



An
Bord
Pleanála

Inspector's Report

ABP-317274-23

Development

Construction of 108 apartments, creche, and all associated ancillary site works. The LRD application may also be inspected online at the following website set up by the applicant: www.lovelanelrd.ie.

Location

Site of 1.35Ha at Love Lane (also known as Blind Lane), Upper Dargle Road, Bray, Co Dublin

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

LRD23a/0170

Applicant(s)

Visdon Ltd

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Visdon Ltd

Observer(s)

None

Date of Site Inspection

20th July 2023

Inspector

Mary Crowley

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of c.1.35ha is located at Love Lane (also known as Blind Lane), Upper Dargle Road, Bray, Co. Dublin c. 1.2km to the west of Bray Town Centre. The site is located within the Dun Laoghaire Rathdown County Council administrative area. The Wicklow-Dublin County boundary marks the site's southern boundary.
- 1.2. The site is bounded to the north by residential lands known as 'Ard Chualann' or Hazelwood Crescent, to the west by a bund or level landscaped lands which are bounded further west by the M11 Road. To the south by a steep incline and the banks of the County Brook and further beyond this by residential dwellings which front onto the Upper Dargle Road. To the east by Love Lane and Blind Lane, with Diamond Valley Apartments further to the east. To the south and east is the Egan's Business Centre.
- 1.3. The site has direct access onto Love Lane/ Blind Lane to the east from where the existing access to the site is provided. Love Lane in turn is accessed via the Upper Dargle Road and is adjacent to the Fassaroe interchange on the M11 Motorway. Love Lane has a sharply sloping gradient up to 15% in places. Love Lane also provides access to the larger Fassaroe housing scheme which consists of lower density two storey housing estates.
- 1.4. There is a significant gradient level change on the site with a steep rise from the southeast to the northwest, with a gradient incline of c. +20 meters from the Upper Dargle Road to the plateau of the site where the proposed development will be sited. Beyond the application redline area are the existing banks of the County Brook which have a severe change in level from the County Brook to the plateau ridge. This area is within the ownership of the applicant but are not included within this application. This area is rich in vegetation which will remain untouched by this application save for the provision of a surface outfall to the stream parallel to the public road.

2.0 Proposed Development

- 2.1. Planning permission is sought for a Large-Scale Residential Development consisting of demolition of an existing dwelling, and construction of 108 no. apartments

(comprising 32 no. 1-bed, 53 no. 2-bed and 23 no. 3-bed units) within 3 no. blocks, ranging in height up to 6 storeys as follows:

- Block 1 will range in height from 4 to 5 storeys and will provide 36 no. apartments.
- Block 2 will range in height from 5 to 6 storeys and will provide 44 no. apartments.
- Block 3 will range in height from 3 to 5 storeys and will provide 28 no. apartments.

- 2.2. All residential units will have associated private balconies/terraces to the north/south/east/west elevations. The development will also include the provision of a creche (c.252sqm gross floor area / 30 no childcare spaces) located on the ground floor of Block 3; 132 no. car parking spaces, 148 no. cycle parking spaces and 4 no. motorcycle spaces, located at undercroft and surface level. The development will also include the provision of an acoustic barrier along the western boundary of the site with the M11.
- 2.3. The site's topography and context limit the permeability and accessibility of the site in all directions. The steep slopes to the south and the M11 to the west limit the potential for new pedestrian connects through the site from those directions. As a result, there are two entrance points into the site – the main vehicular entrance to the north and the pedestrian path to the east both from Love Lane. A new footpath is proposed along Love Lane/Blind Lane which will increase the safety for pedestrians walking up to access the site from the northern entrance. The pathway down the eastern slope includes seating to provide rest points for those walking up or down the steep slope.
- 2.4. All associated site development works, site reprofiling, water services, open spaces, landscaping, SuDs features, boundary treatments, plant areas, waste management areas/bin stores, car/cycle parking areas (including EV parking), and services provision (including ESB substations) will also be provided.
- 2.5. A large public open space is proposed to the east of the apartment blocks, located atop the plateau of the site. This open space contains a children's play area, a large, grassed area, exercise areas, and seating. It has been designed to serve both the proposed development and the wider area. This space will be accessible through the main entrance into the site from the north and from the proposed path down to Love Lane/Blind Lane to the east. The landscaping plan includes a meandering path down the eastern embankment to Love Lane/Blind Lane. Resting points and seating are

provided along the path to provide visual amenity opportunities and maximise accessibility and the path will open up to a small plaza area at the base of the embankment. This path will be publicly accessible and will provide an additional access point to the public open space and apartment blocks atop the plateau.

2.6. There are three communal open spaces provided, one for each apartment block. One communal open space is located to the south of the Block 1. A second communal open space is located to the east of Block 2, adjacent to the public open space. A third communal open space is provided to the north of the site, framed by Block 3. An outdoor play area is provided for the creche, to the west of Block 3. This is located close to the M11 and the proposed acoustic barrier will reduce the noise impact experienced by the outdoor area.

2.7. The key quantitative development indicators pertaining to the scheme may be summarised as follows:

Development Statistics	Proposed
No of Units	108 comprising <ul style="list-style-type: none"> ▪ 32 no 1 bed units (30%) ▪ 53 no 2 bed units (49%) ▪ 23 no 3 bed units (21%)
Facilities	Creche (252 sqm) (30 no children and 6 no staff)
Site Area	c. 1.35 ha (gross) c1.3ha (net)
Density	80 uph (gross) 83 uph (net)
Plot Ratio	0.82 (gross) 0.85 (net)
Site Coverage	24% (gross) 25% (net)
Building Height	3 – 6 storeys
Aspect	58.3% Dual Aspect
Public Open Space	2,404 sqm or 16% (net) 2,101 sqm excluding the attenuation area of 303 sqm
Communal Open Space	882 sqm

	<ul style="list-style-type: none"> ▪ COS 1 : 380 sqm ▪ COS 2 : 288 sqm ▪ COS 3 : 241 sqm
Car Parking	<p>132 spaces</p> <ul style="list-style-type: none"> ▪ 62 no surface spaces ▪ 70 no undercroft spaces
Cycle Parking	<p>148 no spaces</p> <p>114 no secure long stay spaces (108 no residential, 6 no for creche)</p> <p>34 no short spaces (24 no residential, 10 no for creche)</p>
Motorcycle Parking	4 no spaces

2.8. The application was accompanied by the following documents and details:

Arborists

- Arboricultural Assessment
- Tree Constraints Plan
- Tree Protection Plan

Architects

- Architectural Design Statement
- Building Lifecycle Report
- Schedule of Accommodation & Housing Quality Assessment
- Site Statistics Overview

Engineers

- DMURS Compatibility Statement
- Engineering Infrastructure Report & Stormwater Impact Assessment
- Irish Water Confirmation of Feasibility & Stormwater Impact Assessment
- Preliminary Geotechnical Report
- Site Specific Flood Risk Assessment

- Stage 1 /2 Road Safety Audit
- Traffic & Transport Assessment & Mobility Management Plan
- Walk and Cycle Audit
- SuDS Details
- Road Details

Landscape

- Landscape Rationale
- Response to An Bord Pleanála Opinion & Dun Laoghaire Rathdown County Council Parks & Landscape Service Division Recommendations with respect to Landscape
- Landscape Masterplan
- Landscape Sections
- Landscape Sections
- Boundary Plan & Details
- Engineers Services Plan
- Pedestrian & Cycle Routes
- Public Open Space Plan

Planning

- Appendices to Application form
- Application Form
- Application Form 19
- EIA Screening Statement
- Public Notices
- N11 / M11 Upgrade Update Letter
- Part V Proposal (10% / 11 units)
- Planning Report

Other

- Verified Views and CGIs
- Daylight and Sunlight Assessment Report
- Invasive Species Management Plan
- Appropriate Assessment Screening
- Ecological Impact Assessment
- Letter of Response to DLR Biodiversity Department
- Archaeological Assessment
- Construction Environmental Management Plan
- Construction Management Plan
- Energy Statement
- Environmental Noise Survey
- Glint & Glare Assessment
- Operational Waste & Recycling Management Plan
- Outdoor Lighting Report & Public Lighting Layout
- Resource & Waste Management Plan
- Wind Microclimate Modelling
- Site Taking in Charge Plan
- Site Layout Phasing Plan
- Bin Bicycle Store Enclosures & Substation

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Dun Laoghaire Rathdown County Council issued a notification of decision to refuse permission for 2 no reasons relating to (1) N11 / M11 upgrade and N11 / M11 Bus Priority Interim Scheme and (2) height, scale and massing as follows:

- 1) *The proposed development is premature pending the determination of the N11/M11 Junction 4 to Junction 14 Improvement Scheme and the N11/M11 Bus Priority Interim Scheme. Furthermore, the proposed development, by itself, or by the precedent that the grant of permission for it would set for other relevant development, would adversely affect the use of the N11/M11 by traffic. The proposed development would be contrary to Sections 5.4.2 Policy Objective T24: Motorway and National Routes and Sections 5.4.3 Policy Objective T3: Delivery of Enabling Transport Infrastructure of the Dún Laoghaire-Rathdown County Development Plan 2022-2028. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
- 2) *The proposed development, by reason of its height, scale, and massing in conjunction with the topography of the site would not successfully integrate into nor enhance the character and public realm of the area. The proposed development would present a negative visual impact upon the receiving environment contrary to the provisions under Section 4.4.1 Quality Design and Placemaking of the Dún Laoghaire-Rathdown County Development Plan 2022-2028. The proposal is considered to be contrary to Urban Development and Building Heights, Guidelines for Planning Authorities Dec 2018 and Policy Objectives PHP 42: Building Design and Height, BHS 3 Building Height in Residual Suburban Areas and Appendix 5: Building Heights Strategy of the Dún Laoghaire-Rathdown County Development Plan 2022-2028. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **Case Planner** has provided a detailed planning assessment within which a number of issues have been identified in relation to density, height, scale and mass, demolition of dwelling, parking provision, car sharing / set down, quality audit, construction management plan, refuse management, arboricultural matters, cycle connectivity, cycle parking, public lighting, noise mitigation, scheme

management together with additional technical concerns and impact on the determination of the N11/M11 Junction 4 to Junction 14 Improvement Scheme and the N11/M11 Bus Priority Interim Scheme. However, given that a refusal of permission was recommended based on visual impact by reason of height, scale and massing together with the prematurity of the development pending the determination of the N11/M11 Junction 4 to Junction 14 Improvement Scheme and the N11/M11 Bus Priority Interim Scheme the Case Planner did not seek further information in relation to the issues identified above. The notification of decision to refuse planning permission issued by DLRCC reflects the Case Planners recommendation.

3.2.2. Other Technical Reports

- **Environmental Enforcement** (04/05/2023) – No stated objection subject to conditions in relation to construction waste, public liaison plan, and liaison officer, construction environmental management plan, environmental monitoring, noise planning, operational waste management and invasive species management.
- **Biodiversity** (12/04/2023) – Considered that the EclA along with relevant appendices, adequately assesses the potential impacts on biodiversity from the proposed development, including on key ecological receptors both on site and within the zone of influence of the proposed development. No stated objection subject to conditions in relation to the applicant engaging the services of a qualified ecologist for the duration of the implementation of mitigation measures, measures of the protection of species and habitats, habitat and species management plan, landscape planting, lighting design, external lighting installation, protection of trees and scrub, invasive alien species, tree felling, removal and vegetation clearance, construction and environmental management plan, invasive species monitoring and operational environmental management plan.
- **Housing Department** (18/04/2023) – Part V condition to be attached to any grant of planning permission.
- **Environmental Health Service** (19/04/2023) – Further information requested in relation to the provision of a dust management plan, predicted noise levels for piling and distance from construction activities of noise sensitive locations.

- **Building Control** (13/04/2023) – Development to comply with DLRCC Taking in Charge Policy for Residential Development (May 2022) and Taking in Charge Development Standards Guidance Document (June 2022).
- **Parks & Landscape Services** (12/04/2023) – In the event that further information is sought the following items should be addressed in relation to (1) attenuation area and (2) revised landscape plans. In the event that planning permission is granted the following conditions should be applied in relation to (1) amended landscape plans, (2) implementation of amended and agreed landscape plans, (3) tree bond and arboricultural agreement, (4) retention of landscape consultant and (5) retention of arboricultural consultant, protective fencing / notice and prior notification.
- **Transport Planning** (06/04/2023) – Until such a time as the full extent and impact of the N11/M11 Scheme are known and the potential for the N11/M11 Scheme to impact upon the scheme site is understood it is considered that any proposed development within this site is premature. In the event that the proposed development is not considered to be premature it is recommended that Further Information be sought in relation to:
 - 1) Adequate provision of surface level cycle parking
 - 2) Provision of a 3m wide cycle track along the full extent of the northern and western boundaries
 - 3) Proposed allocation of all car parking spaces
 - 4) Set-down area to facilitate deliveries at the proposed site.
 - 5) Provision of uncontrolled crossing point across Love Lane to include footpath facilities from the required uncontrolled crossing point on the west side of Love Lane to tie into existing pedestrian facilities on Upper Dargle Road, provision of appropriate raised pedestrian priority crossing treatment in accordance with DMURS, surface treatments throughout the proposed development which encourage pedestrian priority, pedestrian route from creche building to northern apartment Block footpath, alternative access from West to East (communal open space) which does not rely on stepped

access, provision of loading bay/delivery location and adequate sightlines across site and on Love Lane.

6) Revised independent Quality Audit which addresses the above raised items in relation to site layout and accessibility

7) Revised Construction Management Plan

- **Drainage Planning** (05/04/2023) – No stated objection subject to conditions as set out in the report. No site-specific flood risk issues arise.

3.3. Prescribed Bodies

- **Inland Fisheries** (24/03/2023) – Stated that there will be a direct hydrological connection / pathway from the proposed development site to the County Brook stream which discharges to the River Dargle, an extremely important migratory salmonid system. This connectivity has the potential to impact the watercourse at both the construction and post construction phases of the development if appropriate mitigation measures are not adopted and implemented. It is recommended that all the proposed mitigation measures that are outlined in the CEMP and other planning application reports to prevent and / or mitigate against pollution of adjacent watercourses are adopted and conditioned in full.
- **Wicklow County Council** (17/04/2023) – Concern is raised that the proposed development by virtue of its mass, scale and height will have a significant visual impact and that any development in study area for the N11/M11 (J4 M50 – J14 Coyne's Cross) should be guided by the provisions of the TII, and Kildare NRDO who are project managers for such upgrade works. Further comment is also made in relation to the remodelling of the lands along Love Lane, that Love Lane should be upgraded to accommodate the construction traffic and the development at the applicant's expense, pedestrian improvements should be considered in a westerly direction to meet the existing footpaths in the area, pedestrian facilities and improvement to the footpaths in the area should be provided, improvements to the junction of Love Lane and the Upper Dargle Road are required, proposed crossing point on Love Lane should be relocated south, information on the existing / proposed road gradient or improvements to Love / Blind Lane to be provided and

public lighting to be provided on Love / Blind Lane and the junction of this lane with the Upper Dargle Road.

- **Transport Infrastructure Ireland (TII) (14/04/2023)** – The site of the proposed development is located in an area considered for the N11/M11 Junction 4 to Junction 14 Improvement Scheme. The proposed development could prejudice plans for the design of this scheme and hence the application may be premature pending the determination of this route. The Authority recommends that the planning authority consult with the project office and Wicklow County Council in considering this application to ensure that the proposed development shall not be at variance with the section 2.9 of DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (January 2012).
- **Kildare National Roads Office (KNRO) (03/04/2023)** – Stated that the proposed development site boundary is located adjacent to the preferred corridor identified for the N11 / M11 junction 4 to Junction 14 Improvement Scheme and the preferred corridor identified for the N11 / M11 Bus Priority Interim Scheme. As such any proposed development in this area is deemed premature. Further comments may be summarised as follows:
 - **Noise Impact** - The following mitigation measures would be required to ensure residents are adequately protected against noise due to the development's proximity to the M11. Mitigation required to include construction a 4m acoustic barrier between the development and the M11 and mechanical ventilation is recommended for all the apartment blocks facing onto the M11
 - **Traffic Impact on National Road Network** – The development could potentially generate significant volumes which would have to be catered by the N11/M11
 - **Traffic Impact on National Road Network Interchanges** - The effect of the construction traffic or that of the developments traffic when it is operational has not been taken into account in the report.
 - **Lighting** – There could be some light from the new development which could affect the NRN.

- **Drainage** – It is unclear as to where the drainage from the scheme is to finally discharge to.
- **Irish Water (28/03/2023)** – A Statement of Design Acceptance was issued by Uisce Eireann on 08/02/2023. Stated that in order to accommodate the proposed connection at the development, the wastewater network will have to be extended by approx. 26m. via a bridge/stream crossing. It should be noted that the route of the works would require necessary statutory consents to deliver the works. Irish Water does not currently have any plans to extend its network in this area, therefore the applicant will be required to fund the extension. The fee will be calculated at a connection application stage. No stated objection subject to standard conditions as outlined in the report.

3.4. Third Party Observations

3.4.1. None

4.0 Planning History

- **ABP-305074-19** – A Section 5 pre-planning consultation meeting with An Bord Pleanála and Dun Laoghaire Rathdown County Council took place on the 11th September 2019 for 108 no residential units (28 no 1 beds, 67 no 2 beds and 12 no 3 beds) within 3 no blocks ranging in height from 4 to 6 storeys. An Bord Pleanála determined that the application required further consideration/amendment. Following this, An Bord Pleanála issued a Direction along with a Notice of Pre-Application Consultation Opinion (both dated 30th September 2019). A full planning application was never made under the SHD process. The Opinion outlined four issues to be addressed within an application and listed 12 no. items of specific information to be included within an application. The main issues to be addressed included:
 - Compatibility of the development with the delivery of the N11/M11 Junction 4 to Junction 14 Improvement Scheme
 - Architectural approach and the quality of the design
 - Open space

- Vehicular, pedestrian and cycle access from Blind Lane/Love Lane

Specific issues to be addressed included:

- A detailed landscape plan to address the provision of appropriate communal open space within the development having regard to the topographical variation across the site
- A full geotechnical assessment
- A report that specifically addresses the proposed materials and finishes
- Landscape and Visual Impact Assessment with photomontages and 3D modelling. Photomontages/CGIs to include additional views from the M11, the Upper Dargle Road and Love Land/Blind Lane
- A detailed Quality Audit to include Road Safety Audit, Access Audit, Cycle Audit and Walking Audit.
- A Mobility Management Plan.
- A detailed schedule of accommodation which shall indicate compliance with relevant standards in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' 2018.
- Additional drainage details having regard to the report of the DLRCC Drainage Division
- Daylight and Sunlight Analysis
- Childcare demand analysis
- Archaeological Impact Assessment
- A life cycle report
- **Reg Ref D09A/0004** – In 2009 DLRCC granted permission for revision to the development permitted under Reg Ref D07A/1471 subject to conditions. The key revision included:
 - An additional 29 no residential units, resulting in an overall total of 120 no residential units (25 no one bedroom units, 68 no two bedroom units and 27 no three bedroom units)
 - Revisions to the creche to provide a facility of 159 sqm (previously 127 sqm)

- Additional car parking spaces to provide a new total of 191 no spaces
- Additional cycle parking spaces to provide a new total of 110 no spaces
- **Reg Ref D07A/1471** – In 2008 DLRCC granted permission for 96 no dwelling units (18 no one bedroom units, 48 no two-bedroom units and 30 no three-bedroom units) in ten blocks ranging in height up to 4 storeys. The development also provided 150 no car parking spaces, 100 no cycle parking spaces and bin storage at basement level. The proposal included the demolition of 2 no habitable dwellings and associated out buildings.
- **ABP PL06D.224091 (Reg Ref D07A/0480)** – In 2007 DLRCC refused permission for 91 no dwellings (18 no 1 bed units, 49 no two bed units and 24 no three bed units) within 9 no blocks in height up to 4 storeys) including 136 no car parking spaces and cycle parking at basement level for 2 no reasons relating to (1) noise mitigation and (2) traffic hazard. The appeal to ABP was withdrawn.

5.0 Pre-Planning (LRD Opinion Ref LRD 001)

- 5.1. Section 247 pre-planning discussions and Formal LRD discussions were held with the Planning Authority on 10th March 2022 and on 27th October 2022 respectively pursuant to the requirements of the 2021 Act. Following on from this DLRCC issued an Opinion under Section 32D. This opinion advised that *‘Following consideration of the issues raised during the consultation process, the Planning Authority is of the opinion that the documentation submitted constitute a reasonable basis on which to make an application for permission for the proposed LRD’*. Additional "specific information" was also requested in the Opinion to be included in any subsequent planning application, including in relation to height/massing justification, architectural approach, visual impact, density, unit mix, open space/landscaping, transportation, ecology, drainage, water infrastructure, creche/community infrastructure, and other specific planning application reports.
- 5.2. The **Statement of Response** sets out how each matter raised in the Formal LRD meeting are addressed as follows:
- **Height & Massing** – In accordance with Policy Objective BHS 3 an assessment of the development under the criteria in Table 5.1 of Appendix 5 is provided and

where it is considered that the proposed height and massing of the development is appropriate and justified.

- **Architectural Approach & Visual Impact** – Section 2.12 of the Design statement demonstrates that the proposed development meets and exceeds the design standards in both national and local planning policy. This is further reinforced by the Housing Quality Assessment, Visual Impact Assessment and a range of supporting analysis including a significant number of verified views (summer and winter), daylight/sunlight analysis, wind microclimate analysis and noise assessment, and which the final design has had full regard to and incorporated additional measures to further improve the impact of the development.
- **Unit Mix & Residential Amenity** – The proposed development exceeds all national and local plan minimum sizes in terms of unit size, private amenity area, room sizes, storage areas and orientation and aspect.
- **Open Space & Landscaping** – Over 18% of Public Open Space or 2,404sqm has been provided including the area over the attenuation tank. Excluding the area over the attenuation tank it equates to 2,101sqm or 16% of the overall site. This is in excess of the Development Plan objectives for public open space.
- **Transportation** – A Traffic and Transport Assessment and a Mobility Management Plan is submitted with this application.
- **Ecology** – An Ecological Impact Assessment has been carried out identifying all flora and fauna on the site and the potential impact that this development will have on same. It also provides recommendations for the lighting of the site. This report has been carried out in accordance with the Biodiversity notes from DLRCC.
- **Drainage** – The Site Specific Flood Risk Assessment has assessed the site and its drainage in detail and addresses the comments raised in the Drainage Planning Report. Based on the information available it is concluded that this site is suitable for development and has an overall low risk of been affected by flooding
- **Water / Wastewater Capacity** – The Engineering Infrastructure Report and Stormwater Impact Assessment provides details for the servicing of this site including calculations for the level of demand on the public water and wastewater

infrastructure as a result of this development and how it can be serviced. This approach has been agreed with Irish Water.

- **Creche / Community Infrastructure** – Details of the sites location and its proximity to a variety of social and community infrastructure within the area is provided.
- **ABP Pre Application Consultation Opinion ABP-305074-19** - Each consultant has, where appropriate, provided a section within their report detailing their response to the items raised by An Bord Pleanála in their Pre-Application Consultation Opinion ABP 305074-19.
 - **Phasing Plan** - Development will be carried out in a single phase of development.
 - **Proposed Materials and Finishes** – The Architectural Design Statement details in Section 2 the proposed palette of materials for the scheme.
 - **Details** - A complete set of floor plans, elevations, including contiguous elevations, and long sections, in addition with verified views submitted.
 - **Housing Quality Assessment** – Assessment demonstrating the size of each unit and how it meets or exceeds the relevant policies in both the Development Plan and the Guidelines on Design Standards for New Apartments is included.
 - **Building Lifecycle Report** - Report has been completed in line with the Sustainable Urban Housing: Design Standards for New Apartments Guidelines
 - **Traffic and Transport Assessment** -TTA and a Mobility Management Plan submitted with this application.
 - **Quantitative and Qualitative Assessment** – Public Open Space is in excess of the Development Plan objectives for same. All the open spaces are detailed in the Landscape Rationale, showing paths, seating, planting and any play areas. All materials, hard and soft landscaping are shown as part of each play space.
 - **Surface Water Management System** – Engineering Infrastructure Report and Stormwater Impact Assessment submitted along with the supporting drawings including drawings number 1728/03 which set out in details of the above.

- ***Taking in Charge*** - Drawing no. 17047.1-PL17 illustrating the areas proposed to be taken in charge.
- ***Wind and Pedestrian Comfort Study*** – Wind Microclimate Modelling Assessment submitted found that “the development is designed to be a high-quality environment for the scope of use intended.
- ***Construction Management Plan*** - A Construction Management Plan along with a Construction and Environmental Management Plan have been completed for this application.
- ***EIAR*** – An EIA Screening Statement is submitted with this application, and which concludes that a full EIAR is not required.
- ***Irish Water*** – Water Connection is feasible without infrastructure upgrades by Irish Water while the Wastewater Connection is feasible subject to upgrades.
- ***Biodiversity Officer Concerns*** - Report addressing the LRD opinion items as well as a response to the items raised by the Biodiversity Officer provided. This confirms that all of the items have been addressed in full in this application.
- ***Drainage Planning Department Concerns*** – The Engineering Infrastructure Report and Stormwater Impact Assessment addresses the concerns of the Drainage Planning Department under section 6.0.
- ***Transportation Planning Department Concerns*** – Traffic and Transport Assessment and Mobility Management Plan sets out in detail a response to the concerns raised.

6.0 Policy Context

6.1. National Policy Documents

- 6.1.1. The following are key legislative provisions and Section 28 Policy documents relevant to LRD applications and appeals:
- Planning and Development Act 2000 (as amended) ('the PDA 2000')
 - Planning and Development Regulations 2001 (as amended) (the PDR 2001')
 - Housing for All (2021)

- Appropriate Assessment Guidelines (2009)
- Development Contributions Guidelines (2013)
- Development Management Guidelines (2007)
- Quality Housing for Sustainable Communities (2007)
- Environmental Impact Assessment Guidelines (2018)
- Flood Risk Management Guidelines (2009)
- Childcare Facilities Guidelines (2001)
- Sustainable Residential Development in Urban Areas Guidelines (2009)
- Sustainable Urban Housing: Design Standards for New Apartments (2020)
- Urban Development and Building Heights Guidelines (2018)
- Regulation of Commercial Institutional Investment in Housing - Guidelines for Planning Authorities (2021)
- Best Practice Urban Design Manual (2009)
- Circular Letter: NRUP 02/2021 (Residential Densities in Towns and Villages)
- Design Manual for Quality Housing (2021)
- Design Manual for Urban Roads & Streets (2013, updated 2019)
- The Planning System and Flood Risk Management: Guidelines for Planning Authorities (2009)
- Climate Action Plan (2021)
- Smarter Travel – A New Transport Policy for Ireland (2009-2020)
- Transport Strategy for the Greater Dublin Area 2022-2042
- Regional Guidelines

6.2. Development Plan

- 6.2.1. The operative plan for the area is the **Dún Laoghaire-Rathdown County Development Plan, 2022-2028**. The subject site is zoned Objective A where the objective is *to provide residential development and improve residential amenity while*

protecting the existing residential amenities. There is an objective to protect and preserve trees and woodlands to the south of the site. There is a 6-year motorway proposal and strategic road reservation to the immediate west of the site. The site, including the existing building (to be demolished), is not listed as a protected structure nor is it located within an Architectural Conservation Area or within a Local Area Plan in the current County Development Plan. No special objectives or preserved views occur for this site.

6.2.2. Policies and objectives relevant to this scheme are as follows:

Policy Objective PHP2: Sustainable Neighbourhood Infrastructure

It is a Policy Objective to:

- Protect and improve existing sustainable neighbourhood infrastructure as appropriate.
- Facilitate the provision of new sustainable neighbourhood infrastructure that is accessible and inclusive for a range of users consistent with RPO 9.13 and RPO 9.14 of the RSES.
- Encourage the provision of multi-functional facilities, space and lands in the delivery and/or improvement of sustainable neighbourhood infrastructure.

Policy Objective PHP3: Planning for Sustainable Communities

It is a Policy Objective to:

- Plan for communities in accordance with the aims, objectives and principles of 'Sustainable Residential Development in Urban Areas' and the accompanying 'Urban Design Manual – A Best Practice Guide' and any amendment thereof.
- Ensure that an appropriate level of supporting neighbourhood infrastructure is provided or that lands are reserved for Sustainable Neighbourhood Infrastructure (SNI), in conjunction with, and as an integral component of, residential development in new residential communities as identified in the Core Strategy (see Figure 2.9, Chapter 2).
- Identify, provide and/or improve (as appropriate) supporting sustainable neighbourhood infrastructure in tandem with residential development in renewal/ redevelopment areas and existing residential neighbourhoods.

- Create healthy and attractive places to live consistent with NPO 4 of the NPF and RPO 9.10 of the RSES

Policy Objective PHP6: Childcare Facilities

It is a Policy Objective to:

- Encourage the provision of appropriate childcare facilities as an integral part of proposals for new residential developments and to improve/expand existing childcare facilities across the County. In general, at least one childcare facility should be provided for all new residential developments subject to demographic and geographic needs.
- Encourage the provision of childcare facilities in a sustainable manner to encourage local economic development and to assist in addressing disadvantage.

Policy Objective PHP18: Residential Density

It is a Policy Objective to:

- Increase housing (houses and apartments) supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites having regard to proximity and accessibility considerations, and development management criteria set out in Chapter 12.
- 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.

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.

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.

Policy Objective PHP35: Healthy Placemaking

It is a Policy Objective to:

- Ensure that all development is of high-quality design with a focus on healthy placemaking consistent with NPO 4, 26 and 27 of the NPF, and RPO 6.1, 6.12, 9.10 and 9.11 of the RSES.
- Promote the guidance principles set out in the 'Urban Design Manual – A Best Practice Guide' (2009), and in the 'Design Manual for Urban Roads and Streets' (2013).
- Ensure that development proposals are cognisant of the need for proper consideration of context, connectivity, inclusivity, variety, efficiency, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking, wayfinding and detailed design.

Policy Objective PHP36: Inclusive Design & Universal Access

It is a Policy Objective to promote and support the principles of universal design ensuring that all environments are inclusive and can be used to the fullest extent possible by all users regardless of age, ability or disability consistent with RPO 9.12 and 9.13 of the RSES.

Policy Objective PHP42: Building Design & Height states that it is policy to:

- "Encourage high quality design of all new development.
- Ensure new development complies with the Building Height Strategy for the County as set out in Appendix 5 (consistent with NPO 13 of the NPF)."

Policy Objective BHS 3 (Building Height in Residual Suburban Areas) of Appendix 5 also states the following:

"It is a policy objective to promote general building height of 3 to 4 storeys, coupled with appropriate density in what are termed the residual suburban areas of the County provided that proposals ensure a balance between the reasonable protection of existing amenities including residential amenity and the established character of the area.

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

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

Policy Objective T3: Delivery of Enabling Transport Infrastructure

It is a Policy Objective to support the delivery of enabling transport infrastructure so as to allow development take place in accordance with the Core Strategy of this Plan and the settlement strategy of the RSES. (Consistent with RPO 4.40, 10.2, 10.3, 10.11, 10.16 of the RSES).

Policy Objective T24: Motorway and National Routes

It is a Policy Objective to promote, facilitate and cooperate with relevant transport bodies, authorities and agencies to secure improvements to the County’s Motorway and National road network to provide, protect and maintain for the safe and efficient movement of people and goods both within and through Dún Laoghaire-Rathdown.

6.2.3. **Chapter 12** sets out the development management criteria to guide development in the county. Section 12.3.1.1 Design Criteria states that the following criteria will be taken into account when assessing applications:

- Land use zoning and specific objectives contained in this Plan and any Strategic Development Zone / Local Area Plan / Urban Framework Plan / non-statutory planning guidance adopted by the Council.
- Compliance with other policy requirements contained within the Plan.
- Consistency with any/all relevant National and Regional policy objectives.
- Synergies with adjoining complementary uses and land use zoning objectives.

- Density - Higher densities should be provided in appropriate locations. Site configuration, open space requirements and the characteristics of the area will have an impact on the density levels achievable.
- Quality of the proposed layout and elevations, the quality of the residential environment will be of primary significance in determining the acceptability of planning applications. Layouts, elevations, and plan form must be designed to emphasise a 'sense of place' and community, utilising existing site features, tree coverage and an appropriate landscape structure.
- Levels of privacy and amenity, the relationship of buildings to one another, including consideration of overlooking, sunlight/daylight standards and the appropriate use of screening devices.
- Quality of linkage and walking and cycling permeability – to adjacent neighbourhoods and facilities and the nature of the public realm/streets and spaces. Walking and cycling permeability shall be maximised at every opportunity.
- Accessibility and traffic safety - proximity to centres and to public transport corridors, existing and proposed.
- Quantitative standards -set out in this Chapter and/or referenced in Government guidelines.
- Safety and positive edges to the public realm - opportunities for crime should be minimised by ensuring that public open spaces are passively overlooked by housing and appropriate boundary treatments applied.
- Quality of proposed public, private, and communal open spaces and recreational facilities and the relationship of proposed open spaces with any existing public or communal open space.
- Quality of the pre-existing environmental sound environment.
- Context - having regard to the setting of the site, the surrounding character, streetscape, and the impact of any proposed development on the development potential of adjoining sites.
- Variety of house types and unit size.

- Variety in layout through providing different lengths and types of residential roads, mixes of 'cul-de-sac', loop roads, set-back road sections, loose grid layouts and similar.
- Inter-relationship of buildings / dwellings, roads, pedestrian ways, neighbourhood centre facilities and local parks and green areas – active frontages and passive surveillance will be encouraged.
- Roofscape, plant and green roofs

6.2.4. Section 12.3.3.2 Residential Density states that in general, the number of dwellings (houses or apartments) to be provided on a site should be determined with reference to the Government Guidelines document:

- 'Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities' (2009).
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2020).

As a general principle, and on the grounds of sustainability, the objective is to optimise the density of development in response to type of site, location, and accessibility to public transport. (See policy PHP18, Chapter 4).

6.2.5. Chapter 12 requires various documents to be provided for residential developments over a certain scale. The documents required for the current application are listed below (with the relevant section of the development plan).

- Design Statement (section 12.1.1.2)
- Landscape Design Rationale (section 12.1.1.3 and section 12.8.1)
- Energy Statement (section 12.2.1)
- Cycle Audit (section 12.4.6.1)
- Daylight Analysis (section 12.3.4.2)
- Quality Audit and Street Design Audit (section 12.4.1)
- Written Schedule outlining public and communal open space provision (section 12.8.2)

- Construction Management Plan (section 12.9.4) including a Construction Waste Management Plan, Construction Environmental Management Plan and a Construction Traffic Management Plan (section 12.9.6)
- Stormwater Audit (section 12.9.6)
- Operational Waste Management Plan (section 12.9.6)

6.3. **Natural Heritage Designations**

- 6.3.1. The proposed development site is not within a designated conservation area. The closest European site is the Ballyman Glen SAC, located 735m, at a higher elevation, from the proposed development site. The nearest SPA to the proposed development site is the Wicklow Mountains SPA which is located 6.5 km from the subject site.

6.4. **EIA Screening**

- 6.4.1. An Environmental Impact Assessment Screening Report was submitted with the application. I have had regard to same in this screening assessment. The information provided is in accordance with Schedule 7 and 7A of the Planning and Development Regulations 2001. The EIA Screening Report identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The submitted report considers that the development is below the thresholds for mandatory EIAR having regard to Schedule 5 of the Planning and Development Regulations 2001, and the fact that the proposal is unlikely to give rise to significant environment effects, and that a formal EIAR is not required. In addition, detailed and comprehensive assessments have been undertaken to assess / address all potential planning and environmental issues relating to the development; these are included in support of the application. The Planning Authority reported that the development was below threshold and 'EIAR is not a mandatory requirement'.
- 6.4.2. **EIAR Thresholds** - Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:

- (10)(b) - Urban Development which would involve the construction of more than 500 units or an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.
- (15)(b) - Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development, but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

6.4.3. The proposal relates to the construction of 108 no. residential units along with a creche building on a site area of 1.35 ha. The proposed development is significantly below the threshold(s) for a mandatory EIAR requirement as per above. While there are demolition works proposed comprising the demolition of an existing single storey vacant and semi derelict dwelling I do not consider with reference to the classes outlined that such works would give rise to significant environmental effects, whereby a formal EIAR would be required. Having regard to the relatively limited size and the location of the development, and by reference to any of the classes outlined above, a mandatory EIA is not required.

6.4.4. **Sub-threshold projects requiring EIAR** - In some circumstances a development which is below the threshold of requiring an EIAR as set out in Schedule 5 of the Planning and Development Regulations 2001 (as amended) may however still require an EIAR. Section 92 of the Planning and Development Regulations 2001, as amended defines subthreshold development as development of a type set out in Part 2 of Schedule 5 which does not equal or exceed, as the case may be, a quantity, area or other limit specified in that Schedule in respect of the relevant class of development.

6.4.5. The proposed development is a type set out in Part 2 Class 10 (b)(i) and (iv) of Schedule 5 as described above but it does not exceed the relevant quantity, area or other limit specified in that Part. Therefore, it is a sub-threshold development and requires to be screened for EIA as detailed in Section 103 of the Planning and Development Regulations 2001 (as amended).

6.4.6. The site is not subject to a nature conservation designation. The AA screening submitted with the application concludes that “*no European sites are within the zone of influence of the proposed development. Having taken into consideration surface*”

water drainage from the proposed development, the distance between the proposed development to designated conservation sites, lack of direct hydrological pathway or biodiversity corridor link to conservation sites and the dilution effect with other effluent and surface runoff, it is concluded that the proposed development would not give rise to any significant effects to designated sites. The construction and operation of the proposed development will not impact on the conservation objectives of qualifying interests of European sites.”

- 6.4.7. I refer to the Ecological Impact Assessment submitted with the application together with Section 9.18 (Biodiversity) of my planning assessment below. The ecological assessment of the site and the proposed development was carried out in August 2022 and updated in March 2023. Bat foraging was noted across the site by three species of bat (Leisler’s Bat (*Nyctalus leisleri*), Soprano Pipistrelle (*Pipistrellus pygmaeus*) and Common pipistrelle (*Pipistrellus sensu stricto*). Foraging activity was noted in the vicinity of the woodland and scrub areas, with minor activity in the at the edge of the grassland habitat. As documented, there is a vacant semi derelict house present on the eastern section of the site. The building is in disrepair and show signs of collapse and encroachment from the surrounding scrub. A bat survey was carried out (Appendix I). It is stated that the building does not form a bat roost and will not require a derogation licence from the National Parks and Wildlife Service, prior to works being carried out on the structures. Together with the mitigation measures proposed I am satisfied, that the proposed development would not have any unacceptable impacts on these species and that no significant impacts are likely to arise as a result of the proposed development.
- 6.4.8. The overall impact on the ecology of the proposed development will result in a long term minor adverse not significant residual impact on the ecology of the area and locality overall. This is primarily as a result of the loss of terrestrial habitats on site, supported by the creation of additional biodiversity features including sensitive landscaping and lighting strategy. The treatment of invasive species on site would be considered to be a positive element of the project.
- 6.4.9. As stated the proposal falls significantly below the relevant thresholds of Schedule 5 of the Planning and Development Regulations 2001 (as amended). The proposal is in keeping with the planned development for Bray as set out under the relative zoning in the current Development Plan. Standard construction practices can be employed

to mitigate any risk of noise, dust or pollution during construction stage. The development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents.

6.4.10. I consider that the location of the proposed development and the environmental sensitivity of the geographical area would not justify a conclusion that it would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances, the application of the criteria in Schedule 7 and 7A, to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment and that an environmental impact assessment is not required before a grant of permission is considered. This conclusion is consistent with the EIA Screening Statement submitted with the application. It is noted that no third parties or the planning authority raised any concerns regarding EIA or the cumulative impact of residential development in the wider area.

6.4.11. I have completed an EIA screening assessment as set out in Appendix A of this report. A Screening Determination should be issued confirming that there is no requirement for an EIAR based on the above considerations.

7.0 The Appeal

7.1. Grounds of Appeal

The first party appeal against the decision of DLRCC to refuse permission for 2 no reasons has been prepared and submitted by MCG Planning and may be summarised as follows:

7.1.1. Procedural Matters

- It is hard to understand that an outright refusal has been issued, given the approach and conclusion of the LRD Opinion which stated that the proposal did constitute a reasonable basis to make an application.
- If the planning authority still had fundamental concerns at pre-planning stage with regard to height/scale/massing then the LRD Opinion should have made this clear,

and indeed the Opinion should have concluded the proposal did not constitute a reasonable basis for a planning application as a result.

- Whilst it is appreciated that the submissions of TII and Kildare National Roads Design Office (NRDO) and Wicklow Co Co were received following the lodgement of the planning application, there is provision in the Planning and Development Regulations, 2001-2023 for the planning authority to request further information, when new issues arise after the LRD Planning Application has been lodged.

7.1.2. **Other Matters (Local Authority Reports)**

7.1.3. The Planning Authority, despite the decision to refuse, were in many respects very supportive of the redevelopment of the site as follows:

- **Landscape and Parks Department** - DRCC Parks Department had no objection to the proposed development. The Parks Department queried the quantum of public open space net of the proposed attenuation tank. Confirmed that the public open space net of the attenuation tank represents 16% of the development area and therefore in excess of the 15% requirement. As part of this appeal additional tree planting is proposed in response to the DLRCC Parks recommendation and is outlined in the revised Landscape Plan and photomontages included.
- **Transportation Planning Department** - Whilst the department determined incorrectly to refuse permission other transportation aspects of the development were considered broadly acceptable subject to further information:
 - Car Parking: The quantum and ratio of parking (1.2 per unit) was not objected to subject to further information, which can be addressed subject to compliance with conditions.
 - Vehicular access and improvements to footpaths along Love Lane was welcomed. Further information (in relation to Quality Audit update, taking in charge, additional footpaths, crossing points, tightening of radii, loading area, sightlines) are responded to in the attached ILTP Report and/or can be addressed subject to compliance with conditions.
 - CMP, MMP, Refuse collection details all noted as generally acceptable and addressable subject to compliance with conditions.

- A specific request in relation to additional cycle tracks is addressed in the ILTP report attached to this appeal. Again we note this was recommended as Further Information and is recommended to the Board can be addressed subject to compliance with conditions if necessary.

7.1.4. Noted that the proposed development was not subject to any third party objections from adjoining residences or anyone in the wider Bray community.

7.1.5. **Refusal Reason No 1 (Premature pending M11 / N11 Road / Bus Corridor)**

Policy T24 (Motorways & National Routes)

- Permission has been refused in accordance with Policy T24 (Motorways & National Routes) despite the fact that none of the submissions received from the "*relevant authorities*" - TII, Kildare NRDO and Wicklow Co Co - actually requested that the application be refused.
- The TII letter suggests that the proposed development "*could*" prejudice the N11/M11 proposals and "*may*" be premature pending the determination of the route. The report from TII is far from definitive and strongly suggests that further examination of the matter was needed before reaching any decision.
- Equally the Wicklow Co Co submission does not claim that the proposed development is premature but merely states that "*any development in this area should therefore be guided by the provisions of the TII, and Kildare NRDO who are project managers for such upgrade works.*"
- Whilst the NRDO submission, comprising a "Checklist" report, claims that the development is "premature, it does not state categorically that permission should be refused.
- The 91m as referenced by the NRDO is a standard that only applies within County Kildare (where the Kildare NRDO is located) and is only applicable to rural areas of that County.
- Elsewhere, the Kildare NRDO report acknowledges that the development is "adjacent" (i.e. not within) the preferred N11/M11 Improvement scheme.

- Given the questions arising from the Kildare NRDO submission together with the less than conclusive TII submission, DLRCC were entitled to seek Further Information however it failed to do so and hastened to an instant refusal.
- The works required for the M11/N11 Improvement Scheme and the the N11/M11 Bus Priority Interim Scheme in the vicinity of the subject site are to be completed within the footprint of the existing carriageway, at lower ground levels to, and well way from the boundary of the application site.
- Furthermore, the clear separation from the proposed Scheme and the unique physical characteristic at this location demonstrates that a grant of permission for the proposed LRD would not set a precedent for other development along the N11/M11.
- The appeal was accompanied by a letter prepared by Arthur Cox, that set out the following:
 - A planning authority cannot refuse permission on the basis of prematurity where the reason for that prematurity is on the basis of documents or guidelines that are preliminary, scoping, proposed, consultative, or otherwise lack the status of statutory guidelines.
 - The Planning Authority and the Board are obliged to have regard to current policy in place at the time it makes its decision. DLRCC failed to have any or any proper regard to these in reaching its decision.
 - The refusal of permission on the grounds of prematurity has indirectly 'de-zoned' and sterilised our client's land, with residential development thereby thwarted for an unknown period of time.

Policy Objective T3L Delivery of Enabling Transport Infrastructure

- Having regard to the RSES policies quotes in Policy T3 it is noted that the referenced RSES Policies 10.2, 10.3, 10.11 and 10.16 relate to the provision of strategic water infrastructure (supply, wastewater and surface water) and have no relevance to the application site or the proposed development. The proposed development can be fully serviced in terms of water infrastructure. Irish Water/Uisce Eireann made a submission to the planning application and confirmed

it was acceptable and raised no issues in relation to the provision of strategic water infrastructure.

- Whilst RSES Policy 4.40 does relate to transport it principally concerns the provision of public infrastructure in Bray.
 - The extension of the Luas to Bray will come from the north into the town and the site will not in any way impact its future delivery. There is no relevance to the current proposal.
 - In relation to the provision of other public transport services to serve Bray, neither the application lands nor Love Lane/Blind Lane are impacted by the objectives for future additional bus services along existing public roads.
 - The development of the Fassaroe lands to the west of the M11 (south-west of the application site), will require bespoke "enabling transportation infrastructure and services" including management and upgrade of the Fassaroe Junction 6 in the future. The proposed development at Love Lane/Blind Lane will not prejudice the delivery of same
- The final referenced "N11/M11 upgrade" is the only element which can claim to be potentially affected by the proposed development and application site. However, as is detailed above, the proposed development will not impact the delivery of the planned upgrades to the N11/M11 or the N11/M11 Bus Priority Interim Scheme.

7.1.6. Refusal Reason No 2 (Height)

- It is deeply frustrating that DRLCC have refused permission in relation to height, scale and massing, despite the fact that the design is substantively the same as was submitted at LRD pre-planning stage and which the DLRCC Opinion concluded at the time constituted a reasonable basis for making a planning application.
- The proposed apartment development in terms of layout, siting, height, architectural language and high quality elevational treatments will not represent a negative visual impact in the area but will integrate with and enhance the character of this unique location in the Bray South Environs.

- The achievement of "Quality Design and Placemaking as per Section 4.4.1 of the Development Plan is clearly multi-faceted and achieved through a variety of means. It is not to be determined solely by matters of building height and visual impact. The words "height" and "visual" do not appear once in the Development Plan definition of "healthy placemaking". Furthermore, the wording of Section 4.4.1 suggests that the spaces between buildings, and the quality and utility of same, are a more fundamental principle of placemaking.
- The open spaces in terms of quantum and layout broadly reflect that which were detailed in the LRD pre-planning submission and which the LRD Opinion did not raise significant concerns about. Furthermore, the DLRCC Planning Department view on the open spaces is not shared by DLRCC Parks Department which considered that the public open spaces were well designed and attractive.
- It is evident that the submission of Wicklow County Council influenced the assessment of height and massing at planning application stage, bearing in mind that DLRCC had previously been open to the proposed height at LRD pre-planning stage, and also previously at SHD pre-planning stage.
- The claim that the development will have a "significant visual impact" and on "a wider area" is disputed. Whilst the development will be visible at a handful of vantage points along the Upper Dargle Road, a fact that has never been denied by the applicant in the various submissions to date, it is not accepted that the development will impact on a wider area and will form a "strident" feature.
- In the majority of the photomontages the scheme will not be visible at all. At other proximate locations to the north of the site the development will be apparent in the distance beyond the existing housing estates, but the design and massing will be acceptable.
- In the over-preoccupation with the visual impact of the development from certain locations along the Upper Dargle Road, the assessment of DLRCC and Wicklow CoCo) fails to acknowledge that, due to the topographical differences, any development of reasonable scale and density (as otherwise required under local and national planning policy) on this prominent site would result in an equally, highly visible development from these locations.

- To illustrate the point further, a series of updated photomontages are submitted with this application, with an option included comprising a lower density, 3-storey townhouse development with pitched roof shown on the site for comparison.' As can be seen, the difference in visual impact between a townhouse development and current proposal is not dramatic. Arguably the massing of a terraced house design with its lack of variation in elevation design, materiality, colour and height gradation could be more visually obtrusive than a carefully designed apartment development as is currently proposed.
- Compliance with the DLRCC Building Height Strategy (and policies PH42 and BHS3) is detailed in the Statement of Consistency submitted with the Planning Report and includes a detailed justification for the proposed development under the Table 5.1 criteria, and also SPPR3 of the Building Heights Guidelines (from which the development management criteria in Table 5.1 is derived from).
- Section 11.3 of the Planners Report outlines how the site is considered a "*Peripheral and/or less Accessible Urban Location*" as per the Design Standards for New Apartments, due to the distance of the site from public transport and suggests that densities of 45 units per hectare or lower are more applicable.
- However, this assessment fails to acknowledge that the Apartment Guidelines also state that the potential density and mix of individual development at these locations will vary, that the range of locations is "*not exhaustive*", and "*will require local assessment that further considers these and other relevant planning factors and to be applied.*"
- In accordance with this broader definition, Table 5.1 of the DLRCC Building Height Strategy (correctly) excludes proximity to public transport from the list of criteria to be considered for assessing greater height (and consequently, density) on sites in the "*residual suburban area*" of the County. However, this is not acknowledged in Section 11.2 of the DIRCC Planners Report.
- National Policy Objective 13 of the National Planning Framework (NPF) and SPPR 3 of the Building Heights Guidelines clearly support greater height at suitable urban locations such as this, subject to high quality design being achieved, along with amenities, the environment and "*public safety*" being suitably protected.

7.1.7. **Further Information & Oral Hearing Request**

- The applicant is particularly disappointed that Further Information was not requested by DLRCC to clarify the outstanding matters. The Board have the discretion to seek Further Information at the end of the 16 weeks in accordance with Article 73A of the Planning & Development Regulations, 2001-2023.
- Furthermore, given the statutory consultees involved and the submissions made, the Board may also decide, in accordance with Article 76, that an Oral Hearing is necessary. This appeal includes a Request for an Oral Hearing.

7.1.8. **Suggested Amendments**

- In relation to Reason for Refusal No. 2, the DLRCC Report suggests that were it not for Reason No. 1 that further information may have been sought in relation to the height, scale and massing issue.
- As outlined above, we contend that the proposed height, scale and massing of the development is suitable in this instance and will result in an attractive, local landmark apartment development suitable at the southern entry into Bray. We trust that the Board will reach a similar conclusion.
- However, should the Board consider that further amendments may be required we also wish to table an amended proposal as part of this appeal for the Board's consideration.
- This amendment involves a further modulation to the height range of the main Blocks 1 and 2, with some of the 5 and 6 storey elements reduced to 3-4 storeys. Changes to some of the elevational materials is also proposed (and also on Block 3 which is not otherwise proposed to be amended internally or reduced in size).
- The amendments would result in Blocks 1 and 2 becoming a 3-5 storey (previously 4-6 storeys).
- The amended Blocks 1&2 would reduce the overall number of apartments from 108 to 90 no. (with the removal of units 1.27, 1.34, 1.35, 2.29, 2.30, 2.31, 2.32, 2.33, 2.34, 2.35, 2.36, 2.38, 2.39, 2.41, 2.42, 2.43, and 2.44). These units are highlighted in MCORM floor plans also submitted.

- Additional planting of mature/semi-mature trees at the eastern extent of the public open space is also proposed to provide additional screening and to help soften the massing. This is proposed in response to the recommendations of the DRCC Parks Department.
- It is also suggested that the additional tree planting could also be considered by the Board as a condition of permission if the proposed development as originally applied for is otherwise acceptable, without the need to reduce the scale and number of units.

7.1.9. **Conclusion**

- For the reasons outlined above and in the supporting documents, the Board is requested to set aside the two reasons for refusal and to grant permission subject to conditions, as appropriate, and in accordance with the proper planning and sustainable development of the area.

7.1.10. **The appeal was accompanied by the following:**

- Revised Verified Views and CGIs Document
- Cover letter and Dwg Nos. 1728/15 and 1728/16
- Revised Landscape Masterplan (Dwg. 01)
- Letter to An Bord Pleanála prepared by Arthur Cox LLP
- The following revised floor plans
 - 17047.1 PLO8 Apartment Blocks 1 & 2 - Levels 05 and Roof Plans WITH PROPOSED UNIT REMOVAL
- Copy of ABP Inspectors Report and ABP Opinion for SHD pre-planning Ref. ABP-205074-19.
- Copy of DRCC Decision to Refuse Ref. LRD23A/0170.

7.2. **Planning Authority Response**

- 7.2.1. The Board is referred to the previous Planners report. It is considered that the grounds of appeal do not raise any new matter which, in the opinion of the Planning authority, would justify a change of attitude to the proposed development.

7.3. **Observations**

- 7.3.1. None

7.4. **Further Responses**

- 7.4.1. None

8.0 **Assessment**

- 8.1.1. Planning permission was sought for a LRD on 16th March 2023 for the construction of 108 no. apartments (comprising 32 no. 1-bed, 53 no. 2-bed and 23 no. 3-bed units) within 3 no. blocks, ranging in height up to 6 storeys and associated site works including a creche at Love Lane (also known as Blind Lane), Upper Dargle Road, Bray, Co Dublin. DLRCC issued a notification of decision to refuse planning permission on two substantive issues: i.e. building height and prematurity pending M11/N11. The amended plans submitted with the appeal are also noted.
- 8.1.2. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:
- Principle
 - Premature pending M11 / N11 Improvement
 - Density
 - Visual Impact
 - Other Issues
 - Appropriate Assessment

8.2. Principle

- 8.2.1. Planning permission is sought for a Large-Scale Residential Development consisting of demolition of an existing dwelling, and construction of 108 no. apartments (comprising 32 no. 1-bed, 53 no. 2-bed and 23 no. 3-bed units) within 3 no. blocks, ranging in height up to 6 storeys. The development will also include the provision of a creche (c.252sqm gross floor area) located on the ground floor of Block 3.
- 8.2.2. Under the provisions of the Dún Laoghaire-Rathdown County Development Plan, 2022-2028 the site is zoned Objective A where the objective is *to provide residential development and improve residential amenity while protecting the existing residential amenities*. Residential and creche use is 'permitted in principle' within these residentially zoned lands. Furthermore, the new Development Plan confirmed that the application lands are not subject to any restrictions in terms of cultural and natural heritage. There are no protected structures, national monuments or zone of archaeological potential on or adjoining the site, and it is not located within an ACA. Furthermore, the site is not subject to any protected views or prospects in the DLRCC Development Plan. Accordingly, the principle of the scheme is acceptable.

8.3. Premature pending M11 / N11 Improvement

- 8.3.1. DLRCC in their first reason for refusal state that the proposed development is premature pending the determination of the N11/M11 Junction 4 to Junction 14 Improvement Scheme and the N11/M11 Bus Priority Interim Scheme. It is further stated that the proposed development, by itself, or by the precedent that the grant of permission for it would set for other relevant development, would adversely affect the use of the N11/M11 by traffic. In addition, the proposed development would be contrary to Sections 5.4.2 Policy Objective T24: Motorway and National Routes and Sections 5.4.3 Policy Objective T3: Delivery of Enabling Transport Infrastructure of the Development Plan.
- 8.3.2. It is evident that this reason for refusal is based on the technical reports submitted on file and summarised as follows:
- **DLRCC Transport Planning** - Until such a time as the full extent and impact of the N11/M11 Scheme are known and the potential for the N11/M11 Scheme to

impact upon the scheme site is understood it is considered that any proposed development within this site is premature.

- **Wicklow County Council** – Any development in the study area for the N11/M11 (J4 M50 – J14 Coyne’s Cross) should be guided by the provisions of the TII, and Kildare NRDO who are project managers for such upgrade works
- **Transport Infrastructure Ireland (TII)** – The site of the proposed development is located in an area considered for the N11 / M11 Junction 4 to Junction 14 Improvement Scheme. The proposed development could prejudice plans for the design of this scheme and hence the application may be premature pending the determination of this route.
- **Kildare National Roads Office (KNRO)** – The proposed development site boundary is located adjacent to the preferred corridor identified for the N11 / M11 Junction 4 to Junction 14 Improvement Scheme and the preferred corridor identified for the N11 / M11 Bus Priority Interim Scheme. As such any proposed development in this area is deemed premature.

8.3.3. Policy Objective T3: Delivery of Enabling Transport Infrastructure supports the delivery of enabling transport infrastructure so as to allow development take place in accordance with the Core Strategy of this Plan and the settlement strategy of the RSES. (Consistent with RPO 4.40, 10.2, 10.3, 10.11, 10.16 of the RSES). Policy Objective T24: Motorway and National Routes seeks to promote, facilitate and cooperate with relevant transport bodies, authorities and agencies to secure improvements to the County’s Motorway and National road network to provide, protect and maintain for the safe and efficient movement of people and goods both within and through Dún Laoghaire-Rathdown. These policies and objectives are considered reasonable and appropriate for a variety of reasons including the primary requirement to protect and support significant capital investment in public infrastructure projects,

8.3.4. As is evident above the scheme was refused permission based on uncertainty with regard to the determination of the N11/M11 Junction 4 to Junction 14 Improvement Scheme and the N11/M11 Bus Priority Interim Scheme which of itself is reasonable. However, I am concerned that this position is at variance with the current development plan zoning for the site and environs. Map 14 of the Development Plan refers.

- 8.3.5. I note from the file that in 2021, Phase 2 of the Improvement Scheme was completed with the preferred design option chosen whereby the project was then due to proceed to Phase 3 (Design and Environmental Evaluation). However, in 2022 further state funding was not made available to progress the project and since then the project has been on (indefinite) hold.
- 8.3.6. In 2022 the applicant held a meeting with the N11/M11 Scheme Design Engineers Arup and Wicklow County Council (Public Liaison Officer) and was provided with mapping showing the extent of the future reservation for the Preferred Design Option, and which indicated that only a small portion of the applicants landholding may be required, and that this area was located south of both the appeal site (out with the red line boundary) and County Brook Stream and which directly adjoins the existing M11 roadway. It is evident from the mapping provided with the file that the potential reservation area is separate to and removed from the appeal site to the north. This is supported in the Development Plan zoning Map No 14.
- 8.3.7. In April 2022, the new DLRCC County Development Plan came into effect and retained the residential zoning of the appeal site for Objective 'A' - *'to provide residential development and improve residential amenity while protecting the existing residential amenities'*. The Development Plan also clearly identified the preferred design option corridor as the "6-year motorway proposal" in the zoning map for the area. The appeal site is located adjacent to but outside the boundary of both the M11/N11 Improvement Scheme and the Bus Priority Scheme i.e. the "6-year Motorway Proposal. It is evident that the proposed development will not impact on either scheme given that both are to be delivered within the existing land take confinements of the "6-year Motorway Proposal" corridor as outlined in Zoning Map 14
- 8.3.8. Notwithstanding, what I consider to be the clarity provided in Zoning Map 14, I note that Section 5.8 of the Development Plan states that *"it should be noted that the roads shown on the Maps are purely diagrammatic with regard to location and dimensions and that variations and/or adjustments may be necessary as projects progress"*. However, I consider such a statement to be at odds with the fact that the N11 / M11 Improvement Scheme and Bus Priority Interim Scheme have been through the rigours of both the Preferred Design Option phase of the route and the Development Plan process. To suggest that the "6-year Motorway Proposal" corridor is subject to further reviews brings what I consider to be an unacceptable level of uncertainty to the

Development Plan making process and the status of the adopted Development Plan and associated zonings. To my mind it is reasonable to infer that the works required for the M11/N11 Improvement Scheme are within the lands identified as “6-year motorway proposal” on Zoning Map 14 and that the appeal site is adjacent to, but outside, this corridor.

8.3.9. In my view there is great difficulty in accepting that the recently adopted Development Plan, that has been through the rigours of the Development Plan making process would at this point be vague or ambiguous with regards to the proposed N11 / M11 improvement works as identified. The lack of reasonable certainty in this regard is unacceptable and would if followed through lead to the effective sterilisation of the appeal lands without reasonable justification. This would be at odds with the zoning for the appeal site. The Development Plan and zoning map must be regarded as providing reasonable certainty to the public, developers and all relevant and interested stakeholders. The only reason in my view to refuse permission would be where there is uncertainty. To this end I am reluctant to recommend that permission be refused on these grounds.

8.3.10. Taken together with the recommendation to refuse permission based on the high density proposed as discussed below I recommend that this reason for refusal be set aside as the proposed site is outside the preferred design option corridor identified as the “6-year motorway proposal” on Zoning Map 14 of the current Development Plan.

8.4. **Density**

8.4.1. I am concerned with the scale of density proposed (83 units per ha (net)) for this site having regard its location on the periphery of Bray. This is a concern that is shared with the Local Authority Case Planner.

8.4.2. I refer to Policy Objective PHP18: Residential Density of the current Development Plan where it states that it is a Policy Objective to:

- Increase housing (houses and apartments) supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites having regard to proximity and accessibility considerations, and development management criteria set out in Chapter 12.

- 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.
- 8.4.3. Section 12.3.3.2 Residential Density of the current Development Plan states that in general, the number of dwellings (houses or apartments) to be provided on a site should be determined with reference to the Government Guidelines document:
- ‘Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities’ (2009).
 - Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2020).
- 8.4.4. This policy further states that as a general principle, and on the grounds of sustainability, the objective is to optimise the density of development in response to type of site, location, and accessibility to public transport.
- 8.4.5. With reference to the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2020) the applicant takes the view that the site is an “intermediate urban location” given the site’s proximity to Bray Town Centre, which is identified in the Wicklow Development Plan as a Metropolitan Key Town. It is further stated that the site “broadly meets” the criteria for an Intermediate location, albeit “the distance to Bray are slightly further than the prescription 1,000m / 10 minute walk”.
- 8.4.6. I refer to Section 2.4.2 of the above Guidelines where it sets out the criteria for intermediate urban location and the report of the Case Planner. The distance to Bray town centre is 1.6km with a walking time of c20 mins. This exceeds the stated criteria of up to 1km with a walking time of 10 minutes. The distance to a high frequency public transport stop (DART or LUAS) is 2.2km with a walking time of c27 mins. This exceeds the stated criteria of between 1km and 1.5km with a walking time of between 10 and 15 minutes. The distance to a high frequency urban bus service is 1.4km with a walking time of c17 mins. This exceeds the stated criteria of up to 1km with a walking time of c 5 to 10 minutes. The distance to a reasonably frequent urban bus service is 1.4km with a walking time of c17 mins. This exceeds the stated criteria of between 400 and 500 metres with a walking time of 5 minutes. The Case Planner states that

the frequency of the No 185 Bus is 1 per hour from the identified stop on the Upper Darel Road.

- 8.4.7. Having regard to the foregoing I agree with the Case Planner that the site is not an “intermediate urban location”. In accordance with the classification and associated thresholds set out in Section 2.4 of the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2020) the site is classified as “peripheral and / or less accessible urban location” given the sites location and accessibility criteria and where the recommended density is less than 45 dwellings per hectare net.
- 8.4.8. Given the location of the site which is on the peripheral edge of Bray and the walking distances required to access the town centre, high frequency public transport stop (DART or LUAS), high frequency urban bus services and reasonably frequent urban bus services the net density proposed (83 units per hectare) is excessive. I further note the amended plans submitted with the appeal and the proposed reduction in overall number of units from 108 to 90 and the associated reduction in net density to 69 units per hectare. This amended density is also excessive at this location. Refusal is recommended.

8.5. **Visual Impact**

- 8.5.1. DLRCC in their second reason for refusal stated that the proposed development would present a negative visual impact upon the receiving environment contrary to the provisions under Section 4.4.1 Quality Design and Placemaking of the Dún Laoghaire-Rathdown County Development Plan 2022-2028, the Urban Development and Building Heights, Guidelines for Planning Authorities Dec 2018 and Policy Objectives PHP 42: Building Design and Height, BHS 3 Building Height in Residual Suburban Areas and Appendix 5: Building Heights Strategy of the Dún Laoghaire-Rathdown County Development Plan 2022-2028.
- 8.5.2. I agree with the applicant that the site’s unique topography with a plateau and steep embankments presents both various opportunities and constraints for the site’s development. The high density proposed correlates directly with the height, scale, and massing of the scheme and taken together with the topography of the site the

scheme has a visual impact. However, I do not agree that the impact is so significant as to merit a refusal of permission.

8.5.3. Compliance with the DLRCC Building Height Strategy (and Policy PH42 Building Design & Height and Objective BHS3 Building Height in Residual Suburban Areas) is detailed in the Statement of Consistency submitted with the Planning Report. It is noted that Policy BHS3 allows the potential for developments greater than 4 storeys to be considered at appropriate locations in "residual suburban areas" in accordance with the criteria outlined in Table 5.1. The Statement of Consistency contains a detailed justification for the proposed development under the Table 5.1 criteria, and also SPPR3 of the Building Heights Guidelines (from which the development management criteria in Table 5.1 is derived from). I note that the Table 5.1 assessment in the DRCC Planner's Report reaches a contrary, negative conclusion as regards the site and the proposed development

8.5.4. The development of the zoned lands here are not subject to protected views or prospects. I refer to the photomontages submitted. There is one protected view through the site from north to south which is assessed in Viewpoints 1 and 10.

- View Point No 1, 2 & 3 - The Magnitude of Change is considered High and the Significance and Quality of Visual Effect is considered Long term, moderate and positive.
- View Point No 4, 5, 8, 9 & 10 - The Magnitude of Change is considered to be None and the Significance of Quality of Visual Effect is considered to be No Effect.
- View Point No 6 and 11 - The Magnitude of Change is considered to be Negligible and the Significance of Quality of Visual Effect is considered to be Minor, Neutral
- View Point No 7 - The Magnitude of Change is considered to be Medium and the Significance of Quality of Visual Effect is considered to be Long term, moderate and positive

8.5.5. I agree with the above findings. Based on the photomontages the proposed apartment development in terms of layout, siting, height, architectural language and elevational treatment will not, in my view, represent a negative visual impact in the area. Whilst

the development will be visible at a handful of vantage points along the Upper Dargle Road, it will not have a "significant visual impact" on "a wider area". I further agree with the applicant that the achievement of Quality Design and Placemaking as per Section 4.4.1 of the Development Plan is multi-faceted and achieved through a variety of means. It is not to be determined solely by matters of building height and visual impact. Due to the topographical differences, any development of reasonable scale and density on this prominent site would result in a highly visible development. I also note the series of updated photomontages submitted with the appeal, with an option included comprising a lower density scheme. It is evident that even with an amended scheme there remains a visual impact given the topography of the site although the impact is significantly reduced.

- 8.5.6. I am satisfied that the capacity of this site, and the area to facilitate the proposed apartment development as designed is detailed and justified in the planning application, with full regard to the relevant national, regional and local planning policy and to the positive planning history of the site for similar development. I do not consider that to permit this development would be contrary to the *Urban Development and Building Heights, Guidelines for Planning Authorities (2018)* or to the policies and objectives together with the criteria outlined in Table 5.1 in the current Development Plan. While the high density of the scheme has merited a recommendation of refusal of permission, as documented above, I have no objection to the proposed height, scale, and massing of scheme in terms of visual impact and therefore recommended that the second reason for refusal is set aside.

9.0 Other Issues

- 9.1.1. Given the substantive issue identified in relation to density and recommendation to refuse as discussed above I do not propose to address the detail of the scheme as presented. However, I note that the Case Planner identified a number of concerns in relation to the scheme. I further note that several issues were raised in the technical reports submitted on the LRD file. While many are now mute based on the recommendation to refuse permission, I consider that a number of issues merit further comment as follows.

9.2. Design & Layout

- 9.2.1. In terms of design and layout, materials, accommodation provision and unit mix(30% one beds (32 units), 49% two beds (53 units), and 21% three beds (23 units)), unit sizes, provision of dual aspect apartments (aspect comprising 59 no, or 55% of the 108 no. proposed apartment units are dual aspect), floor to ceiling heights, internal storage and Part V proposals I am satisfied that the scheme is in accordance with the requirements of the current Development Plan and relevant National Guidelines.
- 9.2.2. I refer to the DMURS Compatibility Statement. I am satisfied that a DMURS compliant road, footpath and cycle network which provides a hierarchy of streets and connectivity with adjoining lands where appropriate given the nature of the site has been proposed and is therefore acceptable.
- 9.2.3. In relation to impact on adjoining amenities I agree with the Planning Authority that the development will not result in any significant impacts on the residential amenities to neighbouring properties by way of overlooking, overshadowing or overbearance effects. Overall, I am satisfied that subject to appropriate conditions no issues arise in this regard.
- 9.2.4. I note that the DLRCC Parks Department had no objection to the proposed development and outlined a set of conditions to be attached to a grant of permission. While specific queries were raised in relation to the finishes of footpaths in the open space; additional tree planting; and a strategy to curtail the spread of an invasive species growing on the slope to the south of the application I am satisfied that these matters can also be dealt with by way of condition. Invasive species is discussed separately below.
- 9.2.5. The Parks Department queried the quantum of public open space net of the proposed attenuation tank. I refer to the drawings submitted with the application which confirm that the public open space net of the attenuation tank represents 16% of the development area and therefore in excess of the 15% requirement. Public and private open space in terms of location, design, quantity and quality is acceptable and provision of same is in is in accordance with the requirements of the current Development Plan and relevant National Guidelines

9.3. Traffic Impact

- 9.3.1. Love Lane will be widened to 5.5m along the development side of the lane, which is consistent with DMURS for a street with this level of traffic. This will significantly improve the alignment of Love Lane for existing and proposed users of the lane. It is also proposed to provide a 2.0m wide footway along the development side of Love Lane from the proposed access to the development, which will continue south until it meets the existing footway at the opposite side of Love Lane on the approach to Upper Dargle Road. It is proposed to construct a new access at the junction of Love Lane and Hazelwood Crescent. This will provide access to Bray Town Centre and the wider road network via Love Lane / Upper Dargle Road or via Hazelwood Crescent / Old Conna Road.
- 9.3.2. I am satisfied that the development is not dependent on the completion of the N11/M11 Road Improvement Scheme. A detailed assessment and justification of the development in terms of traffic and transport and utilising the existing road network is outlined in the Traffic and Transport Assessment prepared by ILTP Consulting Engineers. The traffic generated by the proposed development will have no material impact on the local road network. In addition, the capacity assessments undertaken for the nearby Upper Dargle Road / Love Lane junction shows that this junction has significant reserve capacity to accommodate the projected additional traffic from the proposed development. In addition, an assessment of the existing roundabout adjacent to the N11 was undertaken which identified a negligible impact that the proposed development would have on the N11.
- 9.3.3. At the construction phase the level of traffic generated will be relatively low. A construction traffic management plan will be implemented to ensure the existing road network continues to operate throughout the construction process. The construction traffic will not have a negative impact on the local road network and will be directed via designated construction traffic routes with access via the N11 only for construction traffic. A detailed construction traffic management plan will be submitted and agreed by the planning authority prior to the commencement of construction.
- 9.3.4. I note that DLRCC Transport Planning requested the provision of
- a 3m wide cycle track along the full extent of the northern and western boundaries of the proposed development

- the provision of a set-down area to facilitate deliveries at the proposed site
- provision of uncontrolled crossing point across Love Lane (including appropriate surface treatments and tactile paving) and extending footpaths to tie into existing pedestrian facilities on Upper Dargle Road to be delivered by the Applicant
- tightening of radii at proposed vehicular entrance into the proposed development and provision of appropriate raised pedestrian priority crossing treatment in accordance with DMURS
- surface treatments throughout the proposed development which encourage pedestrian priority and cater for pedestrian desire lines.
- pedestrian route from creche building to northern apartment Block footpath (currently obstructed by proposed shrub planting).
- provision of alternative access from West to East (communal open space) which does not rely on stepped access
- provision of loading bay/delivery location
- adequate sightlines across site and on Love Lane
- revised independent Quality Audit which addresses the above raised items in relation to site layout and accessibility together with a revised Construction Management Plan.

9.3.5. I am satisfied that these matters can be dealt with by way of a suitably worded condition.

9.3.6. I have considered the information available on file together with the report of DLRCC Transportation Planning. Overall, I am satisfied that given the location of the appeal site and the layout of the proposed scheme together with infrastructure improvement proposals that the vehicular movements generated by the scheme would not have a significant material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic or pedestrian movements in the immediate area.

9.4. Technical Reports

- 9.4.1. I refer to the reports of the Housing Department, Environmental Enforcement Section, Biodiversity Officer, Building Control, Environmental Health Office and Inland Fisheries. I note that for the most part the proposed scheme is considered acceptable subject to compliance with conditions outlined in the relevant reports. Where concerns have been raised, I am generally satisfied that such matters can be dealt with by way of suitably worded conditions.

9.5. Drainage/Water Services

- 9.5.1. I refer to the Engineering Infrastructure Report and Stormwater Impact Assessment. I also refer to the reports of DLRCC Drainage/Water Services Department and Irish Water. The reports submitted with the application address the existing drainage and water services on the site and address the items raised by the DLRCC Drainage Department. It also sets out the Sustainable Drainage Systems proposed on site. A Statement of Design Acceptance along with a Confirmation of Feasibility are submitted from Irish Water confirming that this site can be connected into the Irish Water Network subject to appropriate conditions. I note from the reports on file that in order to accommodate the proposed wastewater connection, the network will need to be extended (c26m). The applicant is required to fund this extension. The applicant has raised no issues in this regard, and I am satisfied that this matter can be dealt with by way of suitably worded condition. Neither Irish Water nor DLRCC Drainage / Water Services have raised any stated objections to the scheme subject to conditions as set out in their reports. I am satisfied that the proposed development would not have any unacceptable impact on existing infrastructure and that no significant impacts are likely to arise as a result of the proposed development.

9.6. Parking Provision

- 9.6.1. The proposed cycle parking exceeds the cycle parking standards in the development plan and the proposed motorcycle parking is in line with the development plan standards. The proposed development includes 132 no. car parking spaces which equates to just over one car parking space per unit with 52 no. spaces provided at surface level to the west of the site, and 70 no. are provided at undercroft level. A total

of 4 no. of the surface car parking spaces will be accessible spaces. The proposed car parking is marginally below the car parking standards provided in the DLRCC Development Plan 2022-2028. This deficiency is not ideal. However I am satisfied that this matter can be addressed by way of condition.

9.7. Development Contribution

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

9.8. Further Information

9.8.1. I note the concerns raised throughout the appeal that the Planning Authority could have availed of the opportunity to seek further information in order to address the concerns raised and that this has hindered the process. However, in this case, the Local Planning Authority did not elect to request further information. This was a matter for the Local Planning Authority to determine and is not a matter for An Bord Pleanála and therefore I do not propose to comment further.

9.9. Oral Hearing

9.9.1. I note the request with e appeal to hold an oral hearing on this case. I am satisfied that there is in sufficient information available on the appeal file to determine this case and that an oral hearing is not necessitated in this instance.

9.10. Ground Conditions

9.10.1. I refer to the Preliminary Geotechnical Report submitted with the application. The site is essentially in two parts; a relatively flat northern part, where the proposed buildings would be constructed, and a steeply sloping southern part, which slopes towards the River Dargle. Appropriate monitoring will be required during construction. Subject to compliance with the recommendations as outlined in the report and the appropriate application of routine geotechnical engineering solutions at detailed design stage, such as raft foundations and gabion retaining walls, it is concluded that the proposed

development can be constructed so that it does not have a deleterious impact on the overall stability of the slopes at the site.

9.11. Flooding

9.11.1. The site-specific Flood Risk Assessment for the site indicates that the subject site is within Flood Zone C, with an “overall low risk of being affected by flooding” and is suitable for development. The proposed site is not considered vulnerable to major accidents and / or disasters, and therefore the expected effects are considered to be negligible. I am satisfied that no issues arise in this regard.

9.12. Creche

9.12.1. Provision of a creche (c.252sqm gross floor area / 30 no childcare spaces) located on the ground floor of Block 3 is acceptable.

9.13. Daylight and Sunlight

9.13.1. I refer to the Daylight and Sunlight Assessment Report. This report assessed both the impact of the proposed development on the adjacent dwellings and the daylight received by the proposed units and amenity spaces. I note the report states that “whilst there is impact to some of the neighbouring existing windows, the supplementary ‘no balcony’ assessment on those buildings has proved that the recessed nature of the balconies are having an exaggerated effect on the level of impact to those windows within. Without the balconies, all assessed windows presented BRE compliant results”. I further note that all other assessment points under impact assessment returned positive result. All the proposed amenity spaces will receive sufficient sunlight, as per BRE guidelines, most well in excess of the minimum levels that are recommended. I am satisfied that the scheme to be performing well in terms of daylight and sunlight and that no issues arise in this regard.

9.14. Glint & Glare

9.14.1. I refer to the Glint and Glare Assessment that examined the impact of the development on the several road receptor points positioned along the N11/ M11 transport corridor. These were positioned in both a north and south bound carriageway. The report

concluded that “glint and glare emanating from the proposed development is unlikely to adversely impact road users along the N11/M11 transport corridor.” I am satisfied that no issues arise in this regard.

9.15. Archaeology

9.15.1. I refer to the Archaeological assessment submitted. The proposed development area is considered to possess general archaeological potential due to its favourable topographic location overlooking the River Dargle, specifically at the northern extent of the site, which is formed by a plateau. As such, ground disturbances associated with the proposed development have the potential to result in an adverse impact on previously unrecorded archaeological feature or deposits that have the potential to survive beneath the current ground level. It is recommended that a programme of archaeological testing is carried out within the accessible portions of the proposed development area prior to construction going ahead. Should the Board be minded to grant permission it is recommended that an archaeological monitoring condition is attached. I consider the findings and proposals to be acceptable and that no issues arise.

9.16. Invasive Species

9.16.1. I refer to the Invasive Species Management Plan submitted. Giant hogweed (*Heracleum mantegazzianum*) was noted proximate to the watercourse on site. This is a Third Schedule listed species under Regulations 49 & 50 in the European Communities (Birds and Natural Habitats) Regulations 2011. No other non-native invasive species listed in the third schedule of (SI 477 of 2011) were noted on site. Additional non-native species (not listed under SI 477 of 2011) were also noted and included Buddleja (*Buddleja davidii*), Traveller's Joy (*Clematis vitalba*) and Winter heliotrope (*Petasites pyrenaicus*). Giant hogweed (*Heracleum mantegazzianum*) was noted but may be in the vicinity of drainage connection works. Details on these species and their control are outlined in Appendix I of the report. As part of the management plan ongoing monitoring is required post control to ensure that invasive species have been fully controlled on site. Prior to works commencing it is recommended that an ecologist/invasive species specialist should assess the site

particularly in the vicinity of the drainage works. Further proposed management includes:

- All plants of Giant hogweed (*Heracleum mantegazzianum*) must be marked out and treated.
- No soil movements or machinery access to the area of Giant hogweed (*Heracleum mantegazzianum*) will take place in the absence of an invasive species specialist.
- No soil will be removed off site in the vicinity of Giant hogweed (*Heracleum mantegazzianum*).
- Treatment must take place in line with TII guidance documentation in Appendix I over a period of at least 2 years.
- It is recommended that other species non-native species (not listed under SI 477 of 2011) are also treated on site under the supervision of an invasive species specialist.

9.16.2. I consider the findings and proposals outlined to be acceptable and that subject to a suitably worded condition that that no issues arise.

9.17. Demolition of Dwelling

9.17.1. There is an existing single storey house on site, St Annes, which is cut into the southeast of the site, fronting onto Love Lane/ Blind Lane. It is proposed to demolish this dwelling in order to facilitate the proposed development. The house has been vacant and semi derelict for in excess of ten years. It is noted that its demolition also formed part of previous appclaiton on this site and no obvious issues arose re same. The dwelling is not listed on the record of protected structures, and neither is the site located within a designated conservation area. Further, the dwelling does not have any distinctive architectural merit and does not contribute to the area in terms of visual amenity, character, or accommodation type. Accordingly, there is no objection to the proposed demolition of this habitable dwelling house.

9.18. Noise Impact

9.18.1. I note the concerns raised by the Planning Authority that the applicant has failed to demonstrate how noise can be mitigated to provide an acceptable standard of residential amenity to future residents. The M11 is located to the immediate west of the site which will result in a level of noise emissions. The development has been categorised as being “high risk” in terms of noise impact. As a result, the proposed apartment blocks and open space have been located away from the western boundary, as much as possible. A 4m acoustic barrier will also be erected to further protect against any potential noise issues along the western boundary of the site. An Environmental Noise Survey was completed for the scheme which concluded that the amenity spaces will experience noise levels of the order $\leq 55\text{dB LAeq,16hr}$ in line with the recommended noise level for such areas and that during daytime and night-time periods, internal noise levels are calculated to be within acceptable levels for bedroom, living and dining areas, taking account of the proposed glazing and ventilation strategy recommended for the development. The assessment recommended a Type 3 glazing for the façade adjacent to the M11 and to the north of Block 3. - Type 2 glazing to the south side of Block 3 and to the north and south sides of Block 1 & 2. It recommended to use Type 1 glazing for the remainder of the development. These have been implemented in the design of the development. Mechanical ventilation was also recommended for all the apartment blocks facing onto the M11. I am therefore satisfied that no issues arise subject to standard construction noise conditions together with the implementation of the recommendations outlined in the report and the conditions outlined in the relevant local authority technical reports including those of DLRCC Environmental Enforcement. With the implementation of same it is considered that a suitable level of protection against noise will be provided to the occupants of the proposed development.

9.19. Biodiversity

9.19.1. I refer to the Ecological Impact Assessment, the AA Screening Report and Invasive Species Report submitted. As part of the ecological assessment, desktop surveys as well as Field Surveys and consultation with National Parks and Wildlife Services was carried out. The field surveys included Non-Avian Fauna Survey, Breeding Bird

Surveys, Bat Surveys, and Flora Surveys. The EclA has found that there are no rare plant species of conservation value on the field assessment. However, invasive species, Traveller's Joy has been identified on the eastern and southern slopes of the site and Giant Hogweed have been identified near the watercourse. No signs of badgers or otters have been found on the site. Bat foraging was noted across the site but there were no bat roosts on site. While there were 26 no. species of birds on site, of which 4 were proved breeding on site, there were no species from Birdwatch Ireland's list of conservation concern recorded breeding on site.

- 9.19.2. Standard construction and operational mitigation measures are proposed. I refer to Table 9 – Mitigation Measures in the Ecological Impact Assessment. I am satisfied that these measures would ensure that water entering the County Brook is uncontaminated. I agree with findings of the assessment that early implementation of ecological supervision and consultation with Inland Fisheries Ireland, prior initial mobilisation and enabling works is an important element to the project, particularly in relation to the implementation of surface water runoff mitigation, bat mitigation and the protection of riparian habitats. Residual impacts will be localised to the immediate vicinity of the proposed works.
- 9.19.3. It would be expected that bat foraging may be reduced within the site but this would be deemed not to be significant. Bat foraging would continue within the woodland and proximate to watercourse would not be impacted. The construction and operational mitigation proposed for the development satisfactorily addresses the mitigation of potential impacts on terrestrial biodiversity, aquatic biodiversity and bats through the application of the standard construction and operational phase controls as referenced above. In particular, mitigation measures to ensure compliance with Water Pollution Acts and prevent silt and pollution entering the County Brook will satisfactorily address the potential impacts on downstream biodiversity.
- 9.19.4. I agree with the DLRCC Biodiversity Department that the EclA along with relevant appendices, the AA Screening Report and Invasive Species Report adequately assesses the potential impacts on biodiversity from the proposed development, including on key ecological receptors both on site and within the zone of influence of the proposed development. With the successful implementation of standard mitigation measures to limit surface water impacts on the watercourses, biodiversity mitigation/supervision, no significant impacts are foreseen from the construction or

operation of the proposed project on terrestrial or aquatic ecology. I am therefore satisfied that subject to compliance with the mitigation measures outlined in the Ecological Impact Assessment, the AA Screening Report and Invasive Species Report that the proposed development would not have any unacceptable impact on biodiversity and that no significant impacts are likely to arise as a result of the proposed development.

9.20. Screening for Appropriate Assessment

- 9.20.1. In addition to the Ecological Impact Assessment the application was accompanied by a Stage 1 Appropriate Assessment Screening Report. On the basis of the content of these reports, the competent authority is enabled to conduct a Stage 1 Screening for Appropriate Assessment and consider whether, in view of best scientific knowledge and in view of the conservation objectives of the relevant European sites, the proposed development, individually or in combination with other plans or projects is likely to have a significant effect on any European site.
- 9.20.2. The site description and proposed development are set out in the foregoing reports and also Section 1.0 and 2.0 above. Surface water from the proposed development will be drained using a new surface water sewer system and will discharge to the existing watercourse (the County Brook). The stream then outfalls to the Irish Sea via Bray harbour approximately 2 km from the proposed development, where any chemicals or pollutants which may have entered the watercourse in the absence of mitigation, will be diluted or dispersed within the marine environment and will not impact upon the qualifying interests of the sites identified. The foul water from the site will discharge to the existing 525mm Irish Water sewer located to the south of the site on Upper Dargle Road. This network discharges into Bray pumping station and is then pumped to Shanganagh Wastewater Treatment Works where it will be treated and discharged to the Irish Sea.
- 9.20.3. The site is not located within or directly adjacent to any designated Natura 2000 site and there are no proposals for works to any European Site. There are a total of 14 no natura sites within 15km of the proposed development site. While 15km is not a statutory requirement I am satisfied that it is a reasonable parameter and that the sites

identified in Stage 1 of the AA are acceptable. No potential impacts are foreseen on European sites beyond 15km as there is no direct or indirect pathways to these sites.

9.20.4. All European sites within 15km are listed below together with the qualifying interests and conservation objectives for each European site:

Special Areas of Conservation	
<p>Ballyman Glen SAC Site Code - 000713 Distance - 735m</p>	<p>Conservation Objectives</p> <p>The maintenance of habitats and species within European sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.</p> <p>Qualifying Interests</p> <ul style="list-style-type: none"> ▪ Petrifying springs with tufa formation (Cratoneurion) [7220] ▪ Alkaline fens [7230] <p>The proposed development site is located 735 m from the Ballyman Glen SAC on the far side of the N11. There is no direct, or indirect, hydrological pathway for pollutants from the proposed development to this SAC.</p> <p>Direct Pathway – No</p>
<p>Bray Head SAC Site Code - 00714 Distance – 2.5km</p>	<p>Conservation Objectives</p> <p>The maintenance of habitats and species within European sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.</p> <p>Qualifying Interests</p> <ul style="list-style-type: none"> ▪ Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] ▪ European dry heaths [4030] <p>The proposed development is located 2.5 km from Bray Head SAC. There is no direct hydrological pathway from the proposed development site to this SAC.</p> <p>Direct Pathway – No</p>
<p>Knocksink Wood SAC Site Code - 000725 Distance – 2.7km</p>	<p>Conservation Objectives</p> <p>To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p> <p>Qualifying Interests</p> <ul style="list-style-type: none"> ▪ Petrifying springs with tufa formation (Cratoneurion) [7220] ▪ Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]

	<ul style="list-style-type: none"> ▪ Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0] <p>The development site is located 2.7 km from the Knocksink Wood SAC. There is no direct or indirect hydrological connection between the subject site and this SAC.</p> <p>Direct Pathway – No</p>
<p>Rockabill to Dalkey Island SAC</p> <p>Site Code - 003000</p> <p>Distance – 5.6km</p>	<p>Conservation Objectives</p> <p>To maintain the favourable conservation condition of Reefs and Harbour porpoise, in Rockabill to Dalkey Island SAC, which is defined by the following list of targets:</p> <ul style="list-style-type: none"> ▪ The permanent habitat area is stable or increasing, subject to natural processes. ▪ Distribution of habitat is stable or increasing, subject to natural processes. ▪ Conserve the following community types in a natural condition: Intertidal reef community complex; and Subtidal reef community complex. ▪ Porpoise range within site should not be restricted by artificial barriers to site use. ▪ Human activities should occur at levels that do not adversely affect the harbour porpoise community at the site. <p>Qualifying Interests</p> <ul style="list-style-type: none"> ▪ Reefs [1170] ▪ <i>Phocoena phocoena</i> (Harbour porpoise) [1351] <p>The proposed development site is located 5.6 km from Rockabill to Dalkey Island SAC. There is no direct hydrological pathway between the subject site and this SAC.</p> <p>Direct Pathway – No</p>
<p>Wicklow Mountains SAC</p> <p>Site Code - 002122</p> <p>Distance – 6km</p>	<p>Conservation Objectives</p> <p>The maintenance of habitats and species within European sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.</p> <p>Qualifying Interests</p> <ul style="list-style-type: none"> ▪ Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110] ▪ Natural dystrophic lakes and ponds [3160] ▪ Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010] ▪ European dry heaths [4030] ▪ Alpine and Boreal heaths [4060] ▪ Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130]

	<ul style="list-style-type: none"> ▪ Species-rich Nardus grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230] ▪ Blanket bogs (* if active bog) [7130] ▪ Siliceous scree of the montane to snow levels (Androsacetalia alpinae and Galeopsietalia ladani) [8110] ▪ Calcareous rocky slopes with chasmophytic vegetation [8210] ▪ Siliceous rocky slopes with chasmophytic vegetation [8220] ▪ Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] ▪ Otter (Lutra lutra) [1355] <p>The development site is located 6 km from the Wicklow Mountains SAC. There is no direct or indirect hydrological connection between the subject site and this SAC.</p> <p>Direct Pathway – No</p>
<p>Glen of the Downs SAC Site Code - 000719 Distance – 6.3km</p>	<p>Conservation Objectives</p> <p>The maintenance of habitats and species within European sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.</p> <p>Qualifying Interests</p> <ul style="list-style-type: none"> ▪ Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] <p>The development site is located 6.3 km from Glen of the Downs SAC. There is no direct or indirect hydrological connection between the subject site and this SAC.</p> <p>Direct Pathway – No</p>
<p>Carriggower Bog SAC Site Code - 000716 Distance – 10.3km</p>	<p>Conservation Objectives</p> <p>The maintenance of habitats and species within European sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.</p> <p>Qualifying Interests</p> <ul style="list-style-type: none"> ▪ Transition mires and quaking bogs [7140] <p>The proposed development site is located 10.3 km from the Carriggower Bog SAC. There is no direct or indirect hydrological connection between the subject site and this SAC.</p> <p>Direct Pathway – No</p>
<p>South Dublin Bay SAC Site Code - 000210 Distance – 10.5km</p>	<p>Conservation Objectives</p> <p>The maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to</p>

	<p>the overall maintenance of favourable conservation status of those habitats and species at a national level.</p> <p>Qualifying Interests</p> <ul style="list-style-type: none"> ▪ [1140] Mudflats and sandflats not covered by seawater at low tide ▪ [1210] Annual vegetation of drift lines ▪ [1310] Salicornia and other annuals colonising mud and sand ▪ [2110] Embryonic shifting dunes <p>The development site is located 10.5 km from this SAC. There is no direct pathway from the site to South Dublin Bay SAC.</p> <p>Direct Pathway – No</p>
<p>The Murrough Wetlands SAC</p> <p>Site Code - 002249</p> <p>Distance – 11km</p>	<p>Conservation Objectives</p> <p>To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p> <p>Qualifying Interests</p> <ul style="list-style-type: none"> ▪ Annual vegetation of drift lines [1210] ▪ Perennial vegetation of stony banks [1220] ▪ Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330] ▪ Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] ▪ Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210] ▪ Alkaline fens [7230] <p>The proposed development is 11 km from the Murrough Wetlands SAC. There is no direct hydrological connection between the proposed development site and this SAC.</p> <p>Direct Pathway – No</p>
<p>Glenasmole Valley SAC</p> <p>Site Code - 001209</p> <p>Distance – 14.9km</p>	<p>Conservation Objectives</p> <p>The maintenance of habitats and species within European sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.</p> <p>Qualifying Interests</p> <ul style="list-style-type: none"> ▪ Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210] ▪ <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410] ▪ Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220] <p>The proposed development site is located 14.9 km from the Glenasmole Valley SAC. There is no direct or indirect</p>

	<p>hydrological connection between the subject site and this SAC.</p> <p>Direct Pathway – No</p>
Special Protection Area	
<p>Wicklow Mountains SPA</p> <p>Site Code - 004040</p> <p>Distance – 6.5km</p>	<p>Conservation Objectives</p> <p>To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p> <p>Qualifying Interests</p> <ul style="list-style-type: none"> ▪ Falco colombarius (Merlin) [A098] ▪ Falco peregrinus (Peregrine) [A103] <p>The proposed development site is located 6.5 km from this SPA. There is no direct or indirect hydrological connection between the subject site and this SPA</p> <p>Direct Pathway – No</p>
<p>Dalkey Islands SPA</p> <p>Site Code - 004172</p> <p>Distance – 7.9km</p>	<p>Conservation Objectives</p> <p>To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p> <p>Qualifying Interests</p> <ul style="list-style-type: none"> ▪ Sterna dougallii (Roseate Tern) [A192] ▪ Sterna hirundo (Common Tern) [A193] ▪ Sterna paradisaea (Arctic Tern) [A194] <p>The development site is located 7.9 km from the Dalkey Islands SPA. There is no direct hydrological pathway from the proposed development to this SPA.</p> <p>Direct Pathway – No</p>
<p>South Dublin Bay and River Tolka Estuary SPA</p> <p>Site Code - 004024</p> <p>Distance – 10.5km</p>	<p>Conservation Objectives</p> <p>To maintain or restore the favourable conservation condition of the bird species listed as Conservation Interests for this SPA.</p> <p>To maintain the favourable conservation condition of the wetland habitat in South Dublin Bay and River Tolka Estuary SPA as a resource for the regularly occurring migratory waterbirds that utilise it.</p> <p>Qualifying Interests</p> <ul style="list-style-type: none"> ▪ Branta bernicla hrota (Light-bellied Brent Goose) [A046] ▪ Haematopus ostralegus (Oystercatcher) [A130] ▪ Charadrius hiaticula (Ringed Plover) [A137] ▪ Pluvialis squatarola (Grey Plover) [A141] ▪ Calidris canutus (Knot) [A143] ▪ Calidris alba (Sanderling) [A144] Calidris alpina (Dunlin) [A149] ▪ Limosa lapponica (Bar-tailed Godwit) [A157] ▪ Tringa totanus (Redshank) [A162]

	<ul style="list-style-type: none"> ▪ Chroicocephalus ridibundus (Black-headed Gull) [A179] ▪ Sterna dougallii (Roseate Tern) [A192] ▪ Sterna hirundo (Common Tern) [A193] ▪ Sterna paradisaea (Arctic Tern) [A194] ▪ Wetland and Waterbirds [A999] <p>The development site is located 10.5 km from the South Dublin Bay and River Tolka Estuary SPA. There is no direct hydrological pathway from the proposed development to this SPA.</p> <p>Direct Pathway – No</p>
<p>The Murrough SPA Site Code - 004186 Distance – 12km</p>	<p>Conservation Objectives</p> <p>To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p> <p>To maintain or restore the favourable conservation condition of the wetland habitat at The Murrough SPA as a resource for the regularly occurring migratory waterbirds that utilise it.</p> <p>Qualifying Interests</p> <ul style="list-style-type: none"> ▪ Red-throated Diver (Gavia stellata) [A001] ▪ Greylag Goose (Anser anser) [A043] ▪ Light-bellied Brent Goose (Branta bernicla hrota) [A046] ▪ Wigeon (Anas penelope) [A050] ▪ Teal (Anas crecca) [A052] ▪ Black-headed Gull (Chroicocephalus ridibundus) [A179] ▪ Herring Gull (Larus argentatus) [A184] Little Tern (Sterna albifrons) [A195] ▪ Wetland and Waterbirds [A999] <p>The proposed development site is located within a suburban area 12 km from the Wicklow Mountains SPA. There is no direct hydrological connection between the proposed development site and this SPA.</p> <p>Direct Pathway – No</p>

9.20.5. There will be no habitat loss and alteration as the application site is not located within the designated site. There will be no direct habitat / species fragmentation. The proposed development will not cause disturbance and / or displacement of species of qualifying interest as the sites is not an ex-situ habitat or foraging location for qualifying interests. The main work element that could have the potential for significant impact on European Sites are as follows:

- Construction near watercourses relating to the disturbance and potential losses of soils, organic matter, and the input of pollutants to surface water bodies as a result of the proposed work.

- Surface runoff during the operation of the residential development
- Noise / vibration and visual disturbance during construction may impact bird species protected as qualifying interests
- Deterioration of water quality arising from pollution of ground waters during construction and operation stages due to increased discharge entering groundwater without sufficient filtering.
- Cumulative impacts with other proposed/existing plans and developments.

9.20.6. As previously mentioned the County Brook, a tributary of the River Dargle, is to the south of the appeal site. The watercourse flows eastwards towards the Irish Sea. It is noted that, as per Planning Reg Ref 161448, the County Brook was realigned by Wicklow County Council. The actual location of the County Brook, as per the latest available satellite imagery, is demonstrated in Figure 11 of the Screening Report.

9.20.7. As stated above all of the proposed works take place outside the SACs and SPAs and therefore there are no direct effects on the integrity of these European Sites. Taking together with an examination of the Appropriate Assessment Stage 1 Screening Report, the Ecological Impact Assessment, the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, separating distances and functional relationship between the proposed works and the European Sites, their conservation objectives and my assessment of the subject site and the surrounding area, the potential impacts to the following 10 no European sites:

- 1) Knocksink Wood SAC
- 2) Wicklow Mountains SAC
- 3) Glen of the Downs SAC
- 4) Carriggower Bog SAC
- 5) South Dublin Bay SAC
- 6) The Murrough Wetlands SAC
- 7) Glenasmole Valley SAC
- 8) Wicklow Mountains SPA
- 9) South Dublin Bay and River Tolka Estuary SPA

10)The Murrough SPA

are excluded from further consideration and are therefore screened out. There are no hydrological impacts, and the distance is sufficient for no impacts due to works.

9.20.8. The AA Screening report addressed the remaining European Sites:

- 1) Ballyman Glen SAC
- 2) Bray Head SAC
- 3) Rockabill to Dalkey Island SAC
- 4) Dalkey Islands SPA

having regard to the qualifying interests for which these sites were designated as follows:

European Site	Potential Impact
Ballyman Glen SAC	<p>There is no direct or indirect hydrological pathway for pollutants to this SAC for surface water drainage. After attenuation on-site, surface water drainage from the proposed development will discharge to the County Brook Stream. Given that this watercourse flows in an easterly direction to the marine environment, and the fact that this SAC is located upstream of the subject site, there is no hydrological pathway for pollutants from the subject site to this SAC. In the absence of mitigation measures, any silt or pollutants that may enter this watercourse during construction and operational phases of development will not travel upstream to this SAC. No significant effects on the qualifying interests of this SAC are likely.</p> <p>There is no indirect hydrological pathway to this SAC via foul wastewater drainage. Foul wastewater from the proposed development will discharge into the existing 525mm Irish Water sewer in the Upper Dargle Road, located to the south of the site. All foul wastewater will be treated along this public network.</p> <p>The construction and operation of the proposed development will have no likely significant effect on the conservation interests of the site. No specific mitigation measures are deemed necessary to limit the effects of the proposed development on European sites.</p> <p>No significant effects are likely.</p> <p>Screened OUT</p>
Bray Head SAC Rockabill to Dalkey Island SAC Dalkey Islands SPA	<p>There is an indirect hydrological connection to these European sites via the proposed surface water drainage strategy and works on site. After attenuation onsite surface water drainage will discharge to the County Brook, which in turn ultimately outfalls to the Irish Sea at Bray harbour. The County Brook stream is downslope of the works and there is potential for silt and pollutants to enter the watercourse during construction. In the absence of mitigation measures, given the minimum distance to these European Sites across a substantial marine</p>

	<p>environment, no potential impacts on these European Sites are foreseen via surface water runoff. In the absence of mitigation measures, any silt or pollutants that may enter the watercourse will settle, be dispersed, or diluted within the marine environment and will not impact on this SAC. No significant effects on the qualifying interests or conservation objectives of this SAC are likely.</p> <p>It should also be noted that the qualifying interests of the Bray Head SAC are terrestrial/coastal habitats.</p> <p>Given the distance from the proposed development to these European sites across a substantial marine environment, and the fact that foul wastewater will be treated along the existing foul network, in the absence of mitigation measures, no significant effects on the conservation objectives or qualifying interests of this SAC are likely.</p> <p>Given the minimum distance to the Dalkey Island SPA (7.9 km), no significant noise or vibration impacts on the bird species protected as qualifying interests of this SPA are foreseen. In the absence of mitigation measures, no significant impacts on this SPA are likely.</p> <p>No potential impact is foreseen. The construction and operation of the proposed development will have no significant effect on the conservation interests of the site. No specific mitigation measures are deemed necessary to limit the effects of the proposed development on European sites.</p> <p>No significant effects are likely.</p> <p>Screened OUT</p>
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9.20.9. As documented the nearest European site (Ballyman Glen SAC) is 735m from the proposed development site and is upstream from the proposed development, and it is, therefore, unlikely that any pollutants or chemicals from the site, that potentially enters the watercourse would impact on the conservation objectives or features of interest (Alkaline fens and Petrifying springs with tufa formation) of this European site.

9.20.10. No potential impact is foreseen on the sites identified. The construction and operation of the proposed development will have no likely significant effect on the conservation interests of these sites. No specific mitigation measures are deemed necessary to limit the effects of the proposed development on European sites.

9.20.11. The Zone of Influence of the proposed project would be seen to be restricted to the site outline, with potential for minor localised noise and lighting impacts during construction which do not extend significantly beyond the site outline nor are they likely to have any significant effects on any European sites.

9.20.12. In combination effects are considered in the Screening report and following the consideration of a number of planning applications in the area, there is no potential for in-combination effects given the scale and location of the development.

9.20.13. There is no direct hydrological connection to any European Site. There is an indirect hydrological pathway to marine-based European sites via surface water drainage. Surface water runoff from the proposed development will be drained using a new storm water sewer system and will discharge to the existing watercourse (the County Brook), which in turn outfalls to the River Dargle, and ultimately the Irish Sea via Bray harbour located 2 km from the proposed development. Any chemicals or pollutants which may have entered the watercourse will settle, be diluted or dispersed within the marine environment. There is no indirect hydrological pathway to any European site via foul wastewater drainage. Foul wastewater from the proposed development will discharge to the existing 525mm Irish Water sewer located to the south of the site on Upper Dargle Road. This network discharges into Bray pumping station, and is then pumped to Shanganagh Wastewater Treatment Works (WwTP) where it will be treated and discharged to the Irish Sea. Given the minimum distance to the nearest European Site (2.5km to Bray Head SAC) across a substantial marine environment, and the fact that foul wastewater will be treated along the existing foul network, in the absence of mitigation measures, no significant effects on the conservation objectives or qualifying interests of any European sites are likely. No specific mitigation is required to prevent impacts on European sites.

9.20.14. No European sites are within the zone of influence of the proposed development. Having taken into consideration surface water drainage from the proposed development, the distance between the proposed development to designated conservation sites, lack of direct hydrological pathway or biodiversity corridor link to conservation sites and the dilution effect with other effluent and surface runoff, it is concluded that the proposed development would not give rise to any significant effects to designated sites. The construction and operation of the proposed development will not impact on the conservation objectives of qualifying interests of European sites.

9.20.15. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment, it has been concluded that the proposed

development individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

10.0 Recommendation

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

11.0 Draft Order

Planning and development Act 2000 as amended

Planning Authority: Dun Laoghaire Rathdown County Council

Planning Register Reference Number: LRD23a/0170

Appeal by Visdon Ltd against the decision made on 22nd February 2023 by Dún Laoghaire-Rathdown County Council to refuse permission to Visdon Ltd for the proposed Large Scale Residential Development application.

Location: Love Lane (also known as Blind Lane), Upper Dargle Road, Bray, Co Dublin

Proposed Development

The proposed development is for the following:

- Demolition of an existing dwelling, and construction of 108 no. apartments (comprising 32 no. 1-bed, 53 no. 2-bed and 23 no. 3-bed units) within 3 no. blocks, ranging in height up to 6 storeys as follows:
 - Block 1 will range in height from 4 to 5 storeys and will provide 36 no. apartments.
 - Block 2 will range in height from 5 to 6 storeys and will provide 44 no. apartments.

- Block 3 will range in height from 3 to 5 storeys and will provide 28 no. apartments.
- All residential units will have associated private balconies/terraces to the north/south/east/west elevations.
- The development will also include the provision of a creche (c.252sqm gross floor area) located on the ground floor of Block 3
- 132 no. car parking spaces, 148 no. cycle parking spaces and 4 no. motorcycle spaces, located at undercroft and surface level.
- Vehicular/pedestrian/cyclist access will be provided via Love Lane along with a new pedestrian access.
- The development will also include the provision of an acoustic barrier along the western boundary of the site
- All associated site development works, site reprofiling, water services, open spaces, landscaping, SuDs features, boundary treatments, plant areas, waste management areas/bin stores, car/cycle parking areas (including EV parking), and services provision (including ESB substations) will also be provided.

Decision

Refuse permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

12.0 Reasons

1. In accordance with the classification and associated thresholds set out in Section 2.4 of the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2020) the site is classified as

“peripheral and / or less accessible urban location” given the sites location and accessibility criteria and where the recommended density is less than 45 dwellings per hectare net. Given the location of the site which is on the peripheral edge of Bray and the walking distances required to access the town centre, high frequency public transport stop (DART or LUAS), high frequency urban bus services and reasonably frequent urban bus services the net density proposed (83 units per hectare) is excessive. The proposed development would, therefore, be contrary these Ministerial Guidelines, the Dún Laoghaire-Rathdown County Development Plan, 2022-2028 and the proper planning and sustainable development of the area.

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

Mary Crowley

Senior Planning Inspector

21st August 2023

13.0 EIA Screening Determination:

A. CASE DETAILS		
An Bord Pleanála Case Reference	317274-23	
Development Summary	Construction of 108 apartments, creche, and all associated ancillary site works.	
	Yes / No / N/A	Comment (if relevant)
1. Was a Screening Determination carried out by the PA?	Yes	Due to the nature, size and location of the development, there is no real likelihood of significant effects on the environment, therefore EIAR is not required.
2. Has Schedule 7A information been submitted?	Yes	
3. Has an AA screening report or NIS been submitted?	Yes	AA Screening submitted.
4. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	
5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	Ecological Impact Assessment submitted. Development Plan subject to SEA
B. EXAMINATION	Where relevant, briefly describe the characteristics of impacts (ie the nature and extent) and any Mitigation Measures proposed to avoid or prevent a significant effect (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency,	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain

	intensity, and reversibility of impact)	
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)		
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	The development proposes the provision of 108 no apartments up to 6 storeys in height. The area is characterised by residential development (apartments & houses) business centre and motorway. The development of residential units is in keeping with the predominately residential nature of the area.	No.
1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	The proposed development is located on a greenfield site within the development boundary of Bray in the planning authority area of DRLCC. It will change land under grass in an urban area to residential development. While there are demolition works proposed comprising the demolition of an existing single storey vacant and semi derelict dwelling the works would not give rise to significant environmental effects.	No.
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	Construction materials will be typical of such an urban development. The loss of natural resources or local biodiversity as a result of the development of the site are not regarded as significant in nature.	No.
1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	Construction activities will require the use of potentially harmful materials, such as fuels, hydraulic oils and other	No.

	<p>such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction Management Plan together with other mitigation measures as documented in the application will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	
<p>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction Management Plan together with other mitigation measures as documented in the application will satisfactorily mitigate potential impacts. Operational waste will be managed via a Waste Management Plan. Significant operational impacts are not anticipated.</p>	No.
<p>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>No significant risk identified. Operation of a Construction Management Plan will satisfactorily mitigate emissions from spillages during construction. The</p>	No.

	operational development will connect to mains services. Surface water drainage will be separate to foul services within the site. No significant emissions during operation are anticipated.	
1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Management Plan. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.	No.
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction Management Plan would satisfactorily address potential impacts on human health. No significant operational impacts are anticipated.	No.
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding. There are no Seveso / COMAH sites in the vicinity of this location.	No.

<p>1.10 Will the project affect the social environment (population, employment)</p>	<p>The development of this site as proposed will result in a change of use and an increased population at this location. This is not regarded as significant given the urban location of the site and surrounding pattern of land uses, which are primarily characterised by residential development.</p>	<p>No.</p>
<p>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p>This is a greenfield development located in an established urban area.</p>	<p>No</p>
<p>2. Location of proposed development</p>		
<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ul style="list-style-type: none"> a) European site (SAC/ SPA/ pSAC/ pSPA) b) NHA/ pNHA c) Designated Nature Reserve d) Designated refuge for flora or fauna e) Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan 	<p>No European sites located on or adjacent to the site. An Appropriate Assessment Screening accompanied the application which concluded the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of any designated European sites.</p> <p>Likely significant effects on Natura 2000 sites screened out above.</p>	<p>No.</p>
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?</p>	<p>Existing habitats have been surveyed in the submitted Ecological Impact Assessment and AA Screening Assessment Report. The site is not identified as a suitable habitat for bats and is limited as a bird habitat. The vacant dwelling to be demolished does not form a bat roost. The</p>	<p>No.</p>

	submitted EclA and AA Screening did not raise any issues of concern.	
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	No recorded monuments on site.	No.
2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?	There are no such features that arise in this urban location.	No.
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	None on site.	No.
2.6 Is the location susceptible to subsidence, landslides or erosion?	Site is located in a built-up urban location where such impacts are not foreseen.	No.
2.7 Are there any key transport routes (eg National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	The site is served by a urban street network. There are sustainable transport options available to future residents. No significant contribution to traffic congestion is anticipated.	No.
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?	There are no sensitive land uses adjacent to the subject site.	No.
3. Any other factors that should be considered which could lead to environmental impacts		
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No developments have been identified in the vicinity which would give rise to significant cumulative environmental effects. Some cumulative traffic impacts may arise during construction. This would	No.

	be subject to a construction traffic management plan.	
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No trans-boundary effects arise as a result of the proposed development.	No.
3.3 Are there any other relevant considerations?	No.	No.
C. CONCLUSION		
No real likelihood of significant effects on the environment.	X	EIAR Not Required
Real likelihood of significant effects on the environment.	<input type="checkbox"/>	EIAR Required
D. MAIN REASONS AND CONSIDERATIONS		
<p>Having regard to: -</p> <ul style="list-style-type: none"> a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, b) Class 14 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, c) the location of the site on lands governed by zoning objective A where the objective is <i>to provide residential development and improve residential amenity while protecting the existing residential amenities</i> in the Dún Laoghaire-Rathdown County Development Plan, 2022-2028. d) The existing use on the site and pattern of development in surrounding area, e) The planning history relating to the site, f) The availability of mains water and wastewater services to serve the proposed development, g) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 as amended, and 		

- i) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Outline Construction Management Plan

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

Inspector _____

Date _____