



An
Bord
Pleanála

Inspector's Report ABP-316955-23

Development	Demolition of buildings, construction of 31 residential units, landscaping, boundary treatments, servicing works and all associated site development works
Location	Ballinteer Lodge, Ballinteer Road, Dundrum, Dublin 14
Planning Authority	Dun Laoghaire-Rathdown County Council
Planning Authority Reg. Ref.	D22A/0583
Applicant(s)	James Monaghan
Type of Application	Permission
Planning Authority Decision	Grant Permission with conditions
Type of Appeal	Third Party
Appellant(s)	Martin and Margaret Lynch Ashlawn Residents Association

Observers

Lynwood Residents Association
James and Teresa Halley
Howard Farrell
Catherine Cusack
Paul Wiseman and Ruth Cosgrove
Pat and Kay Reidy
Michael Murphy and Karen O'Reilly
Iris and Desmond Finnegan
Gerry Kenny
Oliver Sharkey
Padraig Wynne
Eugene and Pauline McElwain
Jim and Eileen Vaughan
Vincent O'Kelly
Keith and Linda Haugh
John and Margaret Brennan
David and Valerie Williams
Lucy Kennelly
Mary and Richard Fitzgerald
Kate and Peter Smith
David and Mena Edgar
Louis and Rae Taylor
David Madden
Conor Meehan
Jim Colgan and Councillor Anne Colgan

19th July 2024

John Duffy

Date of Site Inspection**Inspector**

1.0 Site Location and Description

- 1.1. The subject site which is irregular in configuration and relatively flat in topography occupies an area of approximately 0.44 hectares and is located and accessed off the western side of Ballinteer Road in Dundrum which adjoins the site to the east. The site is also partly located within the Ashlawn residential estate although it is not accessible from here. It is bounded to the north by Ashlawn Road which provides frontage to two storey detached housing. To the south, the rear gardens of detached housing at the front of the Ashlawn estate adjoin the site, while to the west the site is bounded by No.19 Ashlawn, also a two storey property and its associated gardens. To the north east No. 24 Ashlawn, a detached house and its gardens adjoin the appeal site.
- 1.2. The site accommodates an attractive large detached red-bricked and extended two storey period house, likely constructed at the turn of the 19th and 20th centuries. Large gardens surround the house. A detached building which accommodates an unused swimming pool is located at the southern part of the site and there is also a detached garage positioned at the eastern side of the site. The total gross floor area of the buildings on this site is given as approximately 728 sqm.
- 1.3. While the predominant character of the immediate area is two storey low density housing, opposite the site on the eastern side of Ballinteer Road is a relatively new 4 to 6 storey large apartment development called Southmead. The character of the general area to the east and south-east of the appeal site has changed significantly with multiple high rise apartment blocks having been constructed in recent years.
- 1.4. The appeal site is located approximately 900 m from the Balally Luas stop and approximately 1.4 km from the Dundrum Luas stop. There is a bus stop outside the appeal site on Ballinteer Road served by the No. 14 to Beaumont through the city centre. Other regular bus services in the immediate vicinity include the No. 750 from Dundrum to Dublin Airport and the No. 74 from Eden Quay to Dundrum Luas stop.
- 1.5. The Slang River flows to the north and east of the site. The Slang River Greenway runs east to west and traverses Ballinteer Road north of the appeal site.

2.0 Proposed Development

The proposed development of this site as applied for consists of:

- The demolition of buildings including later extensions to Ballinteer Lodge and ancillary structures comprising the garage and the pool building. The stated gross floor area of buildings to be demolished is approximately 410 sqm.
- The restoration of Ballinteer Lodge (denoted as Block C on the plans) and its conversion into four apartments (3 no. 1 bedroom units and 1 no. 2 bedroom units).
- The construction of two apartment blocks, each up to four storeys in height (fourth storey set back from parapet). Block A and Block B are located west and east of Ballinteer Lodge respectively. The total gross floor area of proposed works is given as 3506 sqm.
- Block A to accommodate 13 no. apartments (10 no. 2 bedroom units and 3 no. 1 bedroom units). Block B to accommodate 14 no. apartments (6 no. 1 bedroom units and 8 no. 2 bedroom units).
- All apartments have balconies.
- Provision of 28 no. car parking spaces at basement level in Block B; 3 no. parking spaces at surface level.
- New access from Ballinteer Road to the east and from the Ashlawn housing estate to the north-west. The existing access to the site from the north-east is to be closed.
- Cycle parking at surface level.
- Landscaping, boundary treatments and servicing works.
- The application site includes Council owned lands adjoining Ballinteer Road at Ballinteer Lodge and also inclusion of lands that are taken in charge at Ashlawn.
- Proposal includes upgrade works to widen the public path along a section of Ballinteer Road.

The application was accompanied by the following documentation (not exhaustive):

- Arboricultural Assessment
- Daylight, Sunlight and Overshadowing Assessment
- Site Specific Flood Risk Assessment (SSFRA)
- Engineering Services Report
- Quality Audit
- Planning Report

In response to the Further Information request the applicant provided revised drawings / details and reports for several items as follows (not exhaustive):

- (i) Inclusion of a two-way cycle track along the alignment of the existing access driveway at the site's eastern boundary adjoining Ballinteer Road
- (ii) Removal of the proposed vehicular access from Ballinteer Road and allowing filtered permeability only (cyclists and pedestrians) from that road
- (iii) Provision for a two-way access / egress to the site from the Ashlawn housing estate
- (iv) Provision for 34 car parking spaces: 28 at basement level and 6 at surface level
- (v) Ecological Impact Statement and Bat Assessment
- (vi) Landscape Masterplan
- (vii) Revised Daylight and Sunlight Assessment
- (viii) Building Lifecycle Report
- (ix) Revised SSFRA

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Following the receipt of Further Information, the planning authority decided to grant permission subject to 21 conditions. (In this regard it is noted that two of the

conditions are listed as being condition no. 11). Noteworthy conditions are as follows:

Condition No. 5 provides that all works to Ballinteer Lodge are to be overseen by an appropriately qualified conservation architect / surveyor to ensure adequate protection of the retained and historic fabric. Any repairs required to the original fabric to be carried out on a like-for-like basis using materials compatible and appropriate to the architectural character of the building.

Condition No. 6 requires the mitigation measures set out in the Arboricultural Assessment and Ecological Impact Assessment (EclA) to be fully implemented.

Condition No. 8 relates to transportation matters as follows: **(a)** Applicant to provide a Cycle Audit that reviews cycles facilities within the scheme prior to commencement, **(b)** Applicant to submit the final design of the proposed two-way cycle access on Ballinteer Road prior to commencement, **(c)** Applicant to carry out the recommendations of the Stage 1 Road Safety Audit Report, with any works on the public road to be agreed with the planning authority prior to commencement. Applicant to also provide a Road Safety Audit of the (Stage 2) and post construction / pre-opening (Stage 3) to be undertaken, **(d)** Access road from basement car park entrance to Ashlawn Park to be completed in accordance with the Council's taking-in-charge standards notwithstanding that no areas within the scheme, aside from areas currently within the Council's ownership, are taken in charge.

Condition No. 14 requires a contribution for public open space of €2000 per dwelling as a special levy in addition to the Development Levy Contribution as a special contribution as per section 48(2)(c) of the Planning and Development Act 2000.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The second Planning Report reflects the decision to grant permission subject to conditions.

A Further Information request dated 30th September 2022 raised several issues as follows, in summary:

- Item 1: Submit revised drawings showing alternative design solutions minimising overlooking risk to other proposed units without the use of opaque glazing in windows serving rooms
- Item 2: Provide a Sunlight, Daylight and Overshadowing Assessment based on the most up to date guidance ('Site layout planning for daylight and sunlight: A guide to good practice' – BR 209 2022 edition)
- Item 3: Provide a Building Lifecycle Report
- Item 4: Consider provision of external storage spaces for bulky goods (Section 12.3.5.3 of the Development Plan refers)
- Item 5: Submit an Ecological Impact Statement (EclA) to include a bat survey
- Item 6: Submit revised landscaping details including, inter alia, boundary treatments and a more detailed outline landscape specification
- Item 7: Provide revised drawings for inclusion of a two way cycle track along the alignment of the existing access driveway at the site's eastern boundary, extending from the northern site boundary to the southern site boundary
- Item 8: Submit revised drawings showing (i) removal of proposed vehicular access to Ballinteer Road and only filtered permeability (cycling / pedestrian provision) from Ballinteer Road, and (ii) a two way access / egress to Ashlawn. Submit a revised Transport Assessment / Mobility Management Plan (MMP), a Stage 1 Road Safety Audit for the revised layout and a Quality Cycle Audit.
- Item 9: Provide revised drawings and details confirming bicycle parking numbers and standards.
- Item 10: Confirm basement car park is designed in accordance with the UK's Institution of Structural Engineers booklet entitled 'Design Recommendations for Multi Storey and Underground Car Park' (2011) and associated updates.
- Item 11: Liaise with the NTA on the relocation of the bus stop and provide evidence of same.

- Item 12: Consider revisions that would allow for lift access to the basement car park for occupants of Block A that does not involve traversing internal circulation areas of Block B.
- Item 13: Provide a Construction Environmental Management Plan (CEMP), Construction & Demolition Waste Management Plan, Operational Waste Management Plan (OWMP), Construction Management Plan (CMP) and a Noise Plan which details the proposed construction methodology, including details around the construction of basement and associated ramp.
- Item 14: Provide revised drainage details and update the Site Specific Flood Risk Assessment (SSFRA) accordingly.
- Item 15: Provide clarity on the date of acquisition of the subject lands in terms of Part V provision.

The applicant submitted detailed responses to the Further Information items including revised drawings and plans, a revised SSFRA, a Residential Travel Plan / Mobility Management Plan, a Road Safety Audit, Access Audit, Cycle Audit and Walking Audit, a revised Daylight and Sunlight Assessment, an EclA with bat survey, a Building Lifecycle Report (BLR), a Landscape Report and a Design Report.

Following assessment, the planning authority granted permission for the proposed development on 19th April 2023.

3.2.2. Other Technical Reports

Transportation Planning: Further information was recommended as per Items 7 to 11 referred to above, along with submission of a CMP. Following receipt of further information, clarification of further information was recommended in relation to a number of matters including rectifying the items highlighted in the Quality Audit to facilitate the delivery of the cycle track, delivery of a standalone cycle audit which satisfactorily reviews cycle facilities within the proposed development and provision of a detailed site specific CMP.

EHO: Further information recommended relating to submission of a CEMP, Construction and Demolition Waste Management Plan, OWMP, CMP and Noise Plan. Following receipt of these, the EHO recommended clarity be sought on, inter

alia, the engineering specifications of the screen barriers and updated mitigation measures during construction / excavation of proposed basement and associated ramp.

Drainage Planning – Municipal Services Department: Further information recommended in terms of revised drainage details including updated SSFRA to include proposed SUDs measures. Acknowledges that the applicant has undertaken a further and more detailed analysis which indicates the main body of the site is located outside Flood Zone B, with some minor flooding at the site entrance. Proposed apartment blocks are located within Flood Zone C with some car parking spaces within Flood Zone B. The second report from Drainage Planning indicates the majority of items have been addressed in the Further Information response and recommends clarification of further information to provide, inter alia, details of the aco drain at the entrance to the development from Ashlawn, provision of additional SuDS features and a drawing detailing the various permeable surface finishes and SuDS features throughout the scheme.

Housing Department: The report notes the applicant proposes to comply with Part V by way of the transfer of three units for social housing. Report recommends a condition be attached, if permission granted, requiring the applicant/developer to enter into an agreement in accordance with Part V prior to commencement.

Environment Section: Recommends that construction, demolition and waste management plans are sought. Planning conditions given in relation to environmental monitoring, noise management, liaison with the public, construction waste and pest control.

Parks and Landscape Services: Notes that no provision is made for public open space. As such a payment of €2000 per unit as a special levy in addition to the development levy contribution as a special contribution should be made. The report recommends conditions in addition to recommending Further Information be sought in connection with landscape design and play proposals.

Conservation Officer: Welcomes the retention of the main part of Ballinteer House. Notes that the proposed new blocks are of similar height to the existing period house. No objection to the proposed development; the new apartment blocks provide an appropriate setting and amenity of the original building. Report recommends

inclusion of a condition requiring all works at Ballinteer Lodge to be overseen by an appropriately qualified conservation architect / surveyor to ensure adequate protection of the retained and historic fabric.

3.2.3. Prescribed Bodies

Uisce Éireann (UÉ): No objection

3.2.4. Third party Objections/ Observations

The area planner's report notes that 54 submissions were received in connection with the planning application, while a further 39 submissions were received following submission of the Further Information. Issues raised in these submissions are similar to those in the third party appeals and the observations received by the Board which are summarised below.

I note that the South County Dublin Association of An Taisce submitted an observation to the planning authority relating to the proposal. Issues raised therein are summarised as follows:

- The character of the period house would be lost as a result of the proposed development
- Its redevelopment would not provide a suitable reuse of the building which is of heritage interest and would be contrary to Policy Objective HER20 of the Development Plan
- Setting of the house would be compromised due to new apartment blocks
- Proposed infill development fails to protect existing residential amenities of Ballinteer Lodge and Ashlawn
- Concern raised in terms of the numbers of trees to be removed
- Capacity concerns on the Luas Green Line raised given the number of large scale residential developments and Strategic Housing Developments proposed / granted on the corridor

4.0 Planning History

Appeal site

Planning Authority Reference D06A/0561 refers to a June 2006 decision to refuse permission for demolition of Ballinteer Lodge and ancillary buildings and the construction of 33 no. apartments in 6 no. attached 3 storey blocks with new vehicular / pedestrian access/egress from Ballinteer Road and associated works.

Permission was refused for two reasons, summarised as follows:

1. Demolition of Ballinteer Lodge, a late 19th Century dwelling, would be contrary to Council policy as contained in the Development Plan.
2. The proposed development due to its design, scale, bulk along with, inter alia, removal of mature trees would seriously injure the residential amenities and depreciate the value of property in the vicinity.

4.1. Development Plan

Under the Dun Laoghaire-Rathdown County Development Plan 2022 – 2028, the subject site is zoned A with the objective ‘To provide residential development and improve residential amenity while protecting the existing residential amenities.’

- 4.1.1 Section 4.3.1.3 – 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.

- 4.1.2 Section 4.3.1.2 – Policy Objective PHP19 relates to Existing Housing Stock - Adaptation

It is a Policy Objective to:

- *Conserve and improve existing housing stock through supporting improvements and adaption of homes consistent with NPO 34 of the NPF.*
- *Densify existing built-up areas in the County through small scale infill development having due regard to the amenities of existing established residential neighbourhoods.*

4.1.3 Section 4.3.2.3 – 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’

4.1.4 Section 11.4.3.3 – Policy Objective HER21 relates to Nineteenth and Twentieth Century Buildings, Estates and Features: *It is a Policy Objective to:*

- i. Encourage the appropriate development of exemplar nineteenth and twentieth century buildings, and estates to ensure their character is not compromised.*
- ii. Encourage the retention and reinstatement of features that contribute to the character of exemplar nineteenth and twentieth century buildings, and estates such as roofscapes, boundary treatments and other features considered worthy of retention.*
- iii. Ensure the design of developments on lands located immediately adjacent to such groupings of buildings addresses the visual impact on any established setting.*

4.1.5 Chapter 2 – ‘Core Strategy’:

Section 2.6.2.1 (ii) ‘Brownfield and Infill Lands’ under the overall heading of ‘Active Land Management’ states ‘Delivery of a compact growth agenda requires increased focus on re-using previously developed ‘brownfield’ land, supporting the appropriate development of infill sites, and the re-use or intensification of existing sites.’

4.1.6 Under 4.3.1.1 ‘Policy Objective PHP18: Residential Density’ it is policy 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. 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.’ I also note the following:

‘As a general rule the minimum default density for new residential developments in the County (excluding lands on zoning Objectives ‘GB’, ‘G’ and ‘B’) shall be 35 units per hectare (net density). This density may not be appropriate in all instances but should be applied particularly in relation to ‘greenfield’ sites or larger ‘A’ zoned areas. Higher density schemes should offer an exemplary quality of life for existing and future residents in terms of design and amenity.’

4.1.7 Chapter 5 – ‘Transport and Mobility’

Section 5.5 Promoting Modal Change

‘Policy Objective T5: Public Transport Improvements

It is a Policy Objective to expand attractive public transport alternatives to car transport as set out in ‘Smarter Travel, A Sustainable Transport Future’ and subsequent updates; the NTA’s ‘Transport Strategy for the Greater Dublin Area 2016-2035’ and the NTAs ‘Integrated Implementation Plan 2019-2024’ and subsequent updates by optimising existing or proposed transport corridors, interchanges, developing new park and rides, taxi ranks and cycling network facilities at appropriate locations. (Consistent with NPO64 of the NPF, RPO 4.40, 5.2, 8.3 and 8.8 of the RSES)’

‘Policy Objective T11: Walking and Cycling

It is a Policy Objective to secure the development of a high quality, fully connected and inclusive walking and cycling network across the County and the integration of walking, cycling and physical activity with placemaking including public realm permeability improvements. (Consistent with NPO 27 and 64 of the NPF and RPO 5.2 of the RSES).’

4.2. National Guidance

- The National Planning Framework (NPF) has a very clear focus on achieving brownfield / infill development, which means encouraging more people, jobs and activity generally within existing built-up areas. The NPF notes that securing compact and sustainable growth requires a focus on the liveability of urban places, continuous regeneration of existing built up areas, dealing with legacy issues such as concentrations of disadvantage in particular areas, and linking regeneration and redevelopment initiatives to climate action.
- The NPF includes a specific Chapter, No. 6 - '*People Homes and Communities*' which is relevant to this development. This chapter includes 12 National Policy Objectives (NPOs) and the following are applicable to this development:
 - NPO 4 seeks to 'Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.'
 - NPO 27 seeks to 'Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages'.
 - NPO 33 seeks to 'Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location'.
 - NPO 35 seeks to 'Increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.'
- Design Manual for Urban Roads and Streets (DMURS)

Chapter 3 refers to 'Street Networks' and recommends connectivity between destinations to promote higher levels of permeability and legibility for all users including cyclists and pedestrians.

- Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024).

Table 3.1 'Areas and Density Ranges Dublin and Cork City and Suburbs'

It is considered that the appeal site falls within the 'City – Urban Neighbourhoods' category where residential densities in the range 50 dph to 250 dph (net) shall generally be applied.

SPPR 3 relates to car parking; Part (i) states the following:

In city centres and urban neighbourhoods of the five cities, defined in Chapter 3 (Table 3.1 and Table 3.2), car-parking provision should be minimised, substantially reduced or wholly eliminated. The maximum rate of car parking provision for residential development at these locations, where such provision is justified to the satisfaction of the planning authority, shall be 1 no. space per dwelling.

SPPR 4 relates to cycle parking and notes that safe and secure storage facilities should be provided in a dedicated facility of permanent construction.

- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (DHLGH, 2023). These guidelines provide for a range of information for apartment developments including detailing minimum room and floor areas.
- Quality Housing for Sustainable Communities (DoEHLG, 2007).

4.3. Natural Heritage Designations

The proposed development is not located within or immediately adjacent to any European site. The nearest European sites are the South Dublin Bay and River

Tolka Estuary SPA and the South Dublin Bay SAC, both located approximately 5 km to the north-east. South Dublin Bay proposed NHA is located approximately 5 km to the north-east while Fitzsimons Wood proposed NHA is located approximately 1.6 km to the south-east.

4.4. EIA Screening

See Forms 1 and 2 below. Having regard to the nature of the proposed development comprising the demolition of buildings, restoration of Ballinteer Lodge and its conversion to 4 units along with the construction of two new apartment blocks to accommodate 27 units on a brownfield site, in an established urban area and where infrastructural services are available, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

5.0 The Appeal

5.1. Grounds of Appeal

Two third party appeals are submitted in respect of the proposed development as follows:

1. Appeal by Martin and Margaret Lynch, 34 Ashlawn

The grounds of appeal are summarised as follows:

- Access and egress for the entire development is to be from the Ashlawn residential estate at a point directly opposite the appellant's house. This will have a detrimental and disruptive impact on the property. There is no indication in the planner's report that regard has been had to the impact traffic (domestic and commercial) would have on the area.

2. Appeal by Ashlawn Residents Association (made on its behalf by BPS Planning and Development Consultants)

The grounds of appeal are summarised under headings as follows:

Design / Amenity issues

- Excessive height, scale and bulk of proposed development is unacceptable and out of character with existing residential development in the area.
- Proposed development would seriously injure the residential amenities of the area and depreciate the value of property in the area.
- Blocks are located too close to each other. There is over-use of obscured glazing which impacts the amenity of future residents.
- Overlooking from the proposed development into private dwellings / amenity spaces at Ashlawn, leading to loss of privacy.
- Concern expressed that the submitted shadow analysis provided as further information may be incorrect. The proposed development will materially impact the sunlight received by properties located to the west and north-east of the scheme with No. 19 Ashlawn particularly impacted.
- No visual impact assessment / photomontages of the proposed development provided.
- Proposed external finishes are at odds with existing development in the area.
- Concern regarding loss of trees, hedges and vegetation across the site.

Access and Transport

- Proposed two-way cycle track is an unplanned proposal from the local authority adversely impacting the Ashlawn residential estate and fundamentally altering the proposed scheme. The local authority is the de-facto applicant, assessor and beneficiary of this proposed cycleway. The submitted Road Safety Audit considers the cycleway to be a traffic hazard.
- While the Transport Report suggests that the cycleway will connect to the Slang Greenway, this proposed section of cycleway forms no part of any published plan from the local authority, does not connect into any existing cycleway and is unlawful.
- There is no Strategic Local Objective or reference in the Development Plan for a cycleway at the proposed location and it is unclear how its construction would proceed given that the Council indicates it would deliver it; no details in this regard are provided.

- Provision of the cycleway means that Ashlawn is to be used as a vehicular access for the proposed development. Any additional traffic will be noticeable in the Ashlawn estate and unwelcome. Impacts include traffic congestion and road safety issues.
- Basement car park is located too close to adjoining residential properties and is unsuitable for a small site. The single shuttle arrangement is questionable in terms of safety with opposing vehicles vying to pass up and down the ramp first. Basement will be prone to flooding. Possible subsidence and vibration impacts on adjoining properties.
- Insufficient car and cycle parking.
- Public transport capacity not addressed.

Flooding

- Submitted SSFRA is inconsistent with the Strategic Flood Risk Assessment (SFRA) prepared for the Development Plan which found that part of the site is within Flood Zone B. It is not credible that the findings of the SSFRA are different to the SFRA. Not permissible for the applicant to do their own SSFRA.
- The site access road and parking areas are located within Flood Zone B. It is considered that a Justification Test should have been done because these areas comprise development which is ancillary to residential development.

Drainage

- It is proposed to direct surface waters towards Ashlawn. Permeable paving on the access road is proposed as an interception mechanism for the site however there is doubt whether the proposed permeable paving at the access road would accord with the Council's taking in charge document.
- Condition No. 7 confirms that it is not known if additional SUDS measures are required, which is not an acceptable situation.
- Potential for additional surface water drainage measures is not considered in the SSFRA.

- There is concern that SUDS mitigation measures are required to ensure there are no potentially harmful effects on a European Site.

Landscaping

- Removal of existing wall between the site and Ashlawn is contrary to the established character and pattern of development in the area and alters the historic relationship between the site containing Ballinteer Lodge and the cul-de-sac.
- Removal of trees and part of wall to Ballinteer Road to facilitate the cycle track are not supported.

Ecology

- Applicant has failed to provide an acceptable bat assessment based on a survey undertaken out of season. As such the suitability of the site for bats is not properly assessed and the proposal fails to comply with section 8.7 of the Development Plan (Biodiversity) and the Wildlife Acts and may also be contrary to the Habitats Directive.

Other

- Overdevelopment of the subject site. The site should accommodate townhouses and associated costs would be lower.
- The public notices at Further Information stage are insufficient in terms of describing the scheme and may have caused impacted parties not to object.
- The Building Lifecycle Report prepared in response to Item 3 fails to offer details of predicted long term running and maintenance costs of the scheme and is therefore inadequate.
- Construction impacts have not been addressed. Condition No. 9 is a standard condition and no new mitigation measures are proposed.
- No pre-application surveys done of (i) the stability of area of the site to be excavated which adjoin rear gardens, and (ii) adjoining and surrounding dwellings to identify a baseline for the pre-project status of those properties in the event of building damage due to vibration from the project.

- Noise Impact Assessment (NIA) does not include physical / acoustic barriers to address impacts on nearby receptors.
- Uncertainty relating to the proposed location of the construction access. It should be from the Ballinteer Road access as recommended by Transport Section. The location of the compound during the construction phase is unknown.
- No Architectural Impact Assessment provided for Ballinteer Lodge.
- Proposed working / construction hours too long; flexibility given on Sundays and Bank Holidays considered to be excessive.

The following enclosures were received with this appeal:

(i) Copy of objection report made by BPS Planning on behalf of Ashlawn Residents Association to the planning application, and

(ii) Copy of objection report in respect of Significant Further Information made by BPS Planning on behalf of Ashlawn Residents

The grounds of objection referred to in Enclosure **(i)** are summarised as follows:

- The proposal is not compliant with planning policy
- The proposed blocks' scale, height, density and bulk are unacceptable
- The scheme would negatively impact Ashlawn's residential and visual amenities
- Traffic and transport concerns
- The proposed impacts on trees are unacceptable and not adequately mitigated
- No assessment of visual impacts on residents' properties at Ashlawn
- Flood and water drainage concerns
- Construction phase concerns
- The proposed development would set poor precedents
- Proposal would depreciate the value of Ashlawn

The grounds of objection referred to in Enclosure **(ii)** are summarised as follows:

- Overdevelopment of the site
- Overlooking impacts
- Overshadowing impacts
- Section 6.13 of Design Standards for New Apartments (2020) has not been addressed (Lifecycle Report)
- Basement is too close to housing and there is potential for damage to property / subsidence to occur
- Basement located in an area prone to flooding
- Failure to provide an acceptable bat assessment
- Opposition to the vehicular access and egress from the site to Ashlawn
- The wall at Ballinteer Road and the trees adjoining it should be retained
- Potential for noise / disturbance along proposed cycle path / footpath impacting adjoining Ashlawn residents. Future security of private properties at Ashlawn will be compromised as they will adjoin a public area
- Provision for a two lane cycle way and footpath is a significant change and one which should have been included in the Development Plan
- The Slang River Greenway referred to in the planner's report does not pass along the length or through the applicant's site
- Cycle lane not required as part of the proposed development
- The planning gain required by the Council is not lawful
- No details of available public transport capacity provided
- Concerns relating to the submitted swept path analysis
- Concerns with proposed location of bike storage
- Concerns relating to construction impacts
- Flooding concerns
- Surface water drainage concerns

5.2. Planning Authority Responses

The planning authority considered that the grounds of the appeals do not raise any new matters, and as such no additional comment is made by it.

5.3. Applicant's Responses to appeals

The applicant's agent responded to the appeals by way of two separate submissions.

A summary of the response to Martin and Margaret Lynch's appeal is set out as follows:

- In response to Item 7 of the Further Information request the existing entrance driveway is proposed to be used as a new cycleway. To achieve this, it is necessary to omit the access from Ballinteer Road as referred to in Item 8 of the Further Information request. Omission of the access creates an enhanced public realm providing the bus stop at Ballinteer Road with an improved wider waiting area. It is acknowledged that the result is an increase in traffic at the Ashlawn residential estate. The Transport Section has identified this increase in traffic as relatively low.
- The proposal allows for high quality cycle infrastructure to be developed along Ballinteer Road which will benefit the overall area. The two-way cycle route accords with Development Plan objectives including Policy Objectives T4 and T13.
- The rationale for the requirement to remove vehicular access points onto Ballinteer Road (R826) and to provide access and egress through Ashlawn is to reduce potential hazards associated with turning movements on this regional road. The Ashlawn access road has enough extra capacity to support the additional vehicular traffic created by the proposed development and it complies with DMURS. The impact of the proposed increase in vehicular movements on Ashlawn is negligible. There will be a low volume of vehicular movements from the site.
- Should it be considered by An Bord Pleanála that the original proposal with access off Ballinteer Road be more appropriate this could be addressed by way of condition.

A summary of the response to Ashlawn Residents Association's appeal is set out as follows under relevant headings:

Compliance with planning policy

- The proposed development complies with national, regional and local planning policies
- It has been demonstrated that the proposed development is one which optimises the development potential of the zoned and serviced site whilst having due regard to existing residential and visual amenities.

Planning History

- The previous proposal on the lands (PA Ref. D06A/0561) was different in terms of layout and design involving the demolition of Ballinteer Lodge and construction of 33 apartments. The current proposal seeks to retain the period house and bring it into modern residential use as well as providing new apartment blocks on the site.
- The previous decision was made in an entirely different physical and planning context to what now pertains and it does not set a precedent for assessing the current proposal.

Density

- Proposed density is 69 units per hectare (gross) and accords with national and local policy for infill sites at accessible locations.

Height, scale, mass and design

- The proposed four storey development accords with the Building Height Strategy and it is not deemed to be a taller / landmark building.
- Architectural drawings and visualisations submitted demonstrate the proposal to be acceptable in terms of visual impact given the setback nature of the development and height comparison with Ballinteer Lodge.

Impact on residential amenity

- The apartment blocks are set back more than 22 m from opposing rear windows of Ashlawn residences to the south.

- There is no opaque glazing in Block B, while only one ground floor window in Block C has opaque glazing to prevent views from a kitchen area to private amenity space and living room of an adjacent unit in Block B. On the eastern side of Block A, the windows and balcony screen at the ground and first floor areas have opaque glazing to their secondary windows only. The extent of opaque glazing is not extensive.
- The design, form, siting, orientation, height and massing results in an attractive development that protects existing amenities and will not cause overlooking impacts leading to undue loss of privacy.

Cycleway / Access

- The Ashlawn estate road can clearly accommodate the additional access and traffic generation from the proposed infill development.
- Proposed arrangement for refuse collection is considered safe and will not lead to a traffic hazard.
- If the Board conclude the cycleway should be omitted at this time, the remainder of the development can be served with the vehicular arrangement as originally proposed or that granted by the planning authority.

Public Notices

- The Site Notice for the Significant Further Information response is based on the template available on the planning authority's website which in turn is based on the template included in the Planning and Development Regulations 2001-2023. The fact that 39 submissions were received on foot of the public notices relating to the Further Information suggests that the public were adequately alerted by them.

Basement

- Its location is influenced by a number of factors including retention of the house on the site and the conclusions of the SSFRA which confirm the extent of flood risk to the east of the site along the Ballinteer Road.
- The basement is not located in a flood risk area.

- To optimise car parking provision in the basement a single lane, contra flow system is proposed to serve the 28 car parking spaces. The proposed one way system is designed in accordance with the MIStructE document 'Design Recommendations for Multi-Storey and Underground Car Parks' which includes design details for one-way ramps.
- The location and extent of the basement with regard to Ballinteer Lodge and adjoining properties has been carefully considered and is sufficiently set back to ensure no structural impact.
- Construction of the basement will involve excavations to a depth of approximately 4 m below ground level. Reinforced concrete will be used for the perimeter retaining walls along with reinforced concrete basement slab. All columns and load bearing walls will be reinforced concrete and all non-load-bearing walls will be solid blockwork.

Car and cycle parking

- The site is located within Zone 2 for car parking provision which has a parking standard of one parking space for 1 and 2 bedroom apartments.
- Proposed development is to be served by 34 car spaces, 28 at basement and 6 at surface levels. Parking provision is therefore not insufficient and accords with Parking Zone 2 standards. Spill-over parking from the development into Ashlawn is not anticipated.
- Given compliance with parking standards there is then no need to justify parking provision in terms of Section 12.4.5.2 of the Development Plan. Nevertheless, there are good public transport options in the area including the Luas and multiple bus services.
- 80 cycle parking spaces are proposed, 50 of which are covered spaces for residents (1 space per bedroom). 30 visitor cycle parking spaces are proposed. All are distributed throughout the site at surface level.

Daylight and Overshadowing

- BPC Engineers has provided a response report addressing the issues raised in the appeal. The claim that the daylight / overshadowing report is incorrect is

rebutted. The BPC study notes there is a negligible impact on skylight to properties.

- While the conclusion of the impact of the proposed development on sunlight to neighbouring gardens indicates that more than 50% of each tested garden receives at least two hours sunlight on March 21st before and after the proposed development, the analysis shows that the lowest percentage area receiving at least two hours sunlight on March 21st is in fact 83% with most gardens having 100% of the area meeting the criteria. The results far exceed the minimum criteria.
- No assessment of sunlight (overshadowing) is conducted between blocks as there are no amenity areas between blocks. In terms of daylight analysis within the proposed development all rooms meet the minimum recommended criteria set out in EN 17037 UK National Annex.
- The appellants claim that a single east facing window at No. 19 Ashlawn was not assessed. Only main windows to rooms need to be assessed in accordance with the BRE guide. The main window to this first floor room is the first floor window facing north which is unaffected by the proposed development. The appellants also claim that the front garden associated with No. 19 was excluded from the analysis. BRE Guidelines state however that small garden areas and driveways to the front of houses should be omitted.
- The submitted Sunlight and Daylight Assessment demonstrate that the proposed development is acceptable and complies with BRE guidelines, far exceeding minimum criteria set out therein.

Bat Assessment

- Further bat surveys were undertaken in May 2023 which show no evidence of bat roosting on the site. A bat impact assessment dated 7th June 2023 from Altamar is provided with the response to this appeal.

Removal of wall at Ashlawn

- Removal of part of the concrete rendered boundary wall between the subject site and Ashlawn would contribute to high quality urban design, improve

accessibility and connectivity within and between residential areas. Its partial removal would not fundamentally alter the character of the area.

Tree removal

- Given the poor quality of the majority of existing trees along the boundary with Ballinteer Road many of which have a limited life span, it is proposed to remove the Category Red trees and the line of Leylandii (Category C). The Corsican Pine will be retained near the existing entrance. To mitigate this loss the verge area will be planted with semi-mature trees and low woodland ground cover. Existing planted boundaries along Ashlawn will not be impacted.
- While there are a number of trees within the garden area of Ballinteer House to be removed to facilitate the development the majority of these have been assessed as being of poor quality and / or trees in such a condition that any existing value would be lost within 10 years. The proposed development also provides for retention of a number of significant and arboricultural important trees and planting on the site.
- Proposed tree removal and landscaping proposals are acceptable to the Parks Department.

SSFRA

- Appeal response letter included prepared by consultant engineers who prepared the SSFRA.
- Additional detailed topographic data was obtained to better inform the flood model and identify the flood extents, thereby increasing the accuracy of the flood risk predictions at the site. As such more accurate site / location specific analysis shows the only areas of the proposed development to be affected by flooding events, and within Flood Zone B would be the entrance road from the R826.
- It is not the case that ancillary residential development remains in Flood Zone B and therefore claims of incorrect Justification Test are incorrect. Residential development is located within Flood Zone C.

- The SFRA of the Development Plan does not claim to be definitive in relation to the specific flood risk for individual site and Appendix 15 of the Plan indicates that the main purpose of the SFRA is to highlight development areas requiring more detailed assessment on a site-specific basis.

Surface water / SUDS

- The Planning Department are satisfied that provision of permeable paving at the front of the site is not contrary to the Council's taking in charge standards, and this is the case when those standards are examined.
- The revised SSFRA details the SuDS measures which are incorporated into the development. All surface water within the development is collected and attenuated prior to a controlled discharge to the existing public surface water sewer in Ashlawn which has sufficient excess capacity to accommodate the development flows.
- That the planning authority by condition would seek further agreement in relation to SuDS measures is not considered unusual. Should such additional measures be required on site these can be readily provided.

Building Lifecycle Report

- This report provided as part of Further Information was deemed acceptable by the planning authority.
- The report provides for a 'framework of costs.' It notes that as the building design develops post-planning that a specific schedule can be generated including detailing maintenance and replacement costs over the lifespan of the development.
- The submitted report is considered robust and sufficiently detailed in order to inform the planning decision to grant. Noted that the Board may apply conditions to a grant of permission to require further specific long term running and maintenance costs on a unit basis prior to commencement of development.

Construction impacts / Construction access and compound

- The planning application includes an Outline Construction Environmental Management Plan, Environmental Noise Survey and Construction Management Plan. These provide mitigation measures in relation to control of noise, dust and other potential impacts during the construction phase.
- A report is attached to this response from Traynor Environmental which further elaborates on proposed mitigation measures during construction and it provides additional mitigation measures at the location of the proposed basement proximate to No. 24 Ashlawn as highlighted by the appellants.
- The main construction access to the site will be from the Ballinteer Road to the east. Construction parking location is set out in the CMP provided at Further Information stage.

The following documents are attached to the applicant's response:

- Report from BPC Engineers
- Report from Traynor Environmental
- Report from Corrigan Hodnett Consulting Engineers
- Bat Survey Report from Altemar Ecologists
- Additional Section Drawing by Ferreira Architects

5.4. Observations

25 no. observations were received in connection with the proposed development. Issues raised are summarised as follows:

- Adverse impacts on residential amenity i.e., Overlooking leading to a loss of privacy, overshadowing and overbearing impacts
- Proposed development is out of character with the area
- Devaluation of property
- Adverse impact on visual amenity
- Road safety concerns / Traffic congestion / Traffic hazard

- Concerns relating to proposed access / egress at Ashlawn
- Difficulties encountered by service vehicles accessing the area and site
- Unacceptable nature of the design, scale, height and massing of proposal
- Contravene Building Heights Strategy
- Excessive density / Overdevelopment of site
- Concern in terms of unit mix proposed. 2 storey houses more appropriate on the site
- Removal of trees and vegetation
- Boundaries and Ashlawn and Ballinteer Road should be retained
- Concern in relation to external finishes / materials
- Proposed cycle lane not required
- Proposal is in breach of zoning objective 'A'
- Subsidence concerns / risk of damage to properties during excavation works
- Risk of flooding
- Proposal does not address refusal reasons for previous application on the site
- Concern of construction impacts
- Parking concerns
- Ballinteer Lodge and Ashlawn housing dwarfed by the development
- Removal of extensions at Ballinteer Lodge is likely to damage external fabric
- Security concerns
- No revised transport assessment provided to address changes made

- Negative impact on wildlife
- Concern relating to hours for construction works
- There is bat activity in the area
- Additional people accessing the lands through Ashlawn would cause overcrowding and other adverse impacts
- Ballinteer Lodge is not part of Ashlawn and there is no access to it from the residential estate
- Noise, car pollution and light pollution impacts

5.5 Section 131 notice

The response from the applicant to Ashlawn Residents Associations' appeal was circulated to the parties and observers having regard to section 131 of the Planning and Development Act 2000 as amended. Submissions were received from the following parties and observers and are summarised below:

Planning Authority:

No additional comment.

Ashlawn Residents Association

- Stand over the grounds of objection
- Proposed scheme is unacceptable in terms of flooding, roads, traffic, scale and shadowing

Martin and Margaret Lynch

- Substance of appeal has been ignored
- The Council has insisted that all vehicular traffic in and out of the development would be from Ashlawn which would greatly disrupt access to and usage of appellant's house

Lynwood Residents Association (Observer)

- No evidence provided that the proposed development would result in no additional risk in terms of traffic safety as a consequence of changing the access point to Ashlawn
- The traffic and transport assessment relates to egress only from the development as originally proposed
- Increased traffic and disturbance generated along the Ashlawn roadway

Paul Wiseman and Ruth Cosgrove (Observer)

- Overlooking impacts not addressed on rear private open space to properties south of subject site
- Design has an adverse overbearing visual impact on neighbouring properties resulting in loss of privacy

Conor Meehan (Observer)

- Greenfield site more suited to the proposed design
- Adverse impact on skyline from proposed development
- Shoe-horned development on the site negatively impacting the comfort / amenity of neighbours
- Paying a levy in lieu of open space provision is not a reasonable approach in terms of needs for current and future residents
- Existing tree-lined entrance to Ballinteer Lodge should be retained
- Access should be from Ballinteer Road

Lucy Kennelly (Observer)

- Exit and entrance was proposed by the applicant and the Council without discussion with Ashlawn residents
- Residents had to sacrifice their time / commitments to make submissions on the proposal
- Already a two way cycle lane in the area; there is no need for another one
- Against the proposal to access and egress the site from Ashlawn and removal of part of the boundary wall

Michael Murphy and Karen O'Reilly (Observer)

- Inappropriate overdevelopment of the site
- Negative impact on residential amenity arising from proposal including overlooking leading to loss of privacy
- Concern relating to structural impact of proposed development on nearby housing
- Disagree that ample parking will be available in Ashlawn post development

6.0 Assessment

6.1. Having examined the application details and all other documentation on file, including the reports of the local authority, and having inspected the site, and having regard to the relevant local and national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Land-use and nature of the proposed development
- Design and Impact on Adjoining Properties
- Landscaping
- Residential Amenity for future occupants
- Flood Risk
- Transportation and Access
- Other issues
- Appropriate Assessment Screening Determination

6.2. Land-use and nature of the proposed development

6.2.1. The subject site is zoned 'A' for residential development and such use is listed within the 'Permitted in Principle' category of this zoning objective. I am satisfied that the proposed development would be compatible with the policies and objectives for the zoning objective, that it would not lead to undesirable effects and would be in accordance with the proper planning and sustainable development of the area. As such, in my opinion, the proposal does not contravene the 'A' zoning objective of the

subject site. I consider that the proposed mix of one and two bedroom apartment units is acceptable at this location, would provide a positive contribution to the mix of typologies within the surrounding area and would accord with Policy Objective PHP27 of the Development Plan.

- 6.2.2. Concerns are raised in terms of excessive density of development and that the proposition constitutes overdevelopment of the site. The proposed development is for the construction of 31 apartments on an approximate site of 0.4488 ha, equating to a net density of approximately 69 dpha. Local planning policy as set out in the current Dun Laoghaire Rathdown County Development Plan seeks to increase densities where this is appropriate. I note that Policy Objective PHP18 Residential Density seeks to promote compact urban growth by way of consolidation and re-intensification of infill / brownfield sites. The minimum default density for new residential developments in the Development Plan is given as 35 units per hectare, although it is noted that this density is not appropriate in all instances but is particularly relevant to greenfield and larger 'A' zoned sites.
- 6.2.3. In my opinion, having regard to the residential zoning of this brownfield well-located site approximately 900 m and 1.4 km from the Balally and Dundrum Luas stops respectively and served by / proximate to a number of bus routes as outlined above, the density of the proposed development is appropriate. In this regard I note that Table 3.1 of the 'Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities' (2024) confirm that residential densities in the range up to 250 dph (net) shall generally be applied in urban neighbourhoods of Dublin and Cork. The density of this proposal accords with this requirement. I consider the design and scale of the proposed development appropriate for this infill site and in my view the proposal constitutes an efficient use of residential zoned and serviced lands.
- 6.2.4. A number of third party submissions express concern in terms of the potential impact the proposed development may have on Ballinteer Lodge and that no Architectural Impact Assessment (AIA) was provided with the application. In terms of this latter point I note that the house is not listed on the Record of Protected Structures and that the site is not located within an Architectural Conservation Area (ACA); as such I do not consider that submission of an AIA is required in this instance. I concur with the Conservation Officer that the conversion of the original house to apartments is

appropriate and in accordance with heritage and conservation Policy Objectives HER20 and HER21 of the Development Plan. Should the Board decide to grant permission I recommend inclusion of a condition similar to condition 5 of the planning authority's decision, requiring works to Ballinteer Lodge to be overseen by a suitably qualified conservation professional to ensure appropriate protection of the retained and historic fabric.

6.3. Design and Impact on Adjoining Properties

- 6.3.1. Concerns are raised relating to the design, scale, height and massing of the proposed development and that it would be out of character in this area where the predominant housing typology comprises two storey suburban housing.
- 6.3.2. While the prevailing character of the immediate area adjoining the site is low rise suburban housing, there are several large apartment developments nearby including Southmede, a 4 to 6 storey development opposite the appeal site on the eastern side of Ballinteer Road. The general area east and south-east of the appeal site accommodates several high rise apartment blocks (ranging from 4 to 8 storeys), including those at Wyckham Point and Wyckham Place. The Sustainable and Compact Settlements – Guidelines for Planning Authorities (2024) note that in order to achieve compact growth more intensive use of previously developed land and infill sites will need to be supported, in addition to the development of sites in locations served by existing facilities and public transport. Section 3.4 of the Urban Development and Building Heights – Guidelines for Planning Authorities (2018) advises that apartment developments in suburban areas, such as the subject location, be of 4 storey design and upwards and that such developments will address the need for more 1 and 2 bedroom units in line with wider demographic and household formation trends.
- 6.3.3. The Building Height Strategy set out in Appendix 5 of the Development Plan notes that taller buildings are defined as those that are significantly taller (more than 2 storeys taller) than the prevailing height for the area. Having regard to the nature of the proposed development comprising two 4 storey apartment buildings (with the 4th storey recessed) and the suburban location of the appeal site it is apparent that Policy Objective BHS 3 pertains to the site. It provides for a general building height of 3 to 4 storeys coupled with appropriate density provided that proposals ensure a

balance between the reasonable protection of existing amenities including residential amenity, which is assessed below. Having regard to this the 4 storey height of the scheme is acceptable in principle at this location and there is no necessity to assess the proposal against Table 5.1 of the Building Height Strategy as contained in the Development Plan.

6.3.4. In terms of visual impact, the proposed development will have no potential negative impacts for the area in terms of impacts on the views or prospects to be preserved as identified in the Development Plan. Together with the site inspection I have considered the Design Statements and associated perspective views submitted by the applicant along with all submitted drawings including contiguous elevations. Sufficient space is left between the proposed new blocks and the existing house along with separation distances to site boundaries which ensure the scheme is not visually overbearing. The host property is not dwarfed by the new apartment blocks given that the parapet height of the third floor is similar to the roof ridge height of the house, while the parapet height of the 4th floor (which is itself set back) is similar to that of the house's main chimney. It is my opinion that the proposed development would not seriously injure the visual amenity of the area. The proposed apartment scheme is a well-designed contemporary development with good quality finishes and as such I am satisfied that it would visually integrate into the receiving landscape.

6.3.5. Overshadowing

6.3.6. Overshadowing concerns are raised specifically in relation to No. 19 Ashlawn adjoining the site to the east and No. 24 Ashlawn, located to the north-west of the site. A Daylight, Sunlight and Overshadowing Assessment Report was submitted with the application; an updated Assessment Report produced under the BRE Guidelines 3rd Edition (June 2022) was provided at Further Information stage, while a further response note on this issue was included as part of the applicant's response to the appeal submitted on behalf of Ashlawn Residents Association.

6.3.7. Sensitive receptors surrounding the site are identified in Table 1 of the Assessment received as Further Information. Vertical Sky Component (VSC) analysis is undertaken in relation to windows at Nos. 19 and 24 Ashlawn. The Assessment notes that the diffuse daylighting of any existing building may be adversely affected if the VSC measured at the centre of an existing main window is less than 27%, and

less than 0.8 times its former value. If the VSC is greater than 27% enough skylight should still be reaching the window of the existing buildings. The results are set out Table 7 of the Assessment and confirm that when the new development is in place, 100% of the tested windows comply with the VSC requirements for habitable rooms. As such the Assessment finds that the proposed development complies with the BRE guidelines relating to the skylight availability for Nos. 19 and 24. An appellant notes that an east facing window in No. 19 was not tested. In this regard I note the response of the consulting engineers which advises that only main windows need to be assessed in accordance with the BRE guide. In this case the main window to the first floor room is north-facing and is unaffected by the proposal. Notwithstanding, and in order to avoid doubt, VSC analysis has been performed for this window with results showing a 5% reduction in skylight to the east facing window which is well within acceptable standards.

- 6.3.8. The next part of the Assessment relates to impact on sunlight to neighbouring gardens at Nos. 16, 19, 24, 32 and 34 Ashlawn with results set out in Table 8. These demonstrate that there is no impact on sunlight to the majority of gardens. The rear garden at 24 Ashlawn experiences a reduction of sunlight of 1%. Based on the analysis and results the Assessment considers that the development would have a negligible impact on sunlight to neighbouring gardens and that the proposal complies with the requirements of the BRE guidelines with regards to sunlight/shadow to amenity areas. An appellant notes that the front garden of No.19 is not assessed. In this regard I note the response of the consulting engineers to the appeal referring to the BRE guide which confirms that driveways, hardstanding for cars and small front gardens should not form part of the analysis and should therefore be omitted.
- 6.3.9. The final parts of the analysis show that all rooms tested in the proposed development meet or exceed the minimum BRE recommendations for internal daylight provision, with results detailed in Tables 10 to 14 of the Assessment. Figure 22 provides results of the sunlight test for the proposed communal open space at the south of the site, which exceeds the BRE's recommendation for sunlight to open spaces and is expected to appear adequately sunlit throughout the year.
- 6.3.10. Having regard to the content and findings of the Daylight and Sunlight Assessment and to the response note from BPC Engineers to the appeal, I am satisfied that the analysis is robust and that the proposed development would not cause undue

overshadowing impacts to adjoining properties and their associated private amenity areas. While the BRE Guidelines provide minimum recommended targets / levels as referred to by one of the appellants, the Assessment has demonstrated that negligible impacts on skylight to adjoining properties and on sunlight to adjoining amenity spaces arise from the proposed development. The Assessment has also demonstrated that the proposed development would have adequate internal daylight provision and that the rear communal amenity space would be adequately sunlit throughout the year.

6.3.11. Overlooking

6.3.12. Third party submissions express concern that the proposed development would overlook adjoining houses and private amenity spaces. The County Development Plan notes that all proposals for residential development, particularly apartment developments and those over three storeys high should provide for separation distances of approximately 22 metres between blocks to avoid negative impacts including excessive overlooking effects (Section 12.3.5.2 refers). Section 12.8.7.1 of the County Development Plan sets a minimum standard of 22 metres separation between directly opposing rear first floor windows. In this regard I note SPPR 1 of the Sustainable and Compact Settlements – Guidelines for Planning Authorities (2024) states that a separation distance of at least 16 m 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.

6.3.13. Separation distances between south facing windows above ground level of Blocks A and B and existing housing to the south are in excess of 22 m. I consider such separation distances as sufficient to prevent undue / excessive overlooking impacts arising. Separation distances between the proposed Blocks and the front (northern) site boundary are acceptable, given that the Blocks generally address the public road which adjoins that boundary. Block B is located approximately 11 m from the side elevation of No. 24 Ashlawn. Given the absence of first floor windows in the side / south elevation of that property, no undue overlooking impacts arise.

6.3.14. At its nearest point Block A is located approximately 5.2 m from the side elevation of No. 19 Ashlawn. The planning authority raised concern of possible overlooking impacts arising from the western facing windows of Block A onto the rear private

open space associated with No. 24. Opaque glazing was proposed to prevent such overlooking impacts however the planning authority sought by way of a Further Information request alternative design solutions to address this matter. In response, the use of opaque glazing on the western elevation of Block A is minimised and a range of design measures to minimise overlooking impacts to the west are proposed. Such measures include provision of narrow windows with opaque glass used as secondary windows to add daylight without causing overlooking impacts, bedrooms with narrower windows facing north and south, along with high level windows facing west are proposed. On the eastern elevation of Block A, the windows and balcony screens at ground and first floor level have opaque glazing to their secondary windows, protecting private amenity spaces and living rooms of apartments in Block C. There is no opaque glass proposed for Block B. One window at ground floor level in Block C is fitted with opaque glazing preventing views from the kitchen to the private amenity space and living room of the adjacent apartment in Block B. In my view the use of opaque glazing in the development is significantly reduced and the proposed design response to mitigate overlooking impacts to No. 19 Ashlawn and between the Blocks is reasonable and acceptable.

- 6.3.15. Having regard to the foregoing, the design of the proposed scheme and its position on the site relative to boundaries I consider that the proposal accords with Development Plan Policy Objective PHP20 – Protection of Existing Residential Amenity.

6.4. Landscaping

- 6.4.1. It is apparent from the submitted plans and documentation provided that the proposal would result in significant removal of vegetation from the site to facilitate the development and I acknowledge the third party concerns in relation to this. I note that the site is not subject to any objectives in terms of protection or preservation of any trees or woodland. The Arboricultural Assessment submitted with the application examines the condition of trees and shrubs / hedges across the site (Drawing BLT001 refers) and also the impact the proposed development would have on these. Proposed tree protection measures are also detailed and are referenced on Drawing BLT002. A total of 35 trees out of 39 are proposed for removal along with 3 tree lines, 1 hedge and 3 shrub borders. The trees proposed for removal comprise 10 no.

'U' category trees (low quality, anticipated to be lost within 10 years), 3 no. Category B trees (moderate quality, minimum of 20 years' life remaining).

6.4.2. I note that three mature trees of good quality (Category B) will be retained at the southern part of the site within the communal open space area including a Holm Oak tree which will be the main feature in the central lawn area. A Corsican Pine tree along the existing driveway adjoining Ballinteer Road is also to be retained. A new planting tree structure of various semi-mature specimens is proposed. The Landscape Masterplan provided with the Further Information response confirms that 57 new trees are proposed across the site along with hedge and shrub planting which I consider will assist in mitigating the loss of mature trees and other vegetation from the site.

6.4.3. I note the report of the Parks and Landscape Services Section does not object to the proposal and provides conditions to be adhered to including the appointment of a qualified arborist for the entire period of construction and that all recommendations outlined in the Arboricultural Assessment and Tree Protection Plan are implemented. In my view the proposed landscaping scheme is acceptable. Should the Board decide to grant permission I recommend inclusion of appropriate conditions requiring the mitigation measures as set out in the Arboricultural Assessment and Ecological Impact Assessment (as referred to in section 6.8.9 below) to be fully implemented.

6.5. Residential Amenity for future occupants

6.5.1. The proposed development provides for floor areas above the minimum set out in SPPR 3 of the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (DHLGH, 2023). All units either meet or exceed minimum storage areas and private amenity spaces in the form of balconies/terraces as set out in the Guidelines. Floor to ceiling heights are greater than 2.7 m at ground floor level and as such the proposal complies with SPPR 5. Communal open space (approximately 400 sqm) is available south of the proposed scheme. No public open space is provided for.

6.5.2. A basement car park provides 28 no. parking spaces and storage lockers for each unit. 6 surface car parking spaces are proposed along with two motorcycle spaces (one at surface level, the second in the basement). 30 no. bicycle parking spaces are

provided for visitors; 50 covered and secure bicycle parking spaces are provided for residents.

- 6.5.3. 30 units / c 96.7% of units are dual or triple aspect as demonstrated in the Design Standard information submitted with the Further information response.
- 6.5.4. The applicant has submitted a revised Daylight and Sunlight Assessment Report and as set out above the various analyses demonstrate compliance with the BRE Guidelines (BRE 209).
- 6.5.5. The Planning Authority conditioned that the roof areas are not accessible except for maintenance purposes. I agree with this and a similar condition should be attached to any recommended grant of permission.
- 6.5.6. Having regard to the foregoing I conclude that the proposed development would offer a good standard of residential amenity to future residents.

6.6. Flood Risk

- 6.6.1. Serious concerns are raised in the third party submissions that the proposed development is located on a flood plain. The credibility of the SSFRA is also questioned. I note that the SFRA prepared for the Draft Development Plan indicates that some eastern parts of the appeal site are located in Flood Zone B. The primary flood risk mechanism for this specific site is fluvial flooding from the Slang River. As outlined in the SSFRA provided with the Further Information submission and also within the response letter to the appeal prepared by the relevant consulting engineers, the SSFRA has had regard to additional detailed topographic data to better inform the flood model and identify the flood extents, enabling increased accuracy of the flood risk predictions at the site. Having regard to this information which is factored into the SSFRA it is apparent that the only areas of the proposed development shown to be affected by flooding events and within Flood Zone B would be the existing access road / driveway from the R826 and a car parking space.
- 6.6.2. I am satisfied from an examination of the SSFRA that the proposed residential development which is classified as a highly vulnerable development is wholly located in Flood Zone C. The Planning Systems and Flood Risk Management Guidelines (2009) define the categories based on the specific structures rather than the site

itself. The access road from the R826 and the car parking space falls under a less vulnerable category, meaning that the driveway / car-parking space can be in Flood Zone B. Therefore, a Justification Test is not required. The proposal includes surface water drainage measures to ensure that the development will not obstruct flow paths or increase flood peaks in the Slang River. Consequently, the development will not elevate flood risk at the site or elsewhere.

- 6.6.3. In conclusion, the proposed development is suitable under the Planning Systems and Flood Risk Management Guidelines (OPW, 2009) and will not have adverse effects on flood risk to adjacent properties.

6.7. Transportation and Access

6.7.1. Two-way cycle lane

- 6.7.2. The third party submissions indicate significant opposition to the construction of a two-way cycle lane along the length of the existing driveway leading to the site accessed off Ballinteer Road. The proposed provision of the cycle-track was raised by Transportation Section to enhance connectivity to the existing cycle network in the area by repurposing part of the site access, in addition to the adjoining area in the ownership of the local authority, for the provision of a cycle track with connectivity to the Slang Greenway and potential connectivity with existing cycle infrastructure to the south on Wyckham Way. This issue formed part of the Further Information request (Item 7) to the applicant who provided revised drawings for inclusion of the cycle track along the alignment of the existing access driveway at the site's eastern boundary, extending from the northern site boundary to the southern site boundary.
- 6.7.3. As set out above, objectors to the proposed development consider, inter alia, that the cycle track is an unplanned proposal fundamentally altering the residential scheme, that it does not connect into any existing cycleway and is not included in the Development Plan. Furthermore, it is submitted that the local authority is the de-facto applicant, assessor and beneficiary of this infrastructure and its provision in the manner proposed as part of this planning application is unlawful.
- 6.7.4. I note several policy objectives set out in Chapter 5 'Transport and Mobility' of the County Development Plan relating to development of sustainable travel options and

promoting modal change. For instance, Policy Objective T5 relates to the optimisation of existing / proposed transport corridors to facilitate public transport improvements which specifically includes the development of cycling network facilities at appropriate locations. Policy Objective T11 relates to walking and cycling and clearly seeks to deliver high quality, fully connected and inclusive walking and cycle networks across the County. Having regard to these aforementioned policy objectives along with others referred to under section 4.1 of this report and also having regard to national policy supporting active and sustainable travel I consider it acceptable and appropriate for the planning authority to request the applicant to provide revised drawings and details for a cycleway on lands adjoining Ballinteer Road. In my view the nature of the appeal site and its location adjoining Ballinteer Road proximate to existing cycle infrastructure and the River Slang Greenway provides an excellent opportunity to further develop sustainable cycling infrastructure in the area which will be of benefit to existing and future residents in the vicinity. I note that the proposed cycle lane at this location would not extinguish access to the appeal site which would be accessible to both pedestrians and cyclists. The planner's report clarifies that the delivery of the cycle lane would be the responsibility of the planning authority as would the future extension of the cycle lane outside the red line boundary with connection into existing cycle infrastructure in the area.

- 6.7.5. I note that one of the third party appellant's, Ashlawn Residents Association, considers that the local authority has acted unlawfully by 'demanding' the applicant to deliver a section of carriageway to be used as a cycleway, with reference made to Section 7.11 of the Development Management Guidelines (2007) 'Conditions requiring the ceding of land' and a number of legal cases including that of Ashbourne Holdings Ltd. V. An Bord Pleanála. In terms of Section 7.11 of the Development Management Guidelines and the aforementioned legal case I note that the planning authority has not attached conditions requiring land to be ceded to the local authority and no condition is included which requires the applicant to allow the creation of public rights of way. Furthermore, I note that the Development Management Guidelines (Section 7.11) state that elements of 'planning gain' not strictly required as part of the development but of benefit to the public may be accepted as part of a permitted development. I do not agree with the appellant that the local authority demanded the applicant to deliver a section of carriageway to be used as a

cycleway; it is clear from documentation on the file that the planning authority made a Further Information request to the applicant, requesting, inter alia, submission of revised drawings for inclusion of a two-way cycle track along the alignment of the existing access driveway. As such I do not consider that the planning authority has acted unlawfully in this regard.

6.7.6. The Quality Audit submitted as part of the Further Information response identified two problems associated with the proposed cycle track, specifically that it is unclear how southbound cyclists will access the new two-way track and that it terminates at the Ballinteer Road junction and it is unclear where southbound cyclists are to travel to thereafter. I recommend that, should the Board decide to grant permission, a condition relating to the resolution of these issues prior to commencement of development is appropriate.

6.7.7. Access and egress at Ashlawn

6.7.8. Access and egress at Ashlawn to the proposed development is opposed by the appellants and observers who cite concerns including traffic congestion, road safety issues and light pollution from car headlights.

6.7.9. It is the case that the proposed access and egress arrangement at Ashlawn will eliminate the need for vehicles to access onto Ballinteer Road, a busy regional road (R826), thereby reducing potential hazards associated with turning movements onto that road. Having inspected the site and the surrounding road network I am of the opinion that there is sufficient capacity to cater for the quantum of traffic likely to be generated by the proposed development. The Residential Travel Plan / Mobility Management Plan provided at Further Information stage considers the proposed development would generate limited car-based trips and I note that Transportation Section concur, indicating traffic through Ashlawn would be relatively low. Having regard to the number of units and associated car parking proposed (34 spaces in total) I am satisfied that the proposed residential development would not lead to traffic congestion in the Ashlawn estate. In my view traffic flow to and from this proposed development is likely to be dispersed over the course of the day.

6.7.10. The existing access road through Ashlawn is approximately 7 m in width and is within a 30 kph speed limit zone. The road is DMURS compliant and has capacity to cater for the proposed development as demonstrated in the applicant's response to

Item 8 of the Further Information response. Therefore I do not consider that road safety in the Ashlawn estate would be compromised by the proposed development.

6.7.11. Given the total number of car parking spaces proposed to serve the development I do not anticipate significant impacts in terms of light pollution from vehicles over and above the existing situation in this urban area.

6.7.12. Car and bicycle parking

6.7.13. Concern is expressed that inadequate car parking provision is made for the proposed development leading to potential over-spill car parking along the road at Ashlawn and availing of parking spaces there.

6.7.14. 34 no. car parking spaces are proposed in total, 28 at basement level and 6 at surface level. These include 2 no. accessible spaces at surface level. 2 no. motorbike spaces are also proposed along with 80 no. bicycle spaces.

6.7.15. Given the relatively modest size of the basement carpark (28 no. car parking spaces), the anticipated low-speed environment at this location and the position of the facility on the site away from the public road, I consider that the proposed one-way ramp to access this facility is acceptable and would not cause a traffic hazard. I note also that the design of the carpark complies with 'Design Recommendations for Multi-Storey and Underground Car Parks' produced by The Institution of Structural Engineers.

6.7.16. The appeal site straddles within Parking Zones 2 and 3 of the Dun Laoghaire Rathdown County Development Plan 2022-2028, as set out in Table 12.5 and displayed on Map T2. Provision of 1 parking space is standard for 1 and 2 bedroom apartments in Zones 2 and 3 although reduced provision may be acceptable having regard to Section 12.4.5.2 with particular regard to infill or brownfield developments. In Zone 3 additional parking shall be provided for visitors in residential schemes at a rate of 1 per 10. In my opinion 34 no. car parking spaces is more than sufficient to cater for the proposed development.

6.7.16. 80 no. bicycle spaces are proposed in total consisting of 50 bicycle spaces for residents, which are covered and secure, and 30 visitor spaces, all positioned at appropriate and convenient locations across the site. Bicycle parking provision for residents accords with the required standards as set out in the Sustainable Urban

Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (DHLGH, 2023) while the number of spaces for visitors exceeds the minimum standard.

6.7.17. Having regard to the quantum of units proposed I do not consider that a public transport capacity study is necessary in this instance.

6.7.18. I am satisfied that both the basement vehicle and refuse vehicle swept path assessments provided at Further Information stage are accurate and acceptable.

6.8. Other Issues

6.8.1. Noise

6.8.2. Particular concerns are raised in relation to noise impacts arising from construction impacts. The submitted Environmental Noise Survey notes there will be construction / demolition phase noise while works are taking place proximate to the nearest Noise Sensitive Locations (NSLs). A number of noise mitigation measures are proposed including selection of quiet plant, noise control at source, use of screening / hoarding as an additional measure to other forms of noise control, and development of a Public Liaison Plan. The Noise Survey concludes that with the implementation of mitigation measures negative impacts on noise sensitive receptors are not anticipated. I note that the engineering specifications of proposed screen barriers were provided with the applicant's response to one of the appeals. Hoarding encompassing the site will reduce noise by 25 decibels along the southern, western and northern boundaries, while there will also be additional acoustic screening, providing an additional 25 decibel reduction around the perimeter of the basement car park and ramp during the construction phase. I consider the proposed mitigation measures to be appropriate and acceptable. Should the Board decide to grant permission I recommend inclusion of a condition requiring submission of a Noise Management Plan for the written agreement of the planning authority prior to commencement of development.

6.8.3. Construction disturbance

6.8.4. I consider that any construction phase disturbance impacts on adjoining properties will be temporary in nature. Such impacts are inevitable and unavoidable aspects

associated with urban development. I am satisfied that this matter can be appropriately agreed by conditions requiring the submission of construction management proposals to address any impacts. In this context I note that a number of plans are provided including an Outline Construction Environmental Management Plan, Construction Management Plan and Resource and Waste Management Plan identify measures to avoid nuisance impacts arising to neighbouring residents. The final details of these plans including a site specific CMP will be subject to agreement with the planning authority prior to commencement of development, and as such I am satisfied that these matters can be satisfactorily addressed by way of planning condition.

- 6.8.5. I consider the proposed hours of construction should equate to those specified under Section 12.9.5 of the current Dun Laoghaire Rathdown County Development Plan and which are detailed in condition 10 of the planning authority's decision.
- 6.8.6. The Outline CEMP notes that the construction compound is proposed to be located along the northern of the site. The construction site car park will be along the existing access road leading the Ballinteer Lodge and no contractor parking is proposed on public roads outside of the site. I consider these proposals to be acceptable.
- 6.8.7. Public open space
- 6.8.8. I note that no public open space provision is proposed to serve the development. Should the Board decide to grant permission I recommend inclusion of a condition requiring payment to the planning authority of a special financial contribution, under Section 48(2)(c) of the Planning and Development Act 2000 as amended, in lieu of the provision of public open space, to fund improvements to the existing public open space at Ludford and Ballawley Park, which would benefit the proposed development.
- 6.8.9. Ecology
- 6.8.10. An EclA and a Bat Impact Assessment were submitted as part of the response to the request for Further Information. No rare plant species of conservation value and no mammals of conservation value were noted on site during the field investigation. The EclA finds that the overall development of the site is likely to have direct negative impacts on existing habitats, fauna and flora. Standard construction and operational stage mitigation measures are proposed to address impacts of the proposed

development. In terms of the overall impact on the ecology of the site the EcIA notes the proposal will result in a long term minor adverse, not significant residual impact on the area and locality. Provided the proposed works are undertaken in accordance with the proposed mitigation measures and best practice that is described within this report, significant effects on ecology are not anticipated. As such, the proposed works are in line with environmental and biodiversity planning policy. In my view the appropriate landscaping of this site is likely to have benefits for biodiversity into the future.

6.8.11. The Bat Impact Assessment provided in response to the Further Information request was undertaken outside of the active bat season between May and September. I note however that the applicant provided a new Bat Impact Assessment based on surveys undertaken in late May 2023 which show no evidence of bat roosting on the site. Three trees of bat roosting potential are noted, one of these (Tree 1009) is proposed for removal. There is a low level of bat activity on the site. The development is likely to displace bats from foraging at the site during the construction stage. The lighting plan will comply with bat lighting guidelines. Mitigation measures proposed comprise a pre-construction bat assessment and a post-construction assessment along with compliance with the proposed lighting strategy. Following implementation of the mitigation measures the Bat Impact Assessment notes it would be expected that there would be a minor adverse long term not significant impact on bats at the subject site and in its vicinity. Provided the proposed mitigation measures as outlined the report are implemented, I agree that there would not be a significant impact on bats arising from the proposed development.

6.8.12. Basement carpark

6.8.13. The CEMP provided with the application details the construction methodology of the proposed basement car park which accords with the 'Design Recommendations for Multi Storey and Underground Car Parks' prepared by the Institution of Structural Engineers. The basement structure shall be constructed with reinforced concrete perimeter retaining walls and reinforced concrete basement slab. All columns and load-bearing walls will be reinforced concrete and all non-load bearing walls will be solid brickwork. Having regard to the above and the proposed construction

methodology I do not anticipate adverse impacts on properties in the area arising from the construction of the car park.

6.8.14. Boundary with Ashlawn

6.8.15. Part of the existing northern boundary wall with Ashlawn (approximately 16 m) is to be demolished to allow development of the site entrance. A low brick wall and piers with round-bar railings on top is proposed immediately east of the vehicular entrance. In my view the proposed northern boundary treatment is appropriate and acceptable. Partial demolition of the wall between the appeal site and Ashlawn will facilitate pedestrian and vehicular access to and from the site, and given that filtered permeability to and from Ballinteer Road is also proposed, connectivity in the wider area will be significantly enhanced benefitting existing and future residents. I note that The Design Manual for Urban Roads and Streets defines “connectivity” as “how easily and directly users are able to move through street networks” and permeability as “the degree to which an area has a variety of pleasant, convenient and safe routes through it”. It indicates that permeability and connectivity should be one of the factors that influence the design of streets in urban areas. It advocates that residential layouts should limit the use of cul-de-sacs that provide no through access, they should maximise the number of walkable and cyclable routes between destinations. By maximising the connections within a site to its surrounding environment a street network will evolve that meets local accessibility needs. It also encourages high levels of pedestrian and cyclist permeability as it considered in so doing it would help to reduce reliance on cars as well as reduce the distance to be journeyed between places.

6.8.16. Surface water drainage

6.8.17. Notwithstanding that no areas within the scheme are to be taken in charge by the local authority apart from areas within the Council’s ownership, condition 8 (d) of the planning authority’s decision requires that the access road from the basement car park to Ashlawn is completed in accordance with the Council’s Taking in Charge standards. Upon review of the Taking in Charge policy guidance documents on the Council’s website (i.e. ‘Taking In Charge Development Standards Guidance Document’ June 2022 and ‘Taking In Charge Policy for Residential Development’ May 2022) I am satisfied that the proposed use of permeable paving for the access

road and proximate to the northern boundary with Ashlawn would not be contrary to the Council's taking in charge policy and guidance documents.

6.8.18. Proposed sustainable drainage systems (SuDS) for the development include green roofs for the new apartment blocks, permeable paved access road, footpaths and car parking along with infiltration drainage to prevent increased surface water run-off from the site. All surface water within the proposed development will be collected and attenuated prior to controlled discharge into existing public surface water infrastructure at Ashlawn which has sufficient excess capacity. An aco drain channel will be located at the verge of the permeable paving proximate to the northern site boundary to intercept and prevent surface water flow from the site into the Ashlawn estate. The revised SSFRA provided at Further Information stage details the SuDS measures to be incorporated into the proposed development. I am satisfied that the proposed surface water drainage regime for the development is acceptable and robust.

6.8.19. I consider that the proposed surface water drainage measures form part of standard construction methods and that they do not constitute mitigation measures to prevent impacts on any European Site.

6.8.20. Building Lifecycle Report (BLR)

6.8.21. A BLR was provided as part of the Further Information and includes a framework of costs for the proposed development. Should the Board decide to grant permission I recommend inclusion of a condition requiring the applicant to submit a revised BLR prior to commencement of development to incorporate an assessment of long-term running and maintenance costs as they would apply on a per residential unit basis, in addition to demonstrating the measures considered to effectively manage and reduce costs for the benefit of residents.

6.8.22. Site Notices

6.8.23. I am satisfied that the text of the public notices provided on foot of the further information is acceptable and appropriately alerted the public to the fact that significant further information and revised plans had been furnished to the planning authority. I note the large number of third party observations made in connection with the further information received. I am satisfied that concerned parties were not prevented from making representations.

6.8.24. Devaluation of property

6.8.25. I note the concerns raised in the grounds of appeal in respect of the devaluation of neighbouring property. However, having regard to the assessment and conclusions set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

6.9. **Appropriate Assessment Screening Determination (Stage 1, Article 6(3) of Habitats Directive)**

6.9.1. I have considered the proposed development of demolition of buildings, construction of 31 residential units, landscaping, boundary treatments, other servicing works and all associated site development works in light of the requirements of S 177S and 177U of the Planning and Development Act 2000 as amended.

A screening report for Appropriate Assessment was not submitted with this planning appeal case. However, in the Local Authority assessment of the proposed development, Appropriate Assessment Screening was undertaken by Dun Laoghaire Rathdown County Council as part of their planning assessment and a finding of no likely significant effects on a European Site was determined. Dun Laoghaire Rathdown County Council concluded the proposed development would not require the preparation of a Natura Impact Statement and Appropriate Assessment was not carried out.

A detailed description is presented in Section 2.0 of my report. In summary, the proposed development site is a brownfield site within a mixed use/suburban environment, surrounded by housing, roads and green space in the immediate vicinity. The development will comprise demolition of extensions to Ballinteer Lodge as well as ancillary structures and construction of 31 apartment units, and associated site works. The development includes surface water drainage measures before discharge to the local drainage system. Water and waste will be connected to local services.

There are no watercourses or other ecological features of note on the site that would connect it directly to European Sites in the wider area. The River Slang flows north and east of the appeal site and is a tributary of the Dodder River which discharges into Dublin Bay.

European Sites

The proposed development site is not located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation (SAC) or Special Protection Area (SPA). Two European sites are located within 5 kilometres of the potential development site.

- South Dublin Bay and River Tolka Estuary SPA [004024]
- South Dublin Bay SAC [000210]

The South Dublin Bay and River Tolka Estuary SPA comprises a substantial part of Dublin Bay. It includes the intertidal area between the River Liffey and Dun Laoghaire, and the estuary of the River Tolka to the north of the River Liffey, as well as Booterstown Marsh. A portion of the shallow marine waters of the bay is also included. South Dublin Bay and River Tolka Estuary SPA is designated for a suite of waterbirds and their wetland habitat, for wintering waterfowl, as a site for a number of tern species and as a site supporting a population of Light-Bellied Goose.

South Dublin Bay SAC is an example of a coastal system with extensive areas of sand and mudflats. The sediments are predominantly sands but grade to sandy muds near the shore at Merrion Gates. The main channel which drains the area is Cockle Lake.

Given the limited scale of the proposal, I do not consider it necessary to examine the potential for significant effects on any European Sites beyond the above-mentioned.

European Site	Qualifying Interests (summary)	Distance	Connections
South Dublin Bay and River Tolka Estuary SPA [004024]	Waterbirds (x 13 species) Wetland and waterbirds	5 km	No direct
South Dublin Bay SAC [000210]	Habitats and/or species: Mudflats and sandflats not covered by seawater at low tide, Annual vegetation of drift lines, Salicornia and other annuals colonising mud and sand, Embryonic shifting dunes	5 km	No direct

Likely impacts of the project (alone or in combination)

Due to the enclosed nature of the development site and the absence of a hydrological connection between the brownfield site and any European Site, I

consider that the proposed development would not be expected to generate impacts that could affect anything but the immediate area of the development site, thus having a very limited potential zone of influence on any ecological receptors.

The proposed development would not have direct impacts on any European site. During site clearance, demolition and construction of the proposed development and site works, possible impact mechanisms of a temporary nature include generation of noise, dust and construction related emissions to surface water.

The contained nature of the site (serviced, defined site boundaries, no direct ecological connections or pathways) and distance from receiving features connected to South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay SAC make it highly unlikely that the proposed development could generate impacts of a magnitude that could affect European Sites.

Likely significant effects on the European sites in view of the conservation objectives

The construction or operation of the proposed development will not result in impacts that could affect the conservation objectives of the SAC or SPA. Due to distance and lack of meaningful ecological connections there will be no changes in ecological functions due to any construction related emissions or disturbance.

There will be no direct or ex-situ effects from disturbance on mobile species during construction or operation of the proposed development.

In combination effects

The proposed development will not result in any effects that could contribute to an additive effect with other developments in the area.

No mitigation measures are required to come to these conclusions. I consider the provision of the surface water drainage system a standard measure and not a mitigation measure for the purpose of avoiding or preventing impacts to the SAC or SPA.

Overall Conclusion

Screening Determination

Having carried out Screening for Appropriate Assessment of the project in accordance with Section 177U of the Planning and Development Act 2000 (as amended), I conclude that that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Sites namely South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay SAC or any other European site, in view of the sites Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

This determination is based on:

- The relatively minor scale of the development and lack of impact mechanisms that could significantly affect a European Site
- The location of the site in a serviced urban area
- The distance from European sites
- No ex-situ impacts on birds

7.0 Recommendation

- 7.1. I recommend that permission be granted subject to the following conditions and reasons.

8.0 Reasons and Considerations

- 8.1. The proposed development, located in an established urban area within walking distance of public transport, accords with the provisions of the Dun Laoghaire-Rathdown County Development Plan 2022-2028. It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential, visual or environmental amenities of the area, would not constitute overdevelopment of the subject site, would not result in traffic hazard, would not have significant effects on ecology, would not have a significant impact on bats and would offer a good standard of accommodation to future residents. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

9.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 9th of August 2022, as amended by the further plans and particulars submitted on the 23rd of March 2023 and the further details received with the applicant's response to the appeal on the 12th of June 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>This permission is for the construction of 31 number apartments comprising 12 number one bedroom units and 19 number two bedroom units in in two four storey blocks and within the existing period house (Ballinteer Lodge).</p> <p>Reason: In the interest of clarity.</p>
3.	<p>Details of the materials, colours and textures of all the external finishes to the proposed apartment blocks shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>Prior to commencement of development the developer shall appoint a conservation expert to oversee and monitor all works to Ballinteer Lodge to ensure adequate protection of the historic fabric during those works. Any repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.</p>

	<p>Reason: To ensure that the integrity of Ballinteer Lodge is maintained and protected from unnecessary damage or loss of fabric.</p>
5.	<p>Prior to commencement of development the developer shall submit for the written agreement of the planning authority full details and specifications of all play equipment.</p> <p>Reason: To ensure the play equipment accords with relevant safety standards.</p>
6.	<p>Prior to commencement of development the developer shall submit for the written agreement of the planning authority a revised Building Lifecycle Report to include an assessment of long-term running and maintenance costs as they would apply on a per residential unit basis and which demonstrates measures to effectively manage and reduce costs for the benefit of residents.</p> <p>Reason: To comply with Section 6.12 of the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (DHLGH, 2023).</p>
7.	<p>(a) No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p>(b) The non-amenity roof areas shall not be accessible except for maintenance purposes only.</p> <p>Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>
8.	<p>(a) Prior to commencement of development the developer shall submit for the written agreement of the planning authority the detailed design of (i) the</p>

	<p>proposed cycle access on Ballinteer Road and (ii) the cycle path to be constructed within the development site, which shall have regard to the items raised in the Quality Audit submitted to the planning authority on the 23rd March 2023.</p> <p>(b) Prior to commencement of development the developer shall submit for the written agreement of the planning authority a Road Safety Audit (Stages 2 and 3) in order to demonstrate that appropriate consideration has been given to all relevant aspects of the development.</p> <p>(c) The measures recommended by the Auditor shall be undertaken, unless the Planning Authority approves any departure in writing. A detailed drawing(s) showing all accepted proposals and a feedback report should also be submitted.</p> <p>(d) The internal road network serving the proposed development, including turning bays, parking areas, footpaths and kerbs, and the junctions with the public roads shall be in accordance with the detailed standards of the Planning Authority for such works.</p> <p>(e) A total of 34 car parking spaces shall be provided, 28 at basement level and six at surface level. Two surface level car parking spaces shall be fully accessible.</p> <p>(f) At least 10% of all car parking spaces shall be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of EV charging points/stations at a later date. Details of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points shall be submitted to, and agreed in writing with the Planning Authority prior to commencement of development.</p> <p>(g) Two motorcycle parking spaces shall be provided.</p>
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	<p>Reason: In the interests of amenity, traffic and pedestrian safety, sustainable transportation and to provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.</p>
9.	<p>All mitigation measures outlined in the Ecological Impact Assessment received by the planning authority on 23rd March 2023 shall be carried out as specified.</p> <p>Reason: In the interest of clarity and to mitigate potential ecological effects.</p>
10.	<p>All mitigation measures outlined in the Bat Fauna Impact Assessment received by An Bord Pleanála on 12th June 2023 shall be carried out as specified.</p> <p>Reason: In the interest of clarity and to mitigate potential impacts on bats.</p>
11.	<p>(a) The developer shall comply with the requirements of the planning authority in relation to all tree works (including felling, removal and surgery) and tree protection measures.</p> <p>(b) All mitigation measures and recommendations outlined in the Arboricultural Assessment and Tree Protection Plan submitted with the planning application shall be carried out as specified.</p> <p>Reason: In the interest of clarity and to ensure adequate protection of existing trees and vegetation.</p>
12.	<p>Proposals for a development name, unit numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs and apartment unit numbers shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage</p>

	<p>relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
13.	<p>Drainage arrangements, including the attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
14.	<p>The developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
15.	<p>The landscaping scheme shown on Drawing No. LBAL060-100 as submitted to the planning authority on the 23rd day of March 2023 shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenity.</p>
16.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between the hours of 0700 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p>

	<p>Reason: In order to safeguard the amenities of property in the vicinity.</p>
17.	<p>All recommendations and mitigation measures outlined in the Environmental Noise Survey received by the planning authority on 23rd March 2023 along with the additional noise mitigation details received by An Bord Pleanála on 12th June 2023 shall be carried out as specified.</p> <p>Reason: In the interest of clarity and to mitigate noise impacts from the proposed development.</p>
18.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:</p> <ul style="list-style-type: none"> (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse; (b) Location of areas for construction site offices and staff facilities; (c) Details of site security fencing and hoardings; (d) Details of on-site car parking facilities for site workers during the course of construction; (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; (f) Measures to obviate queuing of construction traffic on the adjoining road network; (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

	<p>(h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;</p> <p>(i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;</p> <p>(j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;</p> <p>(k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;</p> <p>(l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.</p> <p>A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.</p> <p>Reason: In the interest of amenities, public health and safety.</p>
19.	<p>The demolition of the existing buildings and construction of the development shall be managed in accordance with a final Construction and Demolition Waste Management Plan and a final Construction and Environmental Management Plan, both of which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. These plans shall provide inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise management measures, dust and vibration management measures, construction traffic logistics, parking, mobility and access during the construction phase for workers and emergency vehicles, and off-site disposal of construction/demolition waste and/or by-products.</p> <p>Reason: In the interests of public safety and residential amenity.</p>

20.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To secure the protection of the trees on the site.</p>
21.	<p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.</p> <p>Reason: To protect the amenities of the area.</p>
22.	<p>All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.</p> <p>Reason: In the interest of orderly development and the visual amenities of the area.</p>
23.	<p>Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any apartment unit.</p>

	<p>Reason: In the interest of public safety.</p>
24.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
25.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>

26.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
27.	<p>The developer shall pay a financial contribution to the planning authority as a special contribution under section 48(2)(c) of the Planning and Development Act 2000, as amended, in lieu of the provision of public open space, to fund improvements to the existing public open space at Ludford and Ballawley Park, which would benefit the proposed development. The amount of the contribution shall be agreed between the planning authority and the developer, or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to commencement of the development and shall be subject to any indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.</p>

	<p>Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the Development Contribution Scheme or the Supplementary Development Contribution Scheme and which will benefit the proposed development.</p>
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I confirm that this report represents my professional planning assessment, judgment and opinion on the matter assigned to me and that no person has influenced or tried to influence, directly or indirectly, the exercise of my professional judgment in an improper or inappropriate way.

John Duffy
Planning Inspector

31st July 2024

Appendix 1 - Form 1
EIA Pre-Screening
[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-316955-23		
Proposed Development Summary	Demolition of buildings, construction of 31 residential units and all associated site development works, landscaping, boundary treatments and other servicing works.		
Development Address	Ballinteer Lodge, Ballinteer Road, Dundrum, 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) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class	EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			

		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes	X	Class 10 (500 DHS)		Proceed to Q.4

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

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-316955-23	
Proposed Development Summary	Demolition of buildings, construction of 31 residential units and all associated site development works, landscaping, boundary treatments and other servicing works.	
Development Address	Ballinteer Lodge, Ballinteer Road, Dundrum, Dublin 14	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The site is located on residential zoned lands. The proposed development is not exceptional in the context of the existing environment. There are apartment developments in the vicinity of the site.</p> <p>Construction waste can be managed through standard Waste Management Planning. Localised construction impacts will be temporary.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p>	<p>No. The total site area is approximately 0.44 ha.</p>	No

Are there significant cumulative considerations having regard to other existing and/or permitted projects?	No.	
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>No. The nearest European sites are South Dublin Bay SPA and South Dublin Bay SAC, located approximately 5 km north east of the appeal site. South Dublin Bay pNHA is also located approximately 5 km north-east of the site. The proposal includes standard best practices methodologies for the control and management of surface water on site.</p> <p>No.</p>	No
Conclusion		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		