, including brownfield and infill development, to achieve a target to 50% of all new homes within or

contiguous to the built-up area of Dublin City and suburbs, and at least 30% in other settlements. To support a steady supply of sites and to accelerate housing supply in order to achieve higher densities in urban built up areas, supported by improved services and public transport.

- 5.4.8. **RPO 5.3** - *Future development in the Dublin Metropolitan Area shall be planned and designed in a manner that facilitates sustainable travel patterns, with a particular focus on increasing the share of active modes (walking and cycling) and public transport use and creating a safe attractive street environment for pedestrians and cyclists.*
- 5.4.9. **RPO 5.4.** - *Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the 'Sustainable Residential Development in Urban Areas', 'Sustainable Urban Housing: Design Standards for New Apartments' Guidelines and 'Urban Development and Building Heights Guidelines for Planning Authorities.*
- 5.4.10. **RPO 5.5** - *Future residential development supporting the right housing and tenure mix within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs and the development of Key Metropolitan Towns, as set out in the Metropolitan Area Strategic Plan (MASP) and in line with the overall Settlement Strategy for the RSES. Identification of suitable residential development sites shall be supported by a quality site selection process that addresses environmental concerns.*

5.5. **Development Plan**

- 5.5.1. The operative plan for the area is the **Dun Laoghaire Rathdown Development Plan 2022-2028**. The majority of the site is zoned **Objective NC** with the objective "to protect, provide for and or improve mixed-use neighbourhood centre facilities". The rear of the site is zoned **Objective A** with the objective to "to protect and or improve residential amenity".
- 5.5.2. The relevant Chapters of the Written Statement to this development include Chapter 2 – Core Strategy, Chapter 4 – Neighbourhood-People, Homes and Place, Chapter 8 – Green Infrastructure and Biodiversity, Chapter 10 – Environmental and Flood Risk, Chapter 12 – Development Management, Chapter 13 – Land Use Zoning and Chapter 14 – Specific Local Objectives.

- 5.5.3. **Policy Objective PHP18: Residential Density** - It is a Policy Objective to: Increase housing (houses and apartments) supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites having regard to proximity and accessibility considerations, and development management criteria set out in Chapter 12. It is policy to encourage higher residential densities provided that proposals provide for high quality design and ensure a balance between the protection of existing residential amenities and the established character of the surrounding area, with the need to provide for high quality sustainable residential development
- 5.5.4. **Policy Objective PHP20: Protection of Existing Residential Amenity** - It is a Policy Objective to ensure the residential amenity of existing homes in the Built Up Area is protected where they are adjacent to proposed higher density and greater height infill developments.
- On all developments with a units per hectare net density greater than 50, the applicant must provide an assessment of how the density, scale, size and proposed building form does not represent over development of the site. The assessment must address how the transition from low density to a higher density scheme is achieved without it being overbearing, intrusive and without negatively impacting on the amenity value of existing dwellings particularly with regard to the proximity of the structures proposed. The assessment should demonstrate how the proposal respects the form of buildings and landscape around the site's edges and the amenity enjoyed by neighbouring uses.
 - On all developments with height proposals greater than 4 storeys the applicant should provide a height compliance report indicating how the proposal conforms to the relevant Building Height Performance Based Criteria "At District / Neighbourhood / Street level" as set out in Table 5.1 in Appendix 5.
 - On sites abutting low density residential development (less than 35 units per hectare) and where the proposed development is four storeys or more, an obvious buffer must exist from the rear garden boundary lines of existing private dwellings.
 - Where a proposal involves building heights of four storeys or more, a step back design should be considered so as to respect the existing built heights
- 5.5.5. **Policy Objective PHP27: Housing Mix** - It is a Policy Objective to encourage the establishment of sustainable residential communities by ensuring that a wide variety

of housing and apartment types, sizes and tenures is provided throughout the County in accordance with the provisions of the Housing Strategy and Housing Need Demand Assessment (HNDA) and any future Regional HNDA.

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

5.5.7. **Appendix 5**

Building Heights Strategy - The Council policy in relation to building height throughout the County is detailed in three policy objectives as set out in the Building Height Strategy (BHS) (Appendix 5):

- Policy Objective BHS 1 – Increased Height.
- Policy Objective BHS2 – Building Height in areas covered by an approved Local Area Plan or Urban Framework Plan (UFP must form part of the County Plan).
- Policy Objective BHS 3 – Building Height in Residual Suburban Areas.

5.5.8. **Section 12.3.3.1 Residential Size and Mix**

- 5.5.9. The finding of the Housing Strategy and HNDA have informed policy PHP27 in relation to mix (refer to Appendix 2 Housing Strategy and HNDA 2022 – 2028).
- 5.5.10. In order to demonstrate compliance with Policy Objective PHP27 and based on the findings of the Housing Strategy and HNDA, planning applications received for 50+ residential units either individually or cumulatively with lands located within the neighbourhood (10-minute walk) will be required to incorporate a variety and choice of housing units by type and size so as to meet the differing household need in the County. Council Part 8 or Part 10 residential schemes, may propose a different mix having regard to the specific needs of the Council Housing Department
- 5.5.11. The proposed provision of residential units (both houses and apartments), shall provide a mix that reflects existing, and emerging household formation, housing demand patterns and housing demand patterns and trends identified locally and/ or within the County. New residential communities (as set out in the Core Strategy and Figure 2.9 of the Core Strategy Map) shall ensure an appropriate mix including a

proportion of larger units. Applications received in both new residential communities and within the residual built up area shall include:

- Details of existing and permitted unit types within a 10-minute walk of the proposed development.
- A detailed breakdown of the proposed unit type and size including a percentage split between 1/2/3+ bed units which in the case of apartments (and duplexes) shall generally be in accordance with Table 12.1.

5.5.12. **Table 12.1**

Area	Threshold	Mix Studio/1/2 bed Requirement (Apartments and duplexes)	3+ bed Requirement (Apartments)
Existing Built-up area.	Schemes of 50+ units	Apartment Developments may include up to 80% studio, one and two bed units with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios	Minimum 20% 3+ bedroom units

5.5.13. The **Dundrum Local Area Plan** is now adopted but in building height refers back to Development policy and has no specific policies regarding building height in the context of the application site.

5.5.14. **Policy Objective BHS 3 Building Height in Residual Suburban Areas** - It is a policy objective to promote general building height of 3 to 4 storeys, coupled with appropriate density in what are termed the residual suburban areas of the County provided that proposals ensure a balance between reasonable protection of existing amenity and the established character of the area.

5.5.15. Having regard to the Building Height Guidelines and more specifically in order to apply SPPR 3 there may be instances where an argument can be made for increased height and/or taller buildings in the residual suburban areas. Any such proposals must be assessed in accordance with the criteria set out in Table 5.1 as contained in Section 5. The onus will be on the applicant to demonstrate compliance with the criteria.

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

5.5.17. Table 15.1 Criteria for assessing proposals for increased height.

- At County Level
- At District/Neighbourhood/Street Level
- At site/building scale
- County Specific Criteria

5.5.18. **Car Parking**

5.5.19. Car parking Table 12.5 Parking Zone 2

- Apartments
- One bed 1 space
- Two bed 1 space

5.5.20. **Section 12.4.5.2 Application of Standards** - In certain instances, in Zones 1 and 2 the Planning Authority may allow a deviation from the maximum or standard number of car parking spaces specified in Table 12.5 or may consider that no parking spaces are required. Small infill residential schemes (up to 0.25 hectares) or brownfield/refurbishment residential schemes in zones 1 and 2 along with some locations in zone 3 (in neighbourhood or district centres) may be likely to fulfil these criteria. In all instances, where a deviation from the maximum or standard specified in Table 12.5 is being proposed, the level of parking permitted and the acceptability of proposals, will be decided at the discretion of the Planning Authority, having regard to criteria as set out below:

- (i) Assessment Criteria for deviation from Car Parking Standards (set out in Table 12.5)
- Proximity to public transport services and level of service and interchange available.
 - Walking and cycling accessibility/permeability and any improvement to same.
 - The need to safeguard investment in sustainable transport and encourage a modal shift.
 - Availability of car sharing and bike / e-bike sharing facilities.
 - Existing availability of parking and its potential for dual use.
 - Particular nature, scale and characteristics of the proposed development (as noted above deviations may be more appropriate for smaller infill proposals).
 - The range of services available within the area.
 - Impact on traffic safety and the amenities of the area.
 - Capacity of the surrounding road network.
 - Urban design, regeneration and civic benefits including street vibrancy.

5.5.21. **Bicycle Parking Table 12.8**

- Apartments: 1 per bedroom (long) and 1 per 2 units (short)
- Houses: 1 per unit (long) and 1 per 5 units (short)
- Retail: 1 per 5 staff (long) and 1 per 100sqm (short)
- Childcare: 1 per 5 staff (long) and 1 per 10 children (short)

5.5.22. **Public Open Space Requirements for Residential Developments**

- Table 12.8 - Residential Development in the existing built up area 15% of the site area.

5.5.23. It is acknowledged that in certain instances it may not be possible to provide the above standards of public open space. High density urban schemes and/or smaller urban infill schemes for example may provide adequate communal open space but no actual public open space. In these instances where the required percentage of public open

space is not provided the Council will seek a development contribution under Section 48 of the Planning and Development Act 2000, as amended. The contribution in lieu to be paid for any shortfall in the quantum of public open space to be provided will be used for the provision of improved community and civic infrastructure and/or parks and open spaces, in the vicinity of the proposed development for use of the intended occupiers of same. On overall sites of less than 0.25 ha, the Council may also consider levying a contribution in lieu of public open space.

5.5.24. Private Amenity Space – Quality Standards

5.5.25. Section 12.8.7.1 Separation Distances:

Separation Distances A minimum standard of 22 metres separation between directly opposing rear first floor windows should usually be observed, for new developments. In an exceptionally well-designed scheme providing an otherwise very high-quality living environment and that is in close proximity to existing public open spaces, the above standards may be relaxed.

Any relaxing of standards will be assessed on a case-by-case basis and should not be seen as setting a precedent for future development.

5.5.26. Apartment Development

5.5.27. Section 12.3.5.2 Separation Between Blocks

5.5.28. All proposals for residential development, particularly apartment developments and those over three storeys high, shall provide for acceptable separation distances between blocks to avoid negative effects such as excessive overlooking, overbearing and overshadowing effects and provide sustainable residential amenity conditions and open spaces.

5.5.29. A minimum clearance distance of circa 22 metres, in general, is required, between opposing windows in the case of apartments up to three storeys in height. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size, and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable. In all instances where the minimum separation distances are not met, the applicant shall submit a daylight availability analysis for the proposed development.

5.5.30. Map Objective on site 'to protect and preserve trees and woodlands'

- 5.5.31. **Section 12.8.11** - Decisions on preservation are made subject to full Arboricultural Assessment and having regard to other objectives of the Plan.
- 5.5.32. **Chapter 8 Green Infrastructure and Biodiversity**
- 5.5.33. **Section 8.7.1.1 Policy Objective GIB18: Protection of Natural Heritage and the Environment** - It is a Policy Objective to protect and conserve the environment including, in particular, the natural heritage of the County and to conserve and manage Nationally and Internationally important and EU designated sites - such as Special Protection Areas (SPAs), Special Areas of Conservations (SACs), proposed Natural Heritage Areas (pNHAs) and Ramsar sites (wetlands) - as well as non-designated areas of high nature conservation value known as locally important areas which also serve as 'Stepping Stones' for the purposes of Article 10 of the Habitats Directive.
- 5.5.34. **Section 8.7.1.2 Policy Objective GIB19: Habitats Directive** - It is a Policy Objective to ensure the protection of natural heritage and biodiversity, including European Sites that form part of the Natura 2000 network, in accordance with relevant EU Environmental Directives and applicable National Legislation, Policies, Plans and Guidelines.
- 5.5.35. **Section 8.7.1.5 Policy Objective GIB22: Non-Designated Areas of Biodiversity Importance** - It is a Policy Objective to protect and promote the conservation of biodiversity in areas of natural heritage importance outside Designated Areas and to ensure that notable sites, habitats and features of biodiversity importance - including species protected under the Wildlife Acts 1976 and 2000, the Birds Directive 1979, the Habitats Directive 1992, Birds and Habitats Regulations 2011, Flora (Protection) Order, 2015, Annex I habitats, local important areas, wildlife corridors and rare species - are adequately protected. Ecological assessments will be carried out for all developments in areas that support, or have potential to support, features of biodiversity importance or rare and protected species and appropriate mitigation/avoidance measures will be implemented. In implementing this policy, regard shall be had to the Ecological Network, including the forthcoming DLR Wildlife Corridor Plan, and the recommendations and objectives of the Green City Guidelines (2008) and 'Ecological Guidance Notes for Local Authorities and Developers' (Dún Laoghaire-Rathdown Version 2014).

5.5.36. **Section 8.7.1.6 Policy Objective GIB23: County-Wide Ecological Network** - It is a Policy Objective to protect the Ecological Network which will be integrated into the updated Green Infrastructure Strategy and will align with the DLR County Biodiversity Action Plan. Creating this network throughout the County will also improve the ecological coherence of the Natura 2000 network in accordance with Article 10 of the Habitats Directive. The network will also include non-designated sites.

5.5.37. **Section 8.7.1.7 Policy Objective GIB24: Rivers and Waterways** - It is a Policy Objective to maintain and protect the natural character and ecological value of the river and stream corridors in the County and where possible to enhance existing channels and to encourage diversity of habitat and nature-based solutions that incorporate biodiversity features. It is also policy (subject to the sensitivity of the riverside habitat), to provide public access to riparian corridors, to promote improved passive recreational activities.

5.5.38. **Chapter 12 Development Management - Open Space Quantity for Residential Development**

5.5.39. **Section 12.8.3.1 Public Open Space - Table 12.8 Public Open Space Requirements for residential developments**

Location	Public Open Space Standards (minimum):
Residential Development in new residential communities as shown in the Core strategy – figure 2.9.	15% (of site area)
Residential Development in the existing built up area.	15% (of site area)
Institutional and Redevelopment of SNI use	25% (of site area)

5.5.40. **Section 12.8.3.2 Communal Open Space - Table 12.9 Communal Open Space Standards**

Unit Type	Minimum Area per Unit
Studio	4 sq. m
One Bed 5 sq. m	5 sq. m
Two bedrooms (3 bed) 6 sq. m	6 sq. m

Two bedrooms (4 bed) 7 sq. m	7 sq. m
Three bedrooms 9 sq. m	9 sq. m
Four +	12 sq. m

5.5.41. **Chapter 5 Transport and Mobility**

5.5.42. **Section 5.6.2 Policy Objective T12: Footways and Pedestrian Routes** - It is a Policy Objective to maintain and expand the footway and pedestrian route network to provide for accessible, safe pedestrian routes within the County in accordance with best accessibility practice. (Consistent with NPO 27 and 64 of the NPF and RPO 5.3 of the RSES)

5.5.43. **Section 5.8.1 Policy Objective T23: Roads and Streets** - It is a Policy Objective, in conjunction and co-operation with other transport bodies and authorities such as the TII and the NTA, to secure improvements to the County road network – including improved pedestrian and cycle facilities, subject to the outcome of environmental assessment (SEA, EIA and AA), flood risk assessment and the planning process (RPO 8.10, RPO 8.16)

5.6. **Dundrum Local Area Plan 2023 (Came in to Effect 21/11/23)**

5.6.1. The application site is located within the boundary of the Dundrum Local Area Plan. The site is not located in any of the area designated as Key Development Areas within the plan boundary or subject to any urban/site development framework plans. In relation building height the Dundrum Local Area Plan refers to development Plan policy in this regard.

5.7. **Natural Heritage Designations**

5.7.1. The proposed development site is not within a designated conservation area.

5.8. **EIA Screening**

5.8.1. The proposed development is a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. The requirement for EIA therefore arises and there is requirement for a screening determination. Refer to Form 1 and 2 in Appendix 1 and 2 of this report.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The first party appeal has been prepared and submitted by Brock McClure Planning & Development Consultants, with inputs from Reddy Architecture + Urbanism (Design Architects), CORA (Consulting Engineers) and Enviroguide (Landscape Architects & Ecologists) and may be summarised as follows:
- 6.1.2. The reasons for refusal do not stand up to closer scrutiny and the main tenets of the scheme are sound, founded in a quality design response, and respect all existing and proposed residential amenity. The subject proposal is an appropriate response and is fully compliant with national, regional and local planning policy. The scheme as lodged at FI stage is an appropriate proposal for this site and stands up to scrutiny. An Bord Pleanála is asked to consider the proposal de novo.
- 6.1.3. Below is a table which outlines the policy documents that the development is in compliance with.

Policy Document	Complies
National Planning Framework - Project Ireland 2040	Yes
Regional Planning Guidelines for the Greater Dublin Area	Yes
Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities	Yes
Urban Design Manual: A Best Practice Guide	Yes
Quality Housing for Sustainable Communities 2007	Yes
Sustainable Urban Housing: Design Standards for New Apartments	Yes
The Planning System and Flood Risk Management	Yes
Dún Laoghaire-Rathdown County Development Plan 2022-2028	Yes

- 6.1.4. The scheme complies with the Development Management Standards in Section 12.3.5 for Apartment Development of the County Development Plan 2022-2028 as per the table below:

Development Standard	Complies	Proposal
"NC" and "A" Site Zoning	Yes	Mixed-Use residential scheme with ground floor retail use
Dual Aspect	Yes	> 50% provision
Internal & External Storage	Yes	Accords with / exceeds
Minimum Apartment Floor Areas	Yes	Accords with / exceeds
Private Open Space	Yes	Accords with / exceeds
Communal Open Space	Yes	Exceeds

- 6.1.5. Compliance with DLRs Development Management Standards are summarised as follows:

Public Open Space	Yes	As per Section 12.8.3.1: <i>"where the required percentage of public open space is not provided the Council will seek a development contribution under Section 48 of the Planning and Development Act 2000, as amended."</i>
Separation Distances	Yes	As per the Plan <i>"In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable. In all instances where the minimum separation distances are not met, the applicant shall submit a daylight availability analysis for the proposed development."</i> The subject proposal provides separation distances in excess of 30m for the property to the

		<p>west, highlighting the direct consideration of residential amenity and potential overlooking.</p> <p>The north elevation of the subject proposal is set back approx. 12m from the Cranley House apartment block to the north. The relationship of the subject proposal and Cranley House is further discussed in detail below.</p>
Car Parking	Yes	Accords with Parking Zone & Appropriate justification provided as agreed by Planning Authority and Transportation Dept.
Bicycle Parking	Yes	Accords with DLR County's 'Standards for Cycle Parking and Associated Cycling Facilities for New Developments (2018)

6.2. Grounds of Appeal No. 1 - Impact on Cranley House

- 6.2.1. The north elevation of the subject proposal is set back almost 12m from the Cranley House apartment block to the north, across a public road. The subject proposal faces a side window of this residential block into a 1.5m wide kitchen and is not considered to result in any undue overlooking of these units.
- 6.2.2. Cranley House apartment development, is designed to outdated standards, offers no private, communal or public open space for its residents, contains no landscaping or planting elements and comprises only of hard landscaping making it essentially a large car park with a building, and should not preclude the delivery of a high-quality residential development at this subject site.
- 6.2.3. The comment by the Planning Authority regarding the proposal detracting from the amenity of the Cranley House Apartment development is without foundation and should be dismissed.

6.3. Grounds of Appeal No. 2 - Useability of Communal and Public Open Space

- 6.3.1. The following is the position with regard to open space within the proposed development in accordance with Section 12.8.3.2 of the County Development Plan 2022-20222:

Unit Type	Minimum Area per unit	Requirement	Provision
1-bed	5 sqm	32 x 5 = 160 sqm	440.2 sqm landscaped central courtyard + 42.5 sqm roof terrace
2-bed (3 persons)	6 sqm	1 x 6 = 6 sqm	
2-bed (4 persons)	7 sqm	26 x 7 = 182 sqm	
3-bed	9 sqm	5x 9 = 45 sqm	
Total		393 sqm	482.7 sqm

- 6.3.2. A vibrant and multi-functional communal open space is provided to the west of the Block which benefits from safety, free from cars and passive surveillance and can provide a space that offers small children's play area, picnic areas and seating. A series of nature-based play spaces express a new direction in early learning environments and provide a range of diverse and flexible play spaces which lead to tactile experiences and nature play without ever prescribing the use of the areas.
- 6.3.3. A south facing communal roof terrace located on the 6th floor level (42.5 sqm) is also proposed. A 1m set back with planting and screening is proposed for the roof garden to provide shelter and to ensure that no undue overlooking occurs to the south of the site which sits c. 29.5 m from the western boundary of the site. The design has been sensitive to future development of the adjacent site to the south.
- 6.3.4. Public open space (c. 304.4 sqm) is provided to the front of the development in the form of public realm upgrades at the corner of and along the Dundrum Road and Frankfort Road. The footpath along Dundrum Road has been significantly widened to enhance the public realm including enhancement of sight lines and public pedestrian access. These are significant planning gains for the area and are significant positives of the scheme. The Frankfort Road footpath has also been widened.
- 6.3.5. The communal open space exceeds the County Development Plans minimum standards and is a vibrant, multi-functional, useable open space. As with regard to

the provision of public open space, it is submitted that the Board could attach a condition for a contribution in lieu of the provision in accordance with the County Development Plan. It is asked that any public realm enhancements and public open space provision would be excluded from the calculation of a contribution fee.

6.4. Grounds of Appeal No. 3 - Development Mix

- 6.4.1. The development mix is entirely appropriate at this location given the new policy context since the publication of the Council's HNDA and the demographic trends in the area and nationally which would see the over-provision of 3+ bed units for a majority of 1-2 person households in the State.
- 6.4.2. Since the adoption of the Development Plan on the 21st April 2022, and particularly since the writing of the Housing Need and Demand Assessment, there have been significant changes to planning policy at both national and regional levels which in effect invalidates the findings of the HNDA. The Planning Authority's HNDA does not align with the Apartments Guidelines 2022 which set out that there is a high demand for smaller unit sizes to accommodate the continuously increasing 1- and 2- person households for which there is a deficit of 150% for these unit types.
- 6.4.3. The proposed unit types offer a range of sizes, and we note that the majority of apartments exceed the minimum floor area standard by a minimum of 10%. We highlight that this unit mix proposal is compliant with the unit mix requirements of the latest Apartment Guidelines published in December 2022.
- 6.4.4. Following the review of the 2016 Census for the Small Area District where the proposed development is situated, which the Apartment Guidance document references, there are a number of findings, which demonstrate that there is an adequate supply of 3-bed+ family type units in the surrounding area and a requirement for 1- and 2- bed units within the surrounding area is evident. Reference is made development at Frankfort, Westboork, Annville Park and Summerville / Larchfield.
- 6.4.5. To date, demographic trends show that there has been a shift in household occupancy and composition within existing and new households. The average household size in Dublin was 2.73 persons per household in 2016. This is down from 2.99 in 1996 and 3.94 in 1971. When isolating just those persons living in apartment units, the average household size is significantly lower at 2.2 persons per household in 2016.

- 6.4.6. The subject site location and the context of the surrounding suburban detached 3+ houses warrants a significantly reduced 3+ bed unit mix requirement to ensure a balanced unit mix and unit typology is provided in the immediate surrounding area.
- 6.4.7. Should the Board remain unconvinced, by the compelling rationale supporting the proposed mix, the Board is invited to condition the amalgamation of units to allow us meet the Development Plan recommendations

6.5. Grounds of Appeal No. 4 - Associated Biodiversity Corridor of the River Slang

- 6.5.1. The application complies with the policies mention in this reason for refusal as follows:
- ***Section 8.7.1.1 Policy Objective GIB18: Protection of Natural Heritage and the Environment*** – The AA below concludes, beyond reasonable scientific doubt, that the proposed development will have no adverse effects on the qualifying interests, special conservation interests and on the integrity and extent of North-West Irish Sea SPA (004236), South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024) and North Bull Island SPA (004006)
 - ***Section 8.7.1.2 Policy Objective GIB19: Habitats Directive*** – As above.
 - ***Section 8.7.1.5 Policy Objective GIB22: Non-Designated Areas of Biodiversity Importance*** - Recommendations for control of invasive species which occupy 82% of current vegetative area proposed. Stated that the proposed development will result in an 183% increase in total area of site covered by vegetation and when discounting the area covered in invasive species this will result in an increase of vegetative cover by 1470%
 - ***Section 8.7.1.6 Policy Objective GIB23: County-Wide Ecological Network*** - The site lies outside any of the Hubs and Corridors identified in the DLR Green Infrastructure Strategy. The proposal aligns with the DLR County Biodiversity Action Plan in its implementation of a Recovery, Restoration and Reconnection philosophy through the control of invasive species, planting of native and pollinator friendly species and reconnecting with the riparian corridor at either end of the site.
 - ***Section 8.7.1.7 Policy Objective GIB24: Rivers and Waterways*** - Through the control of invasive species and planting of appropriate riparian native species the natural character and ecological value of the river Slang will be restored.

6.6. Grounds of Appeal No. 5 - Footpath and Carriageway

- 6.6.1. A 2m footpath has been proposed around the entirety of the subject site and only where it is outside the applicant's control and to a minor degree, is a 2m wide footpath not delivered. The applicant is willing to work with the Planning Authority to deliver it to their satisfaction.
- 6.6.2. CORA Consulting Engineers have amended the footpath and road layout to Frankfort Avenue on Drawing No. CORA-XX-ZZ-DR-C-0022 which clearly indicates a 2 m wide footpath at all times to the perimeter of the site and a 5.5 m wide roadway with the exception of the adjacent stream embankment which should be undertaken as part of DLRCC's future Flood Alleviation Works.

6.7. Grounds of Appeal No. 6 - Surface Water Drainage Proposals

- 6.7.1. The Internal Report from the Planning Authority's Drainage Department was published accompanying the application decision recommended that Clarification of Further Information be requested in respect of the following item:

'The Applicant has correctly calculated and applied QBAR to the proposed drainage design however, the drainage layout drawing incorrectly shows a direct connection from the proposed surface water network into the existing combined public sewer. The applicant is requested to submit an updated surface water drainage layout drawing demonstrating that the proposed surface water outfall for the site combines with the proposed foul water drainage network for the site at the final manhole within the site boundary before forming a single connection to the existing combined public sewer as per the "Manhole Type H" detail from the Greater Dublin Strategic Drainage Study (GDSDS).

- 6.7.2. This item could have been dealt with by way of condition and An Bord Pleanála is referred to Drawing No. CORA-XX-ZZ-DR-C-0004 prepared by CORA Consulting Engineers which as per the Drainage Department's requirement above, to have a final connection of surface water drainage to be a 'Manhole Type H.

6.8. Response to Planning Authority Transportation Planning Departments Assessment of Scheme

- 6.8.1. Noted that there are a number of items raised by various departments of the Planning Authority that could easily have been addressed by way of condition as detailed above.

A response to the details and queries from the Transportation Planning Department is provided to provide comfort to the Board in relation to the acceptability of the subject proposal.

- 6.8.2. The internal report published with the decision on the application from the Transportation Planning Department did not recommend that the scheme be refused and instead requested that clarification of further information be provided in respect of the proposed development. The Applicant's Engineers have taken this opportunity to address the issues raised in order to provide clarity and comfort to the Board that the proposal is well founded from a technical perspective.

6.9. Alternative Design Option

- 6.9.1. Submitted that whilst the purpose and rationale for this appeal is to defend and stand over the scheme as lodged with the Council, there is scope within the original design to incorporate small modifications that would satisfy most, if not all of the Council's concerns. A modified scheme is more favourable than reverting to Dún Laoghaire-Rathdown County Council with a revised scheme.

- 6.9.2. The proposed alternative design options to the development proposed are as follows:

- **Revised Design Option A - Alternative Communal Amenity Space Area**

This revised design Option A proposes a level area of communal open space which will contain a large short grass area with seating and a separated 85 sqm playground. The courtyard area is now more opened by removing circulation pathways within the open space area. Below is the revised landscaping plan now submitted to the Board as a revised design option. Revised Design Option A coupled with an amended option for the proposed materials on this elevation to help break up the massing of the block and ensure it does not appear monolithic as per the Planner's Reports comments.

- **Revised Option B - Retained Cherry Laurel within Riparian Corridor**

Outlines an alternative proposal for the treatment of the riparian corridor. The development as originally submitted and amended at FI had been designed around the protection and enhancement of the area in relation to biodiversity and had proposed to prune back the invading Cherry Laurel in stages over a period of three years to allow light to penetrate to the ground layer and encourage native rases

and herbaceous species to grow to offer a wider range of foraging and habitat opportunities for local wildlife and provide a greater habitat connectivity along the river. However, if this approach is not deemed appropriate to An Bord Pleanála, the applicant is amenable to a condition to this revised Option B for the retention of the Cherry Laurel Invasive Species which can be incorporated as part of the landscaping proposals submitted at Further Information Stage or as part of the Revised Option B as detailed in the figure below.

▪ **Revised Option C - Amended Unit Mix Proposal**

The Revised Option C is put forward to address the Planning Authority's reason for refusal no. 3 relating to the proposed unit mix. This revised design option consists of the amalgamation of 2 x 1-bedroom units into a 3-bedroom unit at each floor level for the proposal to be fully compliant with the County Development Plan's standards. This option consists of a reduced unit total from 64 no. units to 56 no. units. A revised unit mix as a result would be as follows:

	As submitted at FI Stage	Revised Option C
1 Bed	32 (50%)	17 (30.4%)
2 Bed	27 (42%)	26 (46.4%)
3 Bed	5 (8%)	13 (23.3%)
Total	64	56

This revised design option does not affect the exterior of the building and will not impact on the height, shape or layout of the proposed building as submitted at Further Information Stage.

It is noted that design Option C is also compatible with the revised area of communal open space as detailed above under Revised Design Option A or Revised Design Option B for the revised retention of the Cherry Laurel Species, or both, as deemed appropriate by the Board.

6.10. Conclusion

- 6.10.1. The reasons for refusal issued by the local authority are unfounded and that the subject proposal is appropriate for the subject site.

6.11. The appeal was accompanied by the following:

- Supporting Originally Lodged Scheme
 - 1) Enviroguide Consulting Appeal Response
 - 2) Drainage & Roads Drawings
- Alternative Design Options
 - 1) Option A - Alternative Communal Amenity Space Design Landscape Pack
 - 2) Option B - Alternative Riparian Corridor Treatment
 - 3) Option C - Alternative Unit Mix

6.12. Planning Authority Response

6.12.1. None

6.13. Observations

6.13.1. There are 6 no observation recorded on the appeal file from (1) Morgan Costello, (2) Clive & Carmel Niven, (3) Adrian Fogarty, (4) Michael Morris, (5) Patricia Hickson and (6) Aileen and Asad Sheh.

6.13.2. The issues raised may be summarised as follows:

- **Morgan Costello** – extremely high density, overlooking / overshadowing to Cranley House, excessive height and inadequate parking / loading bay. The scheme must be reduced to a maximum height of 3 -3 4 stories containing 30 – 35 units, provide parking for the commercial property vis the existing access onto Dundrum Road, retain the designed underground parking meeting DLRCC requirements and reduction of height could be dealt with by condition. Reference is made to the following cases
 - 1) Central Mental Hospital – 102 units per ha
 - 2) Frankfort Castle (currently in JR) – 144 units per ha
 - 3) Sommerville SHD (Eir Data Centre) – 140 units per ha
- **Clive & Carmel Niven** – access, height and nature of the development, overlooking, density, car parking, impact on Cranley House, loss of trees and flood risk.

- **Adrian Fogarty** – inadequate infrastructure, environmental impact and overdevelopment.
- **Michael Morris** – traffic impact, density, height, pedestrian and cyclist safety, parking provision and construction impact.
- **Patricia Hickson** – overall design, scale, bulk and massing, overdevelopment, apartment types, size and tenure, impact on River Slang and no provision of footpath along the entire site extent
- **Aileen & Asad Sheh** – need for footpath along entire extent of site, height impact to Glenbeg, impact to residential and visual amenities, overlooking, overshadowing, overbearing, overdevelopment, density, removal of trees, impact to wildlife, failure to protect local heritage of which the River Slang forms a part, failure to make significant changes at further information stage and revised options at appeal stage are unacceptable.

6.14. Further Responses

6.14.1. None

7.0 Assessment

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Refusal Reason No 1 - Residential Amenity
- Refusal Reason No 2 - Communal & Public Open space
- Refusal Reason No 3 - Unit Mix
- Refusal Reason No 4 - Biodiversity
- Refusal Reason No 5 - DMURS
- Refusal Reason No 6 - Surface Water Drainage
- Alternative Design Options
- Other Issues

- Conditions

7.2. Principle

- 7.2.1. The operative plan for the area is the Dun Laoghaire Rathdown Development Plan 2022-2028. The majority of the site is zoned Objective NC with the objective "to protect, provide for and or improve mixed-use neighbourhood centre facilities". The rear of the site is zoned Objective A with the objective to "to protect and or improve residential amenity".
- 7.2.2. Residential use is permitted in principle under both the Objective NC and A zonings. Café / retail uses are permitted in principle with the Objective NC zoning. The proposed cafe/retail unit will be located within the NC zoning part of the site. Overall, I am satisfied that the proposed uses comply with the zoning objectives of the DLRDP.
- 7.2.3. Demolition works are also proposed as part of this application. The site is currently occupied by an existing two-storey retail and office building (1,170sq.m) with 27 existing car spaces and surface site curtilage. The building is not considered to be of any particular architectural merit. Given the existing policies at both local and at national level in relation to intensification of use and density in built up areas, the retention of this building is not justified. Further the existing building does not constitute an efficient use of serviced zoned land in a built-up area, having a low site coverage, and a low plot ratio. Demolition is considered acceptable.
- 7.2.4. The Development Plan confirmed that the appeal lands are not subject to any restrictions in terms of cultural and natural heritage. There are no protected structures, national monuments or zone of archaeological potential on or adjoining the site, and it is not located within an ACA. Furthermore, the site is not subject to any protected views or prospects in the DCDP. This proposal is considered a sustainable approach to the residential development of a key infill site in Dundrum. Accordingly, the principle of the scheme is acceptable.
- 7.2.5. Save for the detailed assessment below I am satisfied that the requirements set out for the site in the current Development Plan, National Guidance and the relevant Section 28 Guidelines are addressed as follows.
- The proposed development will be accessed from Frankfort Road and I am satisfied that internal roads have been designed to have regard to DMURS and

residential development Guidelines (Section 28 Ministerial Guidelines) and Development Plan standards.

- The development has been designed to encourage active travel modes such as cycling and walking.
- All of the proposed apartments include private open space in accordance with the requirements of the Apartment Guidelines 2023 and Compact Settlement Guidelines 2024
- Having regard to the individual apartment floor area, dual aspect ratios, floor to ceiling heights, units per core, communal facilities and refuse storage I am satisfied that the scheme complies with the requirements of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines.

7.2.6. Overall, I am satisfied that the proposal has been designed in accordance with the provisions of the DLRCC Development Plan 2022 – 2028, National Guidance and the relevant Section 28 Guidelines. In general terms the scheme represents a positive and sustainable use of zoned, serviced and highly accessible lands. Accordingly, the principle of the scheme is acceptable at this location.

7.3. Refusal Reason No 1 – Visual Impact & Residential Amenity

7.3.1. DLRCC in their first reason for refusal state that that having regard to the overall design, scale, bulk and massing in close proximity to adjacent residences at Cranley House to the north the proposed development would appear overbearing and visually dominant when viewed from Cranley House due to height and massing in close proximity and would give rise to significant overlooking impacts and undue loss of privacy due to same. It is further stated that the scheme would be contrary to policy objectives PHP18 and PHP20 and the Building Height Strategy, Appendix 5, Table 5.1 of the Dun Laoghaire Rathdown County Development Plan 2022 – 2028.

7.3.2. The full wording for this reason for refusal is set out in Section 3.1 above. I propose to deal with this reason for refusal under the following sub-headings:

- Density
- Building Height
- Residential Amenities

7.3.3. Policies as outlined above and others that are relevant to this section of the assessment are summarised below. The full wording of each is provided in section 5.5 of this report above.

- **Policy Objective PHP18: Residential Density** - Increase housing supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites having regard to proximity and accessibility considerations, and development management criteria set out in Chapter 12.
- **Policy Objective PHP20: Protection of Existing Residential Amenity** - Ensure the residential amenity of existing homes in the Built Up Area is protected where they are adjacent to proposed higher density and greater height infill developments.
- **Policy Objective PHP42: Building Design & Height** - Ensure new development complies with the Building Height Strategy for the County as set out in Appendix 5 (consistent with NPO 13 of the NPF)
- **Policy Objective BHS 3 Building Height in Residual Suburban Areas** - Promote general building height of 3 to 4 storeys, coupled with appropriate density in what are termed the residual suburban areas of the County provided that proposals ensure a balance between reasonable protection of existing amenity and the established character of the area.
- Having regard to the Building Height Guidelines and more specifically in order to apply SPPR 3 there may be instances where an argument can be made for increased height and/or taller buildings in the residual suburban areas. Any such proposals must be assessed in accordance with the criteria set out in Table 5.1 as contained in Section 5. The onus will be on the applicant to demonstrate compliance with the criteria.
- Within the built-up area of the County increased height can be defined as buildings taller than prevailing building height in the surrounding area. Taller buildings are defined as those that are significantly taller (more than 2 storeys taller) than the prevailing height of the area.
- Table 15.1 Criteria for assessing proposals for increased height – Defined as building or buildings taller than prevailing building heights in the surrounding area or taller buildings or for building that is higher than the parameter set out in the LAP

or in any specific guidance set out in the County Development Plan, must demonstrate compliance with the relevant criteria set out in Table 5.1.

7.3.4. **Density**

- 7.3.5. Density informs the scale of any scheme and has a direct correlation with visual impact (height) and residential amenity. As set out in section 12.3.3.2 of the Development Plan as a general principle, and on the grounds of sustainability, the objective is to optimise the density of urban development in response to type of site, location, and accessibility to public transport. In general, the number of dwellings (houses or apartments) to be provided on a site should be determined with reference to the current Development Plan and relevant Government Guidelines. The current Development Plan specifically refers to the 'Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities' (2009) and the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2020). However, the 2009 Sustainable Residential Development in Urban Areas (2009) have been revoked.
- 7.3.6. To this end I refer to the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) as the most relevant Guidelines with which to assess the density of the scheme now before the Board particularly having regard to its location proximate to high quality and high frequency public transport routes (Luas, Bus and proposed Bus Connects Services). Table 3.1 - Areas and Density Ranges Dublin and Cork City and Suburbs states that within *City - Urban Neighbourhoods* such as this site, that are described as *highly accessible urban locations with good access to employment, education and institutional uses and public transport* it is a *policy and objective of these Guidelines that residential densities in the range 50 dph to 250 dph (net) shall generally be applied.*
- 7.3.7. The proposed development comprises 64 no units on a site of c0.24 ha resulting in a density of approx. 266.6 units per ha. However, in line with the comments of the Case Planner it is noted that a portion of the land (466sqm) abutting the River Slang to the west of the site is situated within a riparian corridor and due to the slope of the embankment cannot be developed. It is noted that the riparian corridor area is not included within the open space calculations.

- 7.3.8. In this regard I refer to Appendix B Measuring Residential Density of the Guidelines that states clearly that *at the site-specific level, if density controls are to produce the expected results, a density standard must be carefully related to the area accommodating the development.* Table 1 of this Appendix sets out areas to be excluded when calculating net site area that includes *other areas of land that cannot be developed due to environmental sensitives, topographical constraints (i.e. steepness) and/or are subject to flooding.*
- 7.3.9. Therefore, excluding this landscape buffer from the density calculation would result in a net density of 327.5 units / ha. While consideration of a higher density at this location given its close proximity to high frequency public transport, employment centres such as Dundrum Town Centre and local facilities and services is reasonable it remains that the density proposed far exceeds the maximum ranges set out in the Guidelines.
- 7.3.10. Section 3.3.6 Exceptions as set out in the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) states that there is a presumption against very high densities that exceed 300 dph (net) on a piecemeal basis unless plan-led. In the case of very small infill sites that are not of sufficient scale to define their own character and density, the need to respond to the scale and form of surrounding development, to protect the amenities of surrounding properties and to protect biodiversity may take precedence over the densities set out in this Chapter. The appeal site has not been identified for higher density development in the Development Plan or otherwise. Further the site is not of sufficient scale to define its own density and as the need to protect the riparian corridor adjoining the River Slang is imperative there is no justifiable exception to consider the density as proposed. Having regard to the plans and particulars submitted with the application as amended by FI it is recommended that permission be refused due to the excessive density and overdevelopment of this site as proposed.
- 7.3.11. **Amended Plans** - I would also draw the Boards attention to the amended plans submitted with the first party appeal that are discussed throughout this assessment. I would make reference to Revised Option C where there is an amalgamation of 2 x 1-bedroom units into a 3-bedroom unit at each floor level in order to comply with the apartment unit mix requirements of the Development Plan. This option reduces the unit total from 64 no. units to 56 no. units. This revised option is discussed further in Section 7.5 Refusal Reason No 3 – Unit Mix below. In terms of density a reduction in

unit numbers results in a reduced overall net density of 233 units / ha and a net density of 295 units / ha excluding the landscape buffer adjoining the River Slang. As discussed above, there is a need to protect the riparian corridor adjoining the River Slang and therefore this requires its omission in the density calculations. The density as proposed in Revised Option C remains excessive at this location and does not address the inappropriate scale of the scheme. Refusal is recommended.

- 7.3.12. **NOTE:** Prior to making its decision the Board may wish to seek comment from relevant parties in relation to the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) and its application or otherwise on the proposed scheme.

7.3.13. **Building Height**

- 7.3.14. As set out above it is Council policy to encourage high quality design in all new developments and to ensure that new developments comply with the Building Height Strategy for the County as set out in Appendix of the Development Plan (Policy Objective PHP42 refers).

- 7.3.15. As pointed out by the Case Planner the appeal site is in a residual suburban area, as per the definition in the Building Height Strategy: *'Areas not covered by an existing or forthcoming Local Area Plan or other guidance/policy as set out in this plan and not falling into objective F, B, G or GB are termed residual suburban areas.* Policy Objectives BHS1 and BHS3 within the Building Height Strategy are of note, with Policy Objective BHS3 being of particular relevance as it relates to Building Height of Residual Suburban Areas where it is stated that *it is a policy objective to promote general building height of 3 to 4 storeys, coupled with appropriate density in what are termed the residual suburban areas of the County provided that proposals ensure a balance between the reasonable protection of existing amenities including residential amenity and the established character of the area.*

- 7.3.16. Policy Objective BHS3 goes onto say *that having regard to the Building Height Guidelines and more specifically in order to apply SPPR 3 there may be instances where an argument can be made for increased height and/or taller buildings in the residual suburban areas.* However, *any such proposals must be assessed in accordance with the criteria set out in table 5.1 as contained in Section 5 of Appendix*

5 of the Development Plan 2022-2028 and that *the onus will be on the applicant to demonstrate compliance with the criteria, as explicitly required by BHS3.*

7.3.17. The proposed development is predominantly 5 to 6 storeys in height, with the 6th storey marginally recessed on all elevations. I refer to the FI submitted in relation to Table 5.1, the Case Planners assessment of same together with Appendix B - Compliance with DLR CDP Building Height Strategy of the first party appeal where the applicant sets out their response to the Planning Authority's Assessment in assessing the scheme as follows:

Criteria For All Such Proposals	Assessment
At County Level	
Proposal assists in securing objectives of the NPF, in terms of focusing development in key urban centres, fulfilling targets in relation to brownfield, infill development and delivering compact growth	<p>The proposal is located in close to Dundrum Village and Town Centre, on lands zoned 'NC' (with a small section zoned A'), and near established public transport services. The site maximises the use of a serviced brownfield site and would contribute to the delivery of compact growth.</p> <p>No issues arise in this regard.</p>
Site must be well served by public transport - i.e. within 1000 metre/10minute walk band of LUAS stop, Dart Stations or Core/Quality Bus Corridor, 500 metre/5 minute walk band of Bus Priority	<p>The site is located is approx. 7 min walk from the Dundrum Luas Stop and is approx. 10 min from the Windy Arbour Luas Stop. Along Dundrum Road are several bus services including Dublin Bus Routes 17, 61 and 44. These services provide transport into the city centre and other key locations. The nearest bus stop on Dundrum Road from the site is less than a minute walk. The site is considered to be highly accessible on this basis.</p>

<p>Route - with high capacity, frequent service and good links to other modes of public transport</p>	<p>Under the BusConnects Dublin Area Revised Bus Network proposals, new radial bus routes no's 87 and 88 will be implemented along Dundrum Road, in the vicinity of the development site. These would run between Mountjoy Square and Belarmine / Enniskerry (via Dundrum), each operating at intervals of 60 minutes on weekdays. Spine routes A2 and A4 would operate between Dundrum and Swords (via the city centre), each at intervals of 12 minutes during weekday peak times.</p> <p>No issues arise in this regard as the site is well served by public transport</p>
<p>Proposal must 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 cross roads or public transport interchange to the benefit of the legibility, appearance or character of the area.</p>	<p>The excessive density as proposed while observing the constraints of the site and in particular the River Slang and associated riparian corridor to the north has resulted in a development to the height and scale proposed. I refer to the photomontages submitted. Having regard to the immediate context and noting the relationship of the subject scheme with the receiving environment the visual impact of the proposed height and massing of the block, in particular to the north, is considered to be significant and overbearing. While the surrounding environment is not considered to form a sensitive visual landscape it remains that both the Development Plan and the relevant Section 28 Ministerial Guidelines and in particular the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) align to ensure that not only the development of compact sustainable development at suitable densities where appropriate it is also a corner</p>

	<p>stone of such scheme that they have due regard for context. While higher densities will inevitably lead to higher schemes it should not be to the detriment of the existing character. A reasonable balance can be negotiated between high density and visual impact and height. Unfortunately, in this case the density as proposed would have resulted in a development that is overbearing and visually dominant when viewed from Dundrum Road with particular regard to Cranley house. I share the concerns raised by DLRCC.</p> <p>Issues arise in that the scales of the scheme does not successfully integrate into or enhance the character.</p>
Protected Views and Prospects: Proposals should not adversely affect the skyline, or detract from key elements within the view whether in foreground, middle ground or background. A proposal may frame an important view.	There are no protected views and prospects within the immediate surrounds.
Infrastructural carrying capacity of area as set out in Core Strategy of CDP, relevant Urban Framework Plan or Local Area Plan.	<p>The subject site is located within Tier 1 Infill / Windfall lands in the Core Strategy of the CDP 2022-2028 which are serviced lands with capacity for residential developments.</p> <p>Whilst there does not appear to be an issue in principle at County level with regards to infrastructural carrying capacity, both Transport and Drainage Depts</p>

	<p>requested clarification of further information on a number of matters. These matters have informed Refusal Reason No 5 (DMURS) and 6 (Surface Water Drainage). These matters are discussed separately in Section 7.7 and 7.8 respectively below. I am satisfied that the concerns raised, having regard to the appeal submission can be dealt with by way of condition should the Board be minded to grant permission.</p> <p>No issues arise in relation the infrastructural carrying capacity of the area.</p>
At District / Neighbourhood / Street Level	
<p>Proposal must respond to its overall natural and built environment and make a positive contribution to the urban neighbourhood and streetscape.</p>	<p>The proposal has been assessed using the 12 criteria as set out in Sustainable Residential Development in Urban areas, Guidelines for Planning Authorities' (2009) in the Architectural Design Report submitted with the planning application documentation. The Board is also referred to Appendix C of the appeal where full detail of how the subject proposal is compliant with the provisions of the Urban Design Criteria. Specific concerns raised by the Planning Authority in relation to the quality of the communal open space being provided as not being of sufficient quality and quantity were set out in Refusal Reason No 2 and are discussed separately below in Section 7.4.</p>
<p>Proposal should not be monolithic and should avoid long, uninterrupted</p>	<p>I note the Case Planners comments that the scale and form of development is considered heavy, somewhat bland and bulky, and does not respond</p>

walls of building in the form of slab blocks.	<p>well to the immediate receiving environment, which is predominantly 2 storeys.</p> <p>This is a compact urban site with obvious constraints in terms of the River Slang and adjoining riparian corridor to the rear together with roads on two sides of the site.. The Development is one "L" shaped block with 12 units per core. While I agree with the Case Planner that the scale and form of development is somewhat heavy, bland and bulky, I disagree that it does not respond well to the immediate receiving environment.</p> <p>Having regard to the relative small scale nature of this infill scheme the scheme is not considered to be monolithic. No issues arise.</p>
Proposal must show use of high quality, well considered materials.	<p>A selection of well-considered materials have been submitted with FI Response that are considered acceptable by the Planning Authority.</p> <p>No issues arise.</p>
Proposal where relevant must enhance urban design context for public spaces and key thoroughfares and marine or river/stream frontage.	<p>The Case Planner raised concern that the proposed development was not deemed to enhance the receiving environment, in particular noting its proximity to the stream to the rear and that whilst these works appear to be unavoidable to deliver the scheme, this is as a result of the proposed scheme / development, as opposed to the other design possibilities for the site. This particular matter has informed Refusal Reason No 4 (Biodiversity) and is discussed separately in Section 7.6 below.</p> <p>The riparian corridor is physically separated from the grass and play areas by planting and a pressure-</p>

	<p>treated timber and wire fence. As documented by the applicant the riparian corridor is not physically accessible due to its very steep gradient, but will provide the visual impact and amenity for residents of a wild and mature background to the pollinator friendly planting and mixed species grass of the proposed courtyard to the rear.</p> <p>No issues arise in relation to impact to the River Slang and adjoining riparian corridor arise.</p>
<p>Proposal 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.</p>	<p>The Case Planner raised specific concerns with regards to access to the riparian corridor to the rear. This has been addressed in the foregoing section. The scheme has been designed appropriately giving due consideration to the biodiversity of the area. No issues arise in this regard.</p> <p>In terms of the proposed café unit I refer to the comments of the Case Planner where it is stated that the café unit is of high quality design and incorporated a layout that encourages an active and engaging frontage with an appropriate public realm improvements' and noting the existing retail provision along Dundrum Road and in close proximity to Dundrum town centre, and the need to support viability and vitality for such retail centres, it is considered that the approach of the applicant is reasonable in this regard and the quantum of retail floorspace is acceptable to the Planning Authority. I agree with the Case Planner in this regard.</p> <p>Specific concern raised in relation the delivery of a 2m wide footpath along the entire site extent from Dundrum Road to the Frankfort access lane bridge</p>

	<p>and a 5.5m wide carriageway as set out in Refusal Reason No 5 (DMURS) is discussed separately in Section 7.7 below where it was concluded that no issues arise subject to compliance with Drawing No. CORA-XX-ZZ-DR-C-0022 as submitted with the appeal. Subject to such a condition no issues arise in this regard.</p>
<p>Proposal must positively contribute to the mix of uses and /or building/dwelling typologies available in the area.</p>	<p>The Case Planner raised concern that the proposed development does not comply with the unit mix required by the County Development Plan and that the proposed development is not considered to positively contribute to the mix of uses and dwelling typologies in the area</p> <p>This matter has informed Refusal Reason No 3 (Unit Mix) and is discussed separately in Section 7.5 below. I am satisfied that the concerns raised, having regard to the appeal submission and Revised Option C can be dealt with by way of condition should the Board be minded to grant permission.</p> <p>No issues arise in relation to unit mix.</p>
<p>Proposal should provide an appropriate level of enclosure of streets or spaces.</p>	<p>The scheme is considered to enclose Dundrum Road however regarding the foregoing assessment in relation to how successfully the scheme integrates and enhances the character and public realm of the area, the scale of development is considered excessive. The site is located at the corner of two intersecting roads, Frankfort Road and Dundrum Road, that is highly accessible to services, amenities, and transport links it and offers both constraints and opportunities.</p>

	<p>Having regard to the schemes excessive density that has in turn informed the height and scale of the scheme the proposed height is considered excessive at this location and in particular the scale of the scheme relative to its proximity to Dundrum Road with the result that the structure almost overwhelms the adjacent street. This is again a symptom of the density of the scheme proposed relative to the compact nature of the site and its context.</p> <p>Issues arise in relation to the ratio of building height of street width and context.</p>
Proposal should be of an urban grain that allows meaningful human contact between all levels of buildings and the street or spaces.	<p>The Case Planner was concerned that the proposal is not considered to offer much by way of meaningful human contact between all levels of buildings and the street or spaces. I share these concerns.</p> <p>The scale of the scheme relative to the site size and context and essentially how the building meets the ground and turns the corner negates any meaningful contact between the building and adjacent streets and spaces.</p>
Proposal must make a positive contribution to the character and identity of the neighbourhood.	<p>Having regard to the foregoing assessment agree with the Case Planner that in terms of scale and height the proposal does not respond well to the character and identity of the neighbourhood. Instead, it represents overdevelopment of a constrained site relative to its neighbours.</p>

Proposals must respect the form of buildings and landscape around the sites edges and the amenity enjoyed by neighbouring properties.	<p>The proposed development does not respect the form of buildings around the sites edges as it is significantly higher than the adjoining buildings.</p> <p>While a high density scheme is to be encouraged at this location the height, scale, and mass are excessive and are a symptom of the excessive density proposed. Any high density scheme should not be to the detriment of neighbouring properties.</p> <p>An issue arises in relation to the form and scale of building proposed.</p>
At Site/Building Scale	
Proposed design should maximise access to natural daylight, ventilation and views and minimise overshadowing	<p>The units within the new block are considered to comply with the BRE Guidelines. Further the Daylight & Accompanying Sunlight Assessment submitted with the scheme confirms that there are to be acceptable level of access to natural daylight and overshadowing is minimised on adjacent property at Cranley House with the proposed development.</p> <p>No issues arise.</p>
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" (2d Edition). Where a	As above, the scheme performs satisfactorily in this regard.

<p>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.</p>	
<p>Proposal should ensure no significant adverse impact on adjoining properties by way of overlooking overbearing and/or overshadowing.</p>	<p>This matter is discussed in further detail below.</p> <p>The Planning Authority has notable concerns that the orientation and layout of the proposed development would give rise to an unacceptable level of overlooking of Cranley House Apartments to the north. I share these concerns.</p>
<p>Proposal should not negatively impact on an Architectural Conservation Area (ACA) or the setting of a protected structure</p>	<p>There are no Protected Structures on site and the lands are not within an Architectural Conservation Area.</p> <p>No issues arise.</p>
<p>Proposals must demonstrate regard to the relative energy cost of and expected embodied and operational carbon</p>	<p>The scheme will be sustainable through the use of low energy materials, efficient energy systems and by using quality materials. The building is laid out to optimise the solar orientation and ensure units have access to adequate daylight and sunlight.</p>

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	<p>As documented by the Case Planner the proposed development is capable of complying with Part L of the Building Regulations and therefore, can demonstrate maximum energy efficiency to align with climate policy.</p> <p>No issues arise.</p>
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7.3.18. Having regard to the foregoing the applicant has not demonstrated compliance with Table 5.1 (Appendix 5 - Building Height Strategy) of the DLR County Development Plan 2022 - 2028 in relation to increased building height at the appeal site. The site is located at the corner of two intersecting roads, Frankfort Road, and Dundrum Road and while the site may be able to accommodate the introduction of a taller apartment scheme relative to its context, what is proposed is considered excessive. To this end I note the comments of the Case Planner that *the degree of tolerance allowed by the Building Height Strategy of the CDP is two to four storeys at this location, given that the prevailing height in the area is two storeys.*

7.3.19. In conclusion the proposed 6-storey scheme (as amended) in respect of height, scale and massing would appear overbearing and visually dominant relative to adjoining properties. Refusal is recommended.

7.3.20. **Residential Amenities**

7.3.21. Specific concern is raised in this reason for refusal in relation to the significant overlooking impacts and undue loss of privacy that would arise by reason of the schemes close proximity to Cranelly hose to the north.

7.3.22. I note the comments of the applicant that the *Cranley House apartment development, is designed to outdated standards, offers no private, communal or public open space for its residents, contains no landscaping or planting elements and comprises only of hard landscaping making it essentially a large car park with a building.* While there is merit in these observations it remains, that Cranley House is an established residential development whereby it is necessary to ensure that new housing integrates well and that the safety and amenity of residential and other sensitive occupiers of adjacent properties is safeguarded to a reasonable extent. The northern elevation of the proposed scheme comprises multiple units with habitable rooms and balconies directly overlooking Cranley House.

7.3.23. I refer to SPPR 1 - Separation Distances of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) where it states that:

When considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained. Separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces

7.3.24. The north elevation of the subject proposal is set back c12 m from the Cranley House apartment block to the north, across a public road. The proposed development would facilitate direct overlooking via living room / bedroom windows and balconies of Cranley House apartments building and would result in overbearing impacts on Cranley House due to the height and scale of development in close proximity. The minimum separation distance of 16 m has not been achieved. Having regard to the nature of the northern elevation of the proposed scheme and the volume of units overlooking Cranley House refusal is recommended.

7.3.25. **NOTE:** Similar to above, prior to making its decision the Board may wish to seek comment from relevant parties in relation to the Sustainable Residential Development

and Compact Settlements Guidelines for Planning Authorities (2024) and its application or otherwise on this proposed scheme.

7.4. Refusal Reason No 2 - Communal & Public Open Space

7.4.1. DLRCC in their second reason for refusal state that the majority of the communal and public open space would not be appropriately laid out or considered useable and the provision of communal and public open space is significantly below the standards required in Sections 12.8.3.2 (communal open space) and 12.8.3.1 (public open space) of the Development Plan 2022 – 2028. This is considered to be indicative of the overdevelopment of the site.

7.5. The full wording for this reason for refusal is set out in Section 3.1 above. Section 12.8.3.1 Public Open Space - Table 12.8 Public Open Space Requirements for residential developments sets out the following:

Location	Public Open Space Standards (minimum):
Residential Development in new residential communities as shown in the Core strategy – figure 2.9.	15% (of site area)
Residential Development in the existing built up area.	15% (of site area)
Institutional and Redevelopment of SNI use	25% (of site area)

7.5.1. Section 12.8.3.2 Communal Open Space - Table 12.9 Communal Open Space Standards sets out the following. These align with the requirements of the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities.

Unit Type	Minimum Area per Unit
Studio	4 sq. m

One Bed 5 sq. m	5 sq. m
Two bedrooms (3 bed) 6 sq. m	6 sq. m
Two bedrooms (4 bed) 7 sq. m	7 sq. m
Three bedrooms 9 sq. m	9 sq. m
Four +	12 sq. m

7.5.2. DLRCC Parks Department having considered the FI submitted noted that the application is not proposing to provide suitable open space as required by the Development Plan Open Space Policies. It is stated that the space being provided are considered incidental open space and therefore the applicant has not provided adequate provision for public open space as per Section Sections 12.8.3.2 and 12.8.3.3 of the Development Plan. It is recommended that a section 48(2)(c) Special Development Contribution condition be attached in lieu of the provision of the minimum quantum of public open space.

7.5.3. For clarity, the applicant submits that the open space provision is in accordance with Section 12.8.3.2 of the Development Plan as follows:

Unit Type	Minimum Area per unit	Requirement	Provision
1-bed	5 sqm	32 x 5 = 160 sqm	440.2 sqm landscaped central courtyard + 42.5 sqm roof terrace
2-bed (3 persons)	6 sqm	1 x 6 = 6 sqm	
2-bed (4 persons)	7 sqm	26 x 7 = 182 sqm	
3-bed	9 sqm	5x 9 = 45 sqm	
Total		393 sqm	482.7 sqm

7.5.4. The submitted communal open space area provides 440.2 sqm of outdoor amenity space for the future residents of the development, exceeding the minimum requirement of 393 sqm for the development by 88.7 sqm in addition to the proposed roof garden (42.5 sqm). This provision is over and above requirements of the relevant minimum County Development Plan 2022-2028 standards. It is also confirmed that

the total area of communal open space as submitted at further information stage equated to c. 483 sqm. The development proposal provides for a total of 12.7% of the total site area as public open space.

7.5.5. The difficulty in this scheme is not the quantity of open space provision but rather the quality of space proposed. While the constraints of the site are acknowledged it remains that the scheme is not appropriately laid out or considered useable. Overall I agree with the Case Planner that the area of public open space consists of an area of very limited depth around the north and eastern edges of the proposed building which cannot be considered to be useable quality public open space in accordance with Section 12.8.2 and 12.8.3 of the Development Plan. I further agree that, combined with the significant under provision of quality communal open space, it is considered to represent overdevelopment of the site and, as such, I cannot support the approach suggested by the DLRCC Parks Department whereby a special contribution would be levied in lieu of required public open space. Accordingly, it is recommended to refuse permission owing to the absence of the provision of quality open space.

7.5.6. I note the revised design option submitted with the appeal and in particular Revised Design Option A - Alternative Communal Amenity Space Area. This revised design proposes a level area of communal open space which will contain a large, short grass area with seating and a separated 85 sqm playground. The courtyard area is now more opened by removing circulation pathways within the open space area. While I note the improvements proposed I remain of the view that the overall open space provision is substandard and a reflection of the overall excessive density and massing of the proposed development. Refusal is recommended.

7.6. Refusal Reason No 3 - Unit Mix

7.6.1. DLRCC in their third reason for refusal state that as more than 30% of the units would be one-bedroom units and the required minimum of 20% three bedroom units has not been met, the development does not comply with the unit mix required by Policy Objective PHP27 of the Development Plan.

7.6.2. Policy Objective PHP27: Housing Mix encourages the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment

types, sizes and tenures is provided throughout the County in accordance with the provisions of the Housing Strategy and Housing Need Demand Assessment (HNDA) and any future Regional HNDA. Table 12.1 of the Development Plan sets out the mix requirements for apartment developments. For new apartment schemes of more than 50 units development in the “existing built-up area”, the Development Plan requires that such schemes may include up to 80% studio, one and two bed units with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios. A minimum of 20% of the units must be 3+ bedroom units. The unit mix required by the Development Plan 2022-2028 is deemed to be consistent with SPPR 1 of the Apartment Guidelines 2020.

- 7.6.3. The scheme as originally submitted to DLRCC comprised 32 No. units (50%) one bed, when the maximum permitted by the Development Plan is 30%. Additionally, no 3+ bedroom units were initially proposed. A minimum of 20% 3+ bedroom units should be provided to accord with Table 12.1 of the Development Plan 2022-2028. In response to a request for further information a revised unit mix of 50% one bedroom (32), 42% two bedroom (27) and 8% three bedroom (5) units was proposed together with a case for the proposed unit mix based on the predominance of three bedroom units in the area. This was considered unacceptable and was refused permission as stated in Refusal Reason No 3.
- 7.6.4. The applicant in their appeal has provided detailed opinion that the development mix is entirely appropriate at this location given the new policy context since the publication of the Council's HNDA and the demographic trends in the area and nationally which would see the over-provision of 3+ bed units for a majority of 1-2 person households in the State and that the scheme has been carefully considered regard to the established housing options in the area and the demographic trends of the area. I have noted the applicant's submission and detailed examples provided in support of their appeal.
- 7.6.5. As noted above, statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s). The unit mix required by Table 12.1 of the CDP is, therefore, deemed to be consistent with SPPR 1 of the Apartment Guidelines 2020. As documented by the Case Planner

Table 12.1 of the Development Plan lists 'specific apartment mix requirements' that are to be complied with regardless of the valid merits or otherwise of the rationale put forward by the applicant. It is not open to applicants to reject the requirements of Table 12.1. It is therefore considered that the proposed development (as amended) does not comply with the unit mix required by the County Development Plan and to permit same would be contrary to Policy Objective PHP27.

7.6.6. The applicant in their appeal submitted that should the Board, and having considered their submission, reject their appeal the Board is invited to condition the amalgamation of units in order to comply with the requirements of Table 12.1.

7.6.7. **Amended Plans** - Revised Option C is put forward to address the Planning Authority's reason for refusal No. 3 relating to the proposed unit mix. This revised design option consists of the amalgamation of 2 x 1-bedroom units into a 3-bedroom unit at each floor level for the proposal to be fully compliant with the County Development Plan's standards. This option consists of a reduced unit total from 64 no. units to 56 no. units. A revised unit mix as a result would be as follows:

	As submitted at FI Stage	Revised Option C
1 Bed	32 (50%)	17 (30.4%)
2 Bed	27 (42%)	26 (46.4%)
3 Bed	5 (8%)	13 (23.3%)
Total	64	56

7.6.8. This revised design option does not affect the exterior of the building and will not impact on the height, shape or layout of the proposed building as submitted at FI.

7.6.9. It is noted that design Option C is also compatible with the revised area of communal open space as detailed under Revised Design Option A or Revised Design Option B for the revised retention of the Cherry Laurel Species, or both, and as discussed above.

7.6.10. I am satisfied that Revised Option C complies with the housing mix standards of the County Development Plan. It is recommended that Refusal Reason No 3 be set aside and that should the Board be minded to grant permission that a condition be attached requiring compliance with Revised option C as submitted with the appeal.

7.7. Refusal Reason No 4 – Biodiversity

- 7.7.1. DLRCC in their fourth reason for refusal state that the proposed development would represent an undue impact on the River Slang and its associated biodiversity corridor, both directly, and in terms of the clearance and that the applicant has not demonstrated the full impact of the measures proposed in and around the river corridor, and would be contrary to Sections 8.7.1.1, 8.7.1.2, 8.7.1.5, 8.7.1.6 and 8.7.1.7 of the Development Plan.
- 7.7.2. The full wording for this reason for refusal is set out in Section 3.1 above. Sections 8.7.1.1, 8.7.1.2, 8.7.1.5, 8.7.1.6 and 8.7.1.7 are set out in full in section 5.5 and relates to the following:
- Section 8.7.1.1 Policy Objective GIB18: Protection of Natural Heritage and the Environment
 - Section 8.7.1.2 Policy Objective GIB19: Habitats Directive
 - Section 8.7.1.5 Policy Objective GIB22: Non-Designated Areas of Biodiversity Importance
 - Section 8.7.1.6 Policy Objective GIB23: County-Wide Ecological Network
 - Section 8.7.1.7 Policy Objective GIB24: Rivers and Waterways
- 7.7.3. The Case Planner raises concerns that the applicant has not demonstrated that a sufficient set back from the River Slang and from the river bank has been achieved and is not satisfied that the level of tree removal proposed in the wildlife corridor given its significance for protected species. This aligns with the concerns of the DLRCC Biodiversity Officer where it is stated that the treatment of the wildlife corridor along the stream requires very careful consideration and will be retained to provide continuing protection of this wildlife corridor from any proposed construction and operation activities associated with existing, proposed or future development.
- 7.7.4. It is accepted that practically all of the proposed "clearance of vegetation" is motivated by the responsible control of a High Impact Invasive species, namely Cherry Laurel. Cherry Laurel outcompetes native flora and prevents regeneration of native species by forming large, dense stands, which is clearly demonstrated on site by the practical absence of ground flora, other than some ivy along the higher slopes of the riverbank. In the FI response, a programme to cut back the current Laurel canopy and interplant

with native species in 10 to 20% increments is proposed. This will allow for a managed progression towards the establishment of native riparian flora species with minimal disturbance to existing riverbank profile.

- 7.7.5. As outlined in the Tree Report, the five trees listed for removal, number 352 to 356 are unsuitable in their current positions in the long term for a number of reasons. The primary concern is the eventual expected size of the tree and their incompatibility with their surrounds. They are also approximately only one third to half their final expected height which again is incompatible with their current growing positions.
- 7.7.6. The Appropriate Assessment investigated the potential direct and indirect impacts of the proposed works, both during Construction and Operation on the integrity and qualifying interests of North-West Irish Sea SPA (004236), South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024) and North Bull Island SPA (004006) both alone and in combination with other plans and projects, taking into account the site's structure, function and conservation objectives. It was concluded that, ensuring the avoidance and mitigation measures are implemented as proposed, the proposed development will not have a significant adverse effect on the above European sites.
- 7.7.7. The current DLR Green Infrastructure Strategy is based around a number of Hubs (Regional and District Parks) and linking them with proposed GI Corridors. The proposed site does not lie within any of the corridors or Hubs. With implementation of the remedial and improvement works proposed it would potentially qualify for inclusion in the Strategy. Following the submission of Further Information, it is also noted that DLR Parks Department has no objection to the proposed development.
- 7.7.8. **Amended Plans** - Revised Option B - Retained Cherry Laurel within Riparian Corridor - Outlines an alternative proposal for the treatment of the riparian corridor. The development as originally submitted and amended at FI had been designed around the protection and enhancement of the area in relation to biodiversity and had proposed to prune back the invading Cherry Laurel in stages over a period of three years to allow light to penetrate to the ground layer and encourage native rases and herbaceous species to grow to offer a wider range of foraging and habitat opportunities for local wildlife and provide a greater habitat connectivity along the river. However, if this approach is not deemed appropriate to An Bord Pleanála, the applicant is

amenable to a condition to this revised Option B for the retention of the Cherry Laurel Invasive Species which can be incorporated as part of the landscaping proposals submitted at Further Information Stage or as part of the Revised Option B. I consider the original plans and proposal as submitted to be acceptable and that Revised option B is not a suitable alternative.

7.7.9. In summary in relation the specific policy objectives set out in the reasons for refusal I would set out the following:

- **Section 8.7.1.1 Policy Objective GIB18: Protection of Natural Heritage and the Environment** – The AA below concludes, beyond reasonable scientific doubt, that the proposed development will have no adverse effects on the qualifying interests, special conservation interests and on the integrity and extent of North-West Irish Sea SPA (004236), South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024) and North Bull Island SPA (004006)
- **Section 8.7.1.2 Policy Objective GIB19: Habitats Directive** – As above.
- **Section 8.7.1.5 Policy Objective GIB22: Non-Designated Areas of Biodiversity Importance** - Recommendations for control of invasive species which occupy 82% of current vegetative area proposed. Stated that the proposed development will result in an 183% increase in total area of site covered by vegetation and when discounting the area covered in invasive species this will result in an increase of vegetative cover by 1470%
- **Section 8.7.1.6 Policy Objective GIB23: County-Wide Ecological Network** - The site lies outside any of the Hubs and Corridors identified in the DLR Green Infrastructure Strategy. The proposal aligns with the DLR County Biodiversity Action Plan in its implementation of a Recovery, Restoration and Reconnection philosophy through the control of invasive species, planting of native and pollinator friendly species and reconnecting with the riparian corridor at either end of the site.
- **Section 8.7.1.7 Policy Objective GIB24: Rivers and Waterways** - Through the control of invasive species and planting of appropriate riparian native species the natural character and ecological value of the river Slang will be restored.

7.7.10. Having regard to the foregoing I am satisfied that to permit the scheme (as amended) would not be contrary to the foregoing policy objectives and that this reason for refusal be set aside.

7.8. Refusal Reason No 5 – DMURS

7.8.1. DLRCC in their fifth reason for refusal state that the *proposed development fails to deliver a 2-metre-wide footpath along the entire site extent from Dundrum Road to the Frankfort access lane bridge and it fails to provide sufficient setback to allow for the delivery of a 5.5 metre wide carriageway as required by DLRCC Transportation Planning and fails to adequately cater for pedestrian and cyclist movements in accordance with DMURS. The proposed development would be contrary to Policy Objectives T12 and T23 of the Development Plan 2022 – 2028.*

7.8.2. Policies as outlined above are summarised below. The full wording of each is provided in section 5.5 of this report above.

- **Policy Objectives T12 Footways and Pedestrian Routes** - Maintain and expand the footway and pedestrian route network to provide for accessible, safe pedestrian routes within the County in accordance with best accessibility practice
- **Policy Objectives T23 Roads and Streets** - To secure improvements to the County road network – including improved pedestrian and cycle facilities

7.8.3. I refer to the second report of the DLRCC Transportation Planning Section that considered the FI submitted where it was noted that the submitted drawing does not deliver a 2m wide footpath along the entire site extent from Dundrum Road to the Frankfort access lane bridge, nor does it provide for a 5.5m wide carriageway. It was recommended that the Applicant be requested to submit revised drawings and details which demonstrate the provision of a footpath of minimum 2m in width along the entire site boundary onto the Frankfort access lane and a setback to allow the delivery of a 5.5m wide road along Frankfort access lane by way of clarification of further information. The Case Planner in their FI assessment noted *that the timeframe for the applicant to furnish further information / clarification of further information was extended by three months to 10/03/2023 and this deadline has since expired.* It was concluded that *it was not proposed to request Clarification of Further Information and this matter remains outstanding.*

- 7.8.4. As pointed out by the applicant a 2m footpath is proposed around the entirety of the subject site and only where it is outside the applicant's control and to a minor degree, is a 2m wide footpath not delivered. Nonetheless, it is stated that the applicant is willing to work with the Planning Authority to deliver it to their satisfaction.
- 7.8.5. Further to the above, the applicant has amended the footpath and road layout to Frankfort Avenue on Drawing No. CORA-XX-ZZ-DR-C-0022 in their appeal submission which clearly indicates a 2 m wide footpath at all times to the perimeter of the site and a 5.5 m wide roadway with the exception of the adjacent stream embankment which it is stated be undertaken as part of DLRCC's future Flood Alleviation Works.
- 7.8.6. Should the Board be minded to grant permission it is recommended that a condition requiring compliance with Drawing No. CORA-XX-ZZ-DR-C-0022 be attached. Subject to such a condition it is recommended that this reason for refusal be set aside.

7.9. Refusal Reason No 6 - Surface Water Drainage

- 7.9.1. DLRCC in their sixth reason for refusal state that applicant has failed to demonstrate acceptable surface water drainage proposals in relation to the proposed development with regard to the separation of foul and surface water discharges.
- 7.9.2. I refer to the second report of the DLRCC Drainage Planning (Water Services) that considered the FI submitted where it was noted that the applicant has correctly calculated and applied QBAR to the proposed drainage design but that the *drainage layout drawing incorrectly shows a direct connection from the proposed surface water network into the existing combined public sewer*. It was recommended that Clarification of FI be sought requesting the submission of *an updated surface water drainage layout drawing demonstrating that the proposed surface water outfall for the site combines with the proposed foul water drainage network for the site at the final manhole within the site boundary before forming a single connection to the existing combined public sewer as per the "Manhole Type H" detail from the Greater Strategic Drainage Study (GSDSDS)*.
- 7.9.3. The Case Planner in their FI assessment *noted that the timeframe for the applicant to furnish further information / clarification of further information was extended by three months to 10/03/2023 and this deadline has since expired*. It was concluded that it

was not proposed to request Clarification of Further Information on this matter and as no further assessment of this item can be made, it is considered that refusal of permission is merited on this issue.

- 7.9.4. I agree with the applicant that this item could have been dealt with by way of a suitably worded condition. I refer to Drawing No. CORA-XX-ZZ-DR-C- which as per the Drainage Department's requirement above, to have a final connection of surface water drainage to be a 'Manhole Type H. Should the Board be minded to grant permission it is recommended that a condition requiring compliance with Drawing No. CORA-XX-ZZ-DR-C0004 be attached. Subject to such a condition it is recommended that this reason for refusal be set aside.

7.10. Conditions

- 7.10.1. I refer to Section 3.0 of this report above where a number of requests for clarification of FI and conditions of note, that reflect particular requirements of DLRCC and its internal departments together with those of prescribed bodies are referenced and set out in the CasePlanners report. While some of the conditions as recommended are dealt with by way of standard Board (taking in charge details, EV charging points, Part V etc) conditions others of specific note are set out as follows:

- **Roof Garden** – A condition requiring 2m high screens around the southern and western boundaries of the roof gardens required.
- **Bulk Storage** – Proposed bulk storage requirements is considered to be inadequate. A condition requiring an enhanced area of bulk storage provision in the basement to be attached.
- **Southern Elevation** – Amended southern elevation scalloped windows to be agreed by condition.
- **Bicycle Parking** – Location and details that observe the principles of universal design to be agreed by way of condition.
- **Refuse** – Revised drawings and details demonstrating refuse vehicle movements on Frankfort access land, minimising obstruction to pedestrian / cyclist / vehicle movement together with location of surface level bin storage on collection days to be agreed by way of condition.

- **Boundary Treatment** – Details to be agreed by way of condition.

7.10.2. Should the Board be minded to grant permission they may wish to consider attaching the foregoing.

7.10.3. **Development Contribution** - I refer to DLRCC Development Contribution Scheme. The proposed scheme is not exempt from the contribution scheme. Accordingly, it is recommended that should the Board be minded to grant permission that a Section 48 Development Contribution condition is attached

8.0 Appropriate Assessment

8.1. The planning application was accompanied by an Appropriate Assessment Screening Report, Natura Impact Statement, Ecological Impact Assessment Report and Hydrological and Hydrogeological Risk Assessment Report. The FI response included a FI Ecological Assessment Report. Having reviewed the documents and submissions on file I am satisfied that the information available allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

8.2. Stage 1 Screening for Appropriate Assessment

8.3. Description of the project

8.3.1. I refer to Section 1.0 and 2.0 of this report above for a detailed description of the site and the proposed development.

8.3.2. The appeal site is currently comprised of three commercial units, approximately 0.24ha, and is accessed via the R117 (Dundrum Road), almost 0.4km north of Dundrum Village. The west boundary of the Site is abutted by the River Slang, the north of the Site is bounded by Frankfort Road, the east by Dundrum Road, and the south boundary of the Site is abutted by a commercial unit. The surrounding environment is primarily residential in nature.

8.3.3. The proposed development will provide for

- a) the demolition of the existing two-storey retail and office dwelling (1,170 sqm) with 27 existing car spaces and surface site curtilage,

- b) the construction of 64 no. apartment units in the form of a 5- 6-storey apartment block (5,525 sqm) over basement (1,135 sqm),
- c) the provision of a ground floor retail/café unit (105 sqm) fronting Dundrum Road, and (d) Public Realm upgrades to Dundrum Road.

8.3.4. Communal open space is provided in the form of a centrally located landscaped courtyard (499 sqm) that includes 85 sqm of play area for children and a woodland riverbank of 570 sqm. A south facing communal roof terrace (45 sqm) is located at the fifth-floor level.

8.3.5. The development will also comprise repositioning and upgrade to the vehicular access from the Dundrum Road to Frankfort Road and the provision of a loading bay at Frankfort Road together with basement car parking, bicycle parking; sedum roofs; solar photovoltaic panels; lighting; boundary treatments; public space; hard and soft landscaping including tidy of river corridor planting; and all other associated site works above and below ground associated with the proposed development.

8.3.6. In order to comply with the Greater Dublin Drainage Strategy requirements, it is proposed to drain the foul and surface water generated from the property using completely separate systems. The site is served with an Irish Water foul sewer to the rear of the site on the river bank. The foul sewage generated will be discharged via the internal foul drainage network and discharge to the public combined sewer by gravity via an existing connection to the 300mm diameter public foul sewer located at the rear of the site. The buildings on the new development shall cover the majority of the site, however a combination of sedum roofs and terraces with soft landscaping and permeable features shall be used to provide treatment stages before surface water is directed to a Detention Basin to be formed towards the rear of the site where surface water shall soak to ground.

8.4. Existing Environment

8.4.1. The appeal site is located primarily within the Liffey and Dublin Bay catchment and the Dodder_SC_010 sub-catchment. The closest watercourse to the site is the River Slang, which abuts the west boundary (rear) of the site, and flows into the River Dodder approximately 1.2km to the north of the site, and ultimately into Dublin Bay. The status of the River Dodder was designated as Moderate by the EPA in 2010

(station code: RS09D010800, located approximately 250m downstream of where the River Slang enters the River Dodder).

- 8.4.2. The site is situated on the Dublin groundwater body, which is Not at Risk of not meeting its Water Framework Directive objectives. The aquifer type within the site boundary is a Locally Important Aquifer (LI) aquifer on bedrock which is Moderately Productive only in Local Zones. The groundwater rock units underlying the aquifer are classified as Dinantian UpperImpure Limestones (GSI, 2021). The level of vulnerability of the Site to groundwater contamination via human activities is Low. The soil is classified as Urban, and the subsoil is man-made (Made) (EPA, 2021).

8.5. Potential Impact Mechanisms from the Project

- 8.5.1. The Proposed Development is not directly connected with or necessary to the management of European sites.
- 8.5.2. The potential for significant effects that may arise from the Proposed Development was considered through the use of key indicators:
- Habitat loss or alteration.
 - Habitat / species fragmentation.
 - Disturbance and / or displacement of species.
 - Changes in population density.
 - Changes in water quality and resource.
- 8.5.3. In addition, information pertaining to the conservation objectives of the European sites, the ecology of the designated habitats and species and known or perceived sensitivities of the habitats and species were considered. The site is not within or adjoining any Natura 2000 sites and I do not consider that there is potential for any direct impacts such as habitat loss, direct emissions, or species mortality/disturbance.
- 8.5.4. I consider the potential for significant effects from the proposed development at construction and operational stage in respect of the following:

Construction Phase

- Uncontrolled releases of silt, sediments and/or other pollutants to air due to earthworks;
- Surface water run-off containing silt, sediments and/or other pollutants into nearby waterbodies or surface water network;

- Surface water run-off containing silt, sediments and/or other pollutants into the local groundwater;
- Increased noise, dust and/or vibrations as a result of construction activity;
- Increased dust and air emissions from construction traffic;
- Increased lighting in the vicinity as a result of construction activity; and
- Increased human presence and activity as a result of construction activity

Operational Phase

- Surface water drainage from the site of the proposed development;
- Foul water from the Proposed Development;
- Increased lighting at the site and in the vicinity emitted from the Proposed Development; and
- Increased human presence and activity at the site and in the vicinity as a result of the Proposed Development.
- Potential collision risk associated with the proposed buildings at the site.

8.5.5. Having regard to the nature of the site and its distance and lack of connectivity with Natura 2000 sites, I do not consider that there would be any other potential impact mechanisms.

8.6. Limitations

8.6.1. I refer to Section entitled Report Limitations in both the AA Screening Report and Natura Impact Statement. I am satisfied that the limitations outlined have no bearing on the assessment provided in the AA Screening report and NIS Report, which would prevent robust conclusions being drawn as to the potential impacts of the Proposed Development on the relevant European sites.

8.7. Consultations

8.7.1. The submitted AA Screening report does not identify specific consultations with prescribed bodies but does refer to a desktop review of published documents and information. The planning application was referred to Inland Fisheries Ireland (IFI). A response was received the contents of which have been noted.

8.8. European Sites at Risk

8.8.1. The site is not located within or adjacent to any European site and will not result in any direct loss of, or impact on, habitats in such sites. There is a total of nine SACs and

seven SPAs located within the 15km precautionary ZOI of the proposed development site as follows:

- 1) Wicklow Mountains SAC (002122) – 7km
- 2) Glenasmole Valley SAC (001209) – 9.1km
- 3) Knocksink Wood SAC (000725) – 9.7km
- 4) Rockabill to Dalkey Island SAC (003000) – 10.4km
- 5) Ballyman Glen SAC (000713) – 11.2km
- 6) Howth Head SAC (000202) – 12.8km
- 7) Baldoyle Bay SAC (000199) – 13.6km
- 8) Wicklow Mountains SPA (004040) – 7.2km
- 9) Dalkey Islands SPA (004172) – 10.3km
- 10) Baldoyle Bay SPA (004016) – 13.6km
- 11) Howth Head Coast SPA (004113) – 14.8km
- 12) North-West Irish Sea SPA (004236) – 9km
- 13) South Dublin Bay SAC (000210) – 3.5km
- 14) North Dublin Bay SAC (000206) – 8.2km
- 15) South Dublin Bay and River Tolka Estuary SPA (004024) – 3.4km
- 16) North Bull Island SPA (004006) – 8.2km

8.8.2. In relation to the foregoing European Sites, with the exception of North-West Irish Sea SPA (004236), South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024) and North Bull Island SPA (004006) the following can be concluded:

- There is no hydrological connection.
- There is no potential for direct or indirect effects. No complete impact source-pathway-receptor chain was identified during the Screening Assessment.
- Hydrologically these sites are not linked to the proposed development and will not be affected by emissions or drainage effects from the construction or operation of the proposed development.
- The intervening distances between the site and the SAC are sufficient to exclude the possibility of significant effects on the SAC arising from: emissions of noise, dust, pollutants and/or vibrations emitted from the site during the Construction

Phase; increased traffic volumes during the Construction and Operational Phase and associated emissions; potential increased lighting emitted from the site during Construction and Operational Phase; and increased human presence at the site during Construction and Operational Phase.

- The intervening distance between the site and the SPA is sufficient to exclude the possibility of significant effects on the SPA arising from: emissions of noise, dust, pollutants and/or vibrations emitted from the site during the Construction Phase: increased traffic volumes during the Construction and Operational Phase and associated emissions; potential increased lighting emitted from the site during Construction and Operational Phase: and increased human presence at the site during Construction and Operational Phase. The site does not provide significant ex-situ habitat for QI/SCI species within the site of the proposed development.

8.8.3. No complete impact source-pathway-receptor chain was identified during the Screening Assessment. Therefore, significant effects on these European Site resulting from the proposed development can be excluded and they are therefore 'screened out' with the exception of North-West Irish Sea SPA (004236), South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024) and North Bull Island SPA (004006). In relation to these 5 sites the source – pathway – receptor may be summarised as follows:

- Weak hydrological pathway via contaminated surface water discharge into the River Slang, and then River Dodder during the Construction Phase and discharges from Ringsend WwTP into Dublin Bay during the Operational Phase

8.9. In-Combination / Cumulative Effects

8.9.1. Having regard to the foregoing, I consider that the potential for in-combination effects is limited to the cumulative impact of Surface / Storm Water Drainage associated with other developments in the area.

8.9.2. I refer to Section 3.5.2.6 of the Screening Report, where decided and pending development applications proximate to the proposed development, the Dun Laoghaire-Rathdown County Council County Development Plan 2016 - 2022 and the Dun Laoghaire-Rathdown County Council Biodiversity Plan 2009 – 2013 were considered. I also refer to the Dun Laoghaire Rathdown Development Plan 2022-2028 that includes a range of policies and objectives to protect water quality, water

regime, and Natura 2000 sites and that any approved projects would have to demonstrate compliance with same and the current operation of the Ringsend WWTP were considered.

- 8.9.3. I acknowledge that other developments have a potential cumulative impact on the surface water drainage network. However, consistent with the current application, I am satisfied that they have demonstrated that there would be no significant residual effects on hydrology and Natura 2000 sites.
- 8.9.4. With regard to the Ringsend WWTP I note that the AA screening report refers to the conclusions of that EIAR submitted as part of the 2019 planning permission for upgrade works and in particular, the conclusions relating to the do-nothing scenario. It argues that significant effects on marine biodiversity and Natura 2000 sites within Dublin Bay from the (then) current operation of Ringsend WwTP were unlikely, and that in the absence of any upgrading works, significant effects to Natura 2000 sites were not likely to arise.
- 8.9.5. It can be concluded that significant effects on marine biodiversity and the European sites within Dublin Bay from the current operation of Ringsend WwTP are unlikely. Importantly, this conclusion is not dependent upon any future works to be undertaken at Ringsend. Thus, in the absence of any upgrading works, significant effects to European sites are not likely to arise.
- 8.9.6. On examination of the above it is considered that there are no means for the Proposed Development to act in-combination with any plans or projects, that would cause any likely significant effects on any European sites.

8.10. **Screening Conclusion**

8.11. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. The proposed development has been assessed taking into account:

- the nature, size and location of the proposed works and possible impacts arising from the construction works.
- the qualifying interests and conservation objectives of the European sites
- the potential for in-combination effects arising from other plans and projects.

8.11.1. Upon the examination, analysis and evaluation of the relevant information and applying the precautionary principle, it is that, on the basis of objective information; the possibility **may be excluded** that the proposed development will have a significant effect on any of the European sites listed below:

- 1) Wicklow Mountains SAC (002122)
- 2) Glenasmole Valley SAC (001209)
- 3) Knocksink Wood SAC (000725)
- 4) Rockabill to Dalkey Island SAC (003000)
- 5) Ballyman Glen SAC (000713)
- 6) Howth Head SAC (000202)
- 7) Baldoyle Bay SAC (000199)
- 8) Wicklow Mountains SPA (004040)
- 9) Dalkey Islands SPA (004172)
- 10) Baldoyle Bay SPA (004016)
- 11) Howth Head Coast SPA (004113)
- 12) North-West Irish Sea SPA (004236)

8.11.2. Upon examination of the relevant information including in particular the nature of the proposed development and the likelihood of significant effects on European Sites, the possibility **may not be excluded** that the Proposed Development will have a likely significant effect on a number of European Sites. In conclusion and having carried out Screening for Appropriate Assessment of the project, it has been concluded, taking precautionary approach, that the project individually (or in combination with other plans or projects) could have a significant indirect effect on

- North-West Irish Sea SPA (004236)
- South Dublin Bay SAC (000210)
- North Dublin Bay SAC (000206)
- South Dublin Bay and River Tolka Estuary SPA (004024)
- North Bull Island SPA (004006)

in view of the sites' conservation objectives in the absence of mitigation. Appropriate Assessment is therefore required.

8.12. Stage 2 Appropriate Assessment

- 8.12.1. There is a hydrological connection between the site of the proposed development and North-West Irish Sea SPA, South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, and North Bull Island SPA via the River Slang, which carries surface water into the River Dodder, and ultimately Dublin Bay. Therefore, in the event of rainfall, and the absence of standard, appropriate mitigation measures, there is potential for sediments/pollutants from the Site to enter the River Dodder and thus North-West Irish Sea SPA, South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, and North Bull Island SPA via surface water run-off during the Construction Phase of the Proposed Development. This could result in impacts on water quality in these European Sites.
- 8.12.2. These designated sites are buffered from the site by urban infrastructure. The Conservation Objectives and QIs for these sites are as follows:

8.13. North-West Irish Sea SPA

- 8.13.1. The North-west Irish Sea candidate SPA is an important resource for marine birds. This SPA extends offshore along the coasts of counties Louth, Meath and Dublin, and is approximately 2,333km² in area. It is ecologically connected to several existing SPAs providing supporting habitat for foraging and other maintenance behaviours for seabirds that breed at colonies on the north-west Irish Sea's islands and coastal headlands, and for seabirds outside of the breeding period also. The site is designated for 21 marine bird species including non-breeding and breeding populations.
- 8.13.2. The non-breeding species include Red throated Diver, Great northern Diver, Common Scoter, Black headed gull, common Gull Great Black-backed Gull, and Little Gull.
- 8.13.3. Breeding seabirds include: Fulmar, Manx Shearwater, Cormorant, Shag, Lesser Black-backed Gull, Herring Gull, Kittiwake, Roseate Tern, Common Tern, Artic Tern, Little Tern, Guillemot, Razorbill, Puffin.
- 8.13.4. Conservation objectives to main or restore favourable conservation condition for these species is defined by the following targets:
- Population trends are stable or increasing / no significant decline
 - Spatial distribution: Sufficient number of locations, area, and availability (in terms of timing and intensity of use) of suitable habitat to support the population

- Forage distribution extent and abundance : Sufficient number of locations, area of suitable habitat and available forage biomass to support the population target
- Disturbance across the site: The intensity, frequency, timing and duration of disturbance occurs at levels that do not significantly impact the achievement of targets for population size and spatial distribution
- The number, location, shape and area of barriers do not significantly impact the site population's access to the SPA or other ecologically important sites outside the SPA.

8.14. **South Dublin Bay SAC**

8.14.1. This intertidal site extends from the South Wall at Dublin Port to the West Pier at Dun Laoghaire, a distance of c. 5 km. At their widest, the intertidal flats extend for almost 3 km. The seaward boundary is marked by the low tide mark, while the landward boundary is now almost entirely artificially embanked. Several permanent channels exist, the largest being Cockle Lake. A small sandy beach occurs at Merrion Gates, while some bedrock shore occurs near Dun Laoghaire. A number of small streams and drains flow into the site. The proximity of the site to Dublin City results in it being a very popular recreational area. It is also important for educational and research purposes.

8.14.2. The site possesses a fine and fairly extensive example of intertidal flats. Sediment type is predominantly sand, with muddy sands in the more sheltered areas. A typical macro-invertebrate fauna exists. It has the largest stand of *Zostera* on the east coast. Supports part of the important wintering waterfowl populations of Dublin Bay. Regularly has an internationally population of *Branta bemicila horta*, plus nationally important numbers of at least a further 6 species, including *Limosa lapponica*. Regular autumn roosting ground for significant numbers of *Sterna* terns, including *S. dougallii*. The scientific interests of the site have been well documented.

8.14.3. **Qualifying Interests** - (1140) Mudflats and sandflats not covered by seawater at low tide; (1210) Annual vegetation of drift lines; (1310) *Salicornia* and other annuals colonising mud and sand; (2110) Embryonic shifting dunes

8.15. **North Dublin Bay SAC**

8.15.1. The North Bull Island sand spit is a relatively recent depositional feature, formed as a result of improvements to Dublin Port during the 18th and 19th centuries. It is almost

5km long and 1km wide and runs parallel to the coast between Clontarf and Sutton. The sediment which forms the island is predominantly glacial in origin and siliceous in nature. Between the island and the mainland there occurs two sheltered intertidal areas which are separated by a solid causeway constructed in 1964. The seaward side of the island has a fine sandy beach. A substantial area of shallow marine water is included in the site. The interior of the island is excluded from the site as it has been converted to golf courses. The proximity of the North Bull Island to Dublin City results in it being a very popular recreational area. It is also very important for educational and research purposes. Nature conservation is a main land use within the site.

8.15.2. The site possesses an excellent diversity of coastal habitats. The North Bull Island dune system is one of the most important systems on the east coast and is one of the few in Ireland that is actively accreting. It possesses extensive and mostly good quality examples of embryonic, shifting marram and fixed dunes, as well as excellent examples of humid dune slacks. Both Atlantic and Mediterranean salt marshes are well represented and a particularly good marsh zonation is shown. The salt marshes grade into mudflats and sandflats, some of which are dominated by annual *Salicornia* species. *Petalophyllum ralfsii* occurs at its only known station away from the western seaboard. The site has five Red Data Book vascular plant species and four Red Data Book bryophyte species. This is one of the most important sites for wintering waterfowl in Ireland, with internationally important populations of *Branta bernicla horta*, *Calidris canutus* and *Limosa lapponica*, plus nationally important numbers of a further 14 species. 20% of the national total of *Pluvialis squatarola* occurs here. Formerly it had important colony of *Sterna albifrons*. North Dublin Bay is nationally important for three insect species. The scientific interests of the site have been well documented and future prospects are good owing to the various designations assigned to site.

8.15.3. **Qualifying Interests** - [1140] Tidal Mudflats and Sandflats. [1210] Annual Vegetation of Drift Lines; [1310] *Salicornia* Mud; [1330] Atlantic Salt Meadows; [1410] Mediterranean Salt Meadows; [2110] Embryonic Shifting Dunes; [2120] Marram Dunes (White Dunes); [2130] Fixed Dunes (Grey Dunes)*; [2190] Humid Dune Slacks; [1395] Petalwort (*Petalophyllum ralfsii*)

8.16. **South Dublin Bay and River Tolka Estuary SPA**

8.16.1. This site comprises a substantial part of Dublin Bay. It includes virtually all of the intertidal area in the south bay, as well as much of the Tolka Estuary to the north of the River Liffey. A portion of the shallow bay waters is also included. In the south bay, the intertidal flats extend for almost 3 km at their widest. The sediments are predominantly well-aerated sands. The sands support the largest stand of *Zostera noltii* on the East Coast. Several permanent channels exist, the largest being Cockle Lake. A small sandy beach occurs at Merrion Gates, while some bedrock shore occurs near Dun Laoghaire. The landward boundary is now almost entirely artificially embanked. Sediments in the Tolka Estuary vary from soft thixotropic muds with a high organic content in the inner estuary to exposed, well aerated sands off the Bull Wall. The proximity of the site to Dublin City results in it being a very popular recreational area. It is also important for educational and research purposes.

8.16.2. The site possesses extensive intertidal flats which support wintering waterfowl which are part of the overall Dublin Bay population. It regularly has an internationally important population of *Branta bernicla hrota*, which feeds on *Zostera noltii* in the autumn. It has nationally important numbers of a further 6 species: *Haematopus ostralegus*, *Charadrius hiaticula*, *Calidris canutus*, *Calidris alba*, *Calidris alpina* and *Limosa lapponica*. It is an important site for wintering gulls, especially *Larus ridibundus* and *Larus canus*. South Dublin Bay is the premier site in Ireland for *Larus melanocephalus*, with up to 20 birds present at times. Is a regular autumn roosting ground for significant numbers of terns, including *Sterna dougallii*, *S. hirundo* and *S. paradisaea*.

8.16.3. **Qualifying Interests** - [A046] Light-bellied Brent Goose *Branta bernicla hrota*; [A130] Oystercatcher *Haematopus ostralegus* ; [A137] Ringed Plover *Charadrius hiaticula* ; [A141] Grey Plover *Pluvialis squatarola* ; [A143] Knot *Calidris canutus* ; [A144] Sanderting *Calidris alba* ; [A149] Dunlin *Calidris alpina alpina* ; [A157] Bar-tailed Godwit *Limosa lapponica* ; [A162] Redshank *Tringa tetanus*; [A179] Black-headed Gull *Chroicocephalus ridibundus* ; [A192] Roseate Tern *Sterna fuscata*; [A193] Common Tern *Sterna hirundo*; [A194] Arctic Tern *Sterna paradisaea* ; [A999] Wetlands

8.17. North Bull Island SPA

8.17.1. The North Bull Island sand spit is a relatively recent depositional feature, formed as a result of improvements to Dublin Port during the 18th and 19th centuries. It is almost

5km long and 1km wide and runs parallel to the coast between Clontarf and Sutton. The sediment which forms the island is predominantly glacial in origin and siliceous in nature. A well-developed dune system runs the length of the island, with good examples of embryonic, shifting marram and fixed dunes, as well as excellent examples of humid dune slacks. Extensive salt marshes also occur. Between the island and the mainland occur two sheltered intertidal areas which are separated by a solid causeway constructed in 1964. The seaward side of the island has a fine sandy beach. A substantial area of shallow marine water is included in the site. Part of the interior of the island has been converted to golf courses. The proximity of the North Bull Island to Dublin City results in it being a very popular recreational area. It is also very important for educational and research purposes. Nature conservation is a main land use within the site.

8.17.2. The site is among the top ten sites for wintering waterfowl in the country. It supports internationally important populations of *Branta bembicila hrota* and *Limosa lapponica* and is the top site in the country for both of these species. A further 14 species have populations of national importance, with particular notable numbers of *Tadorna tadorna* (8.5% of national total), *Anas acuta* (11.6% of national total), *Pluvialis squatarola* (6.9% of national total), *Calidris canutus* (10.5% of national total). North Bull Island SPA is a regular site for passage waders such as *Philomachus pugnax*, *Calidris ferruginea* and *Tringa erythropus*. The site supports *Asio flammeus* in winter. Formerly the site had an important colony of *Sterna albifrons* but breeding has not occurred in recent years. The site provides both feeding and roosting areas for the waterfowl species. Habitat quality for most of the estuarine habitats is very good. The site has a population of the rare *Petalophyllum ralfsii* which is the only known station away from the western seaboard as well as five Red Data Book vascular plant species and four bryophyte species. It is nationally important for three insect species. Wintering bird populations have been monitored more or less continuously since the late 1960s, and the other scientific interests of the site have also been well documented. Future prospects are good owing to various designations assigned to site.

8.17.3. **Qualifying Interests** - [A046] Light-bellied Brent Goose *Branla bembicla hrota*: [A048] Shelduck *Tadoma ladoma*, [A052] Teal *Anas crecca*: [A054] Pintail *Anas acuta*; [A056] Shoveler *Anas clypeata*; [A130] Oystercatcher *Haemalopus ostralegus*; [A140] Golden Plover *Pluvialis apricaria*; [A141] Grey Plover *Pluvialis squalarola*; [A143] Knot

Calidhs canutus; [A144] Sanderling Calidhs alba; (A149) Dunlin Calidhs alpina alpine: (A156) Black-tailed Godwit Limosa limosa; [A157] Bar-tailed Godwit Limosa lapponica. [A160] Curlew Numenius arquata. (A162] Redshank Thnga tetanus: [A169] Turnstone Arenaria interpres; [A179] Black-headed Gull Chroicocephalus ridibundus; [A999] Wetlands

8.18. South Dublin Bay SAC (000210) & North Dublin Bay SAC (000206)

- 8.18.1. In the absence of appropriate mitigation measures, there is an indirect hydrological connection between the site and the Mudflats and sandflats not covered by seawater at low tide via surface water discharges into the River Dodder during the Construction Phase. This may impact these SACs via water quality deterioration during the Construction Phase of the Proposed Development
- 8.18.2. The intervening distance between the site and the SACs is sufficient to exclude the possibility of significant effects on these SACs arising from: emissions of noise, dust, airborne pollutants and/or vibrations emitted from the site during the Construction Phase; increased traffic volumes during the Construction and Operational Phase and associated emissions; potential increased lighting emitted from the site during Construction and Operational Phase, and increased human presence at the site during Construction and Operational Phase

8.19. North-West Irish Sea SPA, South Dublin Bay and River Tolka Estuary SPA

- 8.19.1. Bird species may forage/roost/breed in the wetland habitat associated with the SPA. In the absence of appropriate mitigation measures, there is an indirect hydrological connection between the site and the wetland habitat via surface water discharges into the River Dodder during the Construction Phase, which has the potential to impact the SPA via water quality deterioration during the Construction Phase of the Proposed Development
- 8.19.2. The Proposed Development site does not provide suitable ex-situ habitat for any of the bird species listed for this SPA
- 8.19.3. The intervening distance between the site and the SPA is sufficient to exclude the possibility of significant effects on the SPA arising from: emissions of noise, dust, airborne pollutants and/or vibrations emitted from the site during the Construction Phase; increased traffic volumes during the Construction and Operational Phase and

associated emissions, potential increased lighting emitted from the site during Construction and Operational Phase; and increased human presence at the site during Construction and Operational Phase.

- 8.19.4. In the absence of pollution control/water attenuation measures, surface water run-off/discharges from the proposed development may have the potential to negatively affect the status of habitats and foraging resources which bird species rely on, during the Construction Phase of the Proposed Development. This may ultimately undermine the conservation objective target.

8.20. Direct Effects

- 8.20.1. The Proposed Development is not within any European Site. Therefore, it can be concluded that there will be no direct impacts during the Construction or Operational Phases of the Proposed Development that will affect the Qualifying Interests of any designated sites.

8.21. Indirect Effects

- 8.21.1. There is potential for indirect effects on North-West Irish Sea SPA, South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, and North Bull Island SPA due to the potential hydrological pathway between the Site of the Proposed Development and these European sites during the Construction Phase. The Construction Phase of the Proposed Development has the potential to result in run-off from the construction site into the River Slang, which flows into the River Dodder, and then Dublin Bay. Potential pollutants from the Construction phase to the Santry river could include silt, hydrocarbons, cementitious material and other chemicals used in construction

8.22. Mitigation Measures and Assessment

- 8.23. As documented the only source of potentially significant effects identified as arising from the Proposed Development was as a result of water quality deterioration affecting downstream European sites, arising from possible contaminated surface water run-off during the Construction Phase. The following mitigation measures will ensure no significant effects arise as a result of this aspect of the development either alone or in combination with other projects

8.24. Construction Phase

Fuel and Chemical Storage

Appropriate storage facilities will be provided on Site. Areas of high risk include:

- Fuel and chemical storage;
- Refuelling Areas;
- Site Compound; and
- Waste storage areas.

There will be no washdown facilities for plant and equipment on the Proposed Development Site.

Fuel, oils and chemicals will be stored on an impervious base within a bund remote from any surface water ditches or locations.

All tank, container and drum storage areas shall be rendered impervious to the materials stored therein. Bunds shall be designed having regard to Environmental Protection Agency guidelines 'Storage and Transfer of Materials for Scheduled Activities' (2904). All tank and drum storage areas shall, as a minimum, be bunded to a volume not less than the greater of the following:

- 110% of the capacity of the largest tank or drum within the bunded area as per best practice guidelines (Enterprise Ireland, BPGCS005); or
- 25% of the total volume of substance that could be stored within the bunded area.

Concrete mixer trucks will not be permitted to wash out on Site with the exception of cleaning the chute into a container which will be removed off Site to an authorised facility.

Water will not be discharged to open water courses.

General Protection Measures

All works carried out as part of the Proposed Development will comply with all Statutory Legislation including the Local Government (Water Pollution) Acts, 1977 and 1990 and the contractor will co-operate fully with the Environment Section of Dun Laoghaire-Rathdown County Council in this regard.

Personnel working on the Site will be trained in the implementation of environmental control and emergency procedures.

The following standard operational measures will protect surface waters during the Construction Phase of the Proposed Development:

- Run-off from the working site or any areas of exposed soil should be channelled and intercepted at regular intervals for discharge to silt-traps or lagoons with over-flows directed to land rather than to a watercourse.
- Pumping of concrete will be monitored to ensure that there is no accidental discharge;
- There will be no mixer washings or excess concrete discharged on Site. All excess concrete is to be removed from Site and all washout of concrete chutes to be captured in a tank which shall be removed offsite for disposal at an authorised wastewater treatment facility;
- Surface water run-off will be treated using silt trays/settlement ponds and temporary interceptors and traps will be installed until such time as permanent facilities are constructed. Straw bales or silt fences will be appropriately located near watercourses to help prevent untreated surface water run-off entering any watercourse. A buffer zone should remain between the silt trap and the watercourse with natural vegetation left intact.
- Any oil and lubricant changes and maintenance will take place offsite;
- All open water bodies adjacent to areas of proposed works will be protected by fencing including settlement ponds;
- A regular review of weather forecasts of heavy rainfall will be conducted and a contingency plan will be prepared for before and after such events to minimise any potential nuisances. As the risk of the break-out of silt laden run-off is higher during these weather conditions, no work will be carried out during such periods where possible;
- The developer will ensure that erosion control i.e. silt-traps, silt-fencing and swales are regularly maintained during the Construction Phase
- Any imported materials will, as much as possible, be placed on Site in their proposed location and double handling will be avoided. Where this is not possible designated temporary material storage areas will be used;

- These temporary storage areas will be located at least 10m away from any surface water features/drainage ditches etc.; and will be surrounded with silt fencing to filter out any suspended solids from surface water arising from these materials
- Temporary oil interceptor facilities will be installed and maintained where Site Works involve the discharge of drainage waters to nearby watercourses.
- All containment and treatment facilities will be regularly inspected and maintained.
- If cast-in-place concrete is required, all work must be carried out in the dry and effectively isolated from any water courses or drainage ditches.
- Refuelling of plant during the Construction Phase will only be carried out at designated refuelling station locations on site. Each station will be fully equipped for spill response and a specially trained and dedicated Environmental and Emergency Spill Response team will be appointed before the commencement of works on site.
- Only emergency breakdown maintenance will be carried out on site. Drip trays and spill kits will be available on site to ensure that any spills from vehicles are contained and removed off site;
- All personnel working on site will be trained in pollution incident control response. Emergency spill control & spillage response procedures will ensure that appropriate information will be available on site outlining the spill response procedures and a contingency plan to contain silt during an incident;
- Portaloo's and/or containerised toilets and welfare units will be used to provide facilities for site personnel. All associated waste will be removed from site by a licenced waste disposal contractor;
- In the unlikely event material becomes contaminated, by for example a fuel spill onsite or a burst / leaking hydraulic hose, a documented procedure for contaminated material will be prepared and adopted by the appointed contractor prior to excavation works commencing on Site. These documents will detail how potentially contaminated material will be dealt with during the excavation phase.
- Temporary diversions may be used to facilitate working in the dry, the diversion channel should be formed in the dry, and arrangements should be made for authorised personnel to remove all fish from the natural channel before the flow is diverted if fish are present.

- Instream machine works should be minimised, and any machines working in the watercourse must be protected against leakage or spillage of fuels, oils, greases and hydraulic fuels.
- Instream earthworks must be executed so as to minimise the suspension of solids.
- When cofferdams are being kept dry by pumping, the discharge must be routed to an approved settlement facility before return to the river
- Every care must be taken to insure against spillage of concrete or leakage of cement grout within cofferdams.

All wastewater generated on-site during the Construction Phase will be stored and disposed of appropriately by discharge to foul sewer or by tankering off site. Under no circumstances will any untreated wastewater generated onsite (from equipment washing, road sweeping etc.) be released into nearby ditches or watercourses.

Groundwater

Measures set out in Section 8.1.1 Surface Water- Fuel and Chemical Storage of the NIS will serve to protect soil and groundwater.

Groundwater may be encountered during the construction works. Where water must be pumped from the excavations, water will be managed in accordance with best practice standards (i.e., CIRIA -C750) and regulatory consents.

Excavations and potentially contaminated stockpiled soils will be constructed/located/sheeted in a manner that ensures water is contained within the site boundary

8.24.1. Operational Phase

Extensive Sustainable Drainage System (SuDS) measures are proposed within the project design. The SuDS measures are not being relied upon in anyway to mitigate against likely significant effects on a downstream European Site, however these measures will control surface water run-off from the Proposed Development and remove pollutants from surface water discharged from the Site during the Operational Phase.

The following SuDS element have been included within the Proposed Development:

- Sedum roofs

- Permeable paving
- Bioswales

The proposed SuDS measures will therefore attenuate the flow of and improve the quality of surface water discharge to the River Slang and River Dodder, and therefore to European Sites located downstream of the Site of the Proposed Development.

No mitigation measures are required to protect downstream European Sites during the Operational Phase of the Proposed Development.

8.25. Assessment of Residual Adverse Effects

8.26. The design of the scheme has been developed with an overall objective of avoiding adverse effects on these ecologically sensitive sites. Mitigation measures will be implemented (as described) reducing the risk of negatively affecting water quality in the receiving surface water environment and habitat integrity thus ensuring that the receiving environment is protected, and the conservation objectives of the identified Natura sites are not negatively affected by the proposed development.

8.27. There will be no changes to habitat area or distribution, hydrological regime, water quality, vegetation structure or composition or physical structure of these sites as a result of the proposed development. Further there will be no changes to supporting habitat extent/quality or distribution of species within these sites. There are therefore, no residual direct or indirect impacts associated with the proposed development that could adversely affect the integrity of these sites. The proposed project will not prevent the QIs / SQIs of European Sites from achieving / maintaining favourable conservation status in the future as defined in Article 1 of the EU Habitats Directive.

8.28. Concluding Statement

8.29. I am satisfied that a full examination of the potential impacts has been analysed and evaluated using the best scientific knowledge. The potential for significant effects on the following sites was identified:

- North-West Irish Sea SPA (004236)
- South Dublin Bay SAC (000210)
- North Dublin Bay SAC (000206)
- South Dublin Bay and River Tolka Estuary SPA (004024)

- North Bull Island SPA (004006)

- 8.30. Where the potential for any adverse effect on any European Site has been identified, the pathway by which any such effect may occur has been robustly blocked through the use of avoidance, appropriate design and mitigation measures as set out within the NIS and its appendices. The measures ensure that the construction and operation of the proposed development does not adversely affect the integrity of European sites.
- 8.31. I am satisfied based on the information available that if the key design features and mitigation measures are undertaken, maintained and monitored as detailed in the NIS and EIAR that any adverse effects on the integrity of the identified sites will be avoided.
- 8.32. Therefore I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the North-West Irish Sea SPA (004236), South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024) and North Bull Island SPA (004006) or any other European site, in view of the sites' Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

9.0 Recommendation

- 9.1. Having considered the contents of the application the provision of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **REFUSED** for the following reason.

10.0 Reasons and Considerations

- 1) Having regard to the excessive density proposed, the overall design, scale, bulk and massing in close proximity to adjacent residences at Cranley House and by reason of the lack of sufficient setback from same, it is considered that the proposed development would appear overbearing and visually dominant when viewed from Cranley House to the north and Dundrum Road to the east. The

proposed development would also give rise to significant overlooking impacts and undue loss of privacy to Cranley House to the north. The proposed development would, therefore, be contrary to policy objectives PHP18 and PHP20 in relation to the protection of residential amenity of the Dun Laoghaire Rathdown County Development Plan 2022 - 2028, and be contrary to the Building Height Strategy, Appendix 5, Table 5.1, and would be contrary to the proper planning and development of the area.

- 2) The majority of the communal and public open space would not be appropriately laid out or considered useable as quality open space by the future residents of the scheme and by local residents due to the position and depth of the spaces around the building, the sloping nature of the site and the proposed arrangement, treatments, and uses for the spaces. The inability of the development to provide such quality open space as part of the proposed development is considered to be indicative of the excessive density proposed and overdevelopment of the site. The provision of communal and public open space is significantly below the standards required in Sections 12.8.3.1 and 12.8.3.2 of the Dun Laoghaire Rathdown County Development Plan 2022 - 2028 and is thus contrary to policy and to the proper planning and sustainable development of the area.

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

Mary Crowley

Senior Planning Inspector

4th March 2025

11.0 Appendix 1 - EIA Pre-Screening

Form 1

An Bord Pleanála Case Reference	ABP-316470-23		
Proposed Development Summary	Construction of 64 no. apartment units in the form of a 5-6 storey apartment blocks, the provision of a ground floor retail/café unit, and Public Realm upgrades to Dundrum Road and all other associated site works above and below ground associated with the proposed development.		
Development Address	Frankfort Centre, Dundrum Road, Dublin 14		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	Class 10(b)(i) 'Construction of more than 500 dwellings units' Class 10(b)(iv) 'urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere'	Proceed to Q3.
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			

Yes			EIA Mandatory EIAR required
No	X		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	64 no residential units 0.24 ha site area	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	X	Screening determination remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____

Date: _____

12.0 Appendix 2 - EIA Preliminary Examination

Form 2

An Bord Pleanála Case Reference	ABP-316470-23
Proposed Development	Construction of 64 no. apartment units in the form of a 5-6 storey apartment blocks, the provision of a ground floor retail/café unit, and Public Realm upgrades to Dundrum Road and all other associated site works above and below ground associated with the proposed development.
Development Address	Frankfort Centre, Dundrum Road, Dublin 14
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations. This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development</p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The proposed development involves the construction of 62 no residential apartment units and associated works on serviced zoned lands.</p> <p>The nature and scale of the proposed development reflects the surrounding pattern of development and it is not considered to be out of character with the existing and emerging surrounding pattern of development.</p> <p>Construction materials will be typical of an urban environment and any construction impacts would be local and temporary in nature and the implementation of a Construction Environmental</p>

	<p>Management Plan will satisfactorily mitigate potential impacts.</p> <p>Operational waste will be managed via a Waste Management Plan.</p> <p>The site is not at risk of flooding. There are no SEVESO/COMAH sites in the vicinity of this location.</p> <p>The development has a relatively modest footprint and does not require the use of substantial natural resources or give rise to significant risk of pollution or nuisance.</p> <p>The development, by virtue of its type and scale, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</p>
<p>Location of development</p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>There are no known monuments or other archaeological features on the subject site,</p> <p>The development will implement SUDS measures to control surface water run-off. The site is not at risk of flooding.</p> <p>The site is served by a local urban road network. There are sustainable transport options available to future residents. No significant contribution to traffic congestion is anticipated.</p> <p>The development is situated in a suburban area of Dublin City at a remove from sensitive natural habitats, designated sites and landscapes of significance identified in the Dun Laoghaire Rathdown Development Plan 2022-2028</p>
<p>Types and characteristics of potential impacts</p>	<p>Having regard to the nature of the proposed development, its location relative to sensitive</p>

(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	habitats/ features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.		
Conclusion			
Likelihood of Significant Effects	Conclusion in respect of EIA		Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.		Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.		No
There is a real likelihood of significant effects on the environment.	EIAR required.		No

Inspector: _____

Date: _____