



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317332-23

#### Development

Demolition of all structures including two dwellings at No.s 51 & 52 Bray Road (N11) to facilitate the construction of a 96-bedroom residential care facility, modified roadside boundary to Bray Road and Kill Lane to accommodate pedestrian and vehicle movements associated with the residential care facility together with all associated ancillary/common facilities and works.

#### Location

No. 51 (Clara House) & No. 52 (Montrose), Bray Road (N11), Foxrock, Dublin 18.

#### Planning Authority

Dún Laoghaire Rathdown County Council.

#### Planning Authority Reg. Ref.

D22A/0951

#### Applicant(s)

Care Concern Group.

#### Type of Application

Planning Permission.

#### Planning Authority Decision

Grant.

<b>Type of Appeal</b>	Third Party.
<b>Appellant(s)</b>	Liam & Karen Flannery.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	25 <sup>th</sup> day of April/9 <sup>th</sup> day of August, 2024.
<b>Inspector</b>	Patricia M. Young

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## 1.0 Site Location and Description

- 1.1. The Site Location and Description provided by the Boards Inspection in their assessment of appeal case ABP-304979-19 (D19A/0006). It reads:

*“The subject site has an area of 0.358 hectares and is located at the junction of the N11 and Kill Lane, Foxrock, Dublin 18.*

*The site comprises of two sites, each with a large detached two storey dwelling. Both dwellings have vehicular entrances off the N11 with No. 51 Bray Road also having a vehicular entrance off Kill Road. The site slopes in a north-eastern direction.*

*Foxrock church is located to the north west of the site on the opposite side of Kill Lane. The surrounding area is generally characterised by detached dwellings of varying architectural styles on substantial sites”.*

- 1.2. At the time of inspection, this site contained two vacant detached dwellings each occupying overgrown curtilages. The rear garden areas including that bounding ‘Cremorne’ (No. 1 Kill Lane) contained mature tree and hedge planting, with a linear row of tall evergreens running alongside the rear of the site bounding with No. 1 Kill Lane (‘Cremorne’). This property contains a much extended two storey detached property that occupies lower site levels.
- 1.3. In relation to Bray Road (N11) the site is adjoined by a two-storey detached property called ‘Kilmoylan’ (No. 53 Bray Road). The curtilage of this property adjoins the southern boundary of the site.
- 1.4. On the opposite side of the junction between Kill Lane and the Bray Road is the ‘Catholic Church of Our Lady of Perpetual Succour’, which is a Protected Structure (Note: RPS Ref. No. 1984) and is also listed in the NIAH Survey of Ireland (NIAH Reg. No. 60230099).

## 2.0 Proposed Development

- 2.1. Planning permission is sought for:

- Demolition of the existing detached 2 storey houses at 51 and 52 Bray Road and all associated outbuildings, the construction of a six storey (part 4-storey, part 5-storey

and part 6-storey). According to the planning application form the cumulative gross floor space of demolition equates to 594m<sup>2</sup>.

- Construction of a 96-bedroom residential care facility, with associated ancillary/common facilities, office administration areas, recreational leisure outlets which include dining rooms (all with balconies/terrace), lounges (some with balconies/terrace), nurse offices, cafe, cinema, hairdressers, nail bar/spa, celebrations room, activity room and library. According to the planning application form the cumulative gross floor space of works is 4,990m<sup>2</sup>.
- Provision of a new vehicular access onto Kill Lane, the infill of an existing vehicular entrance at 51 Bray Road (N11) and the modification of an existing vehicular entrance from 52 Bray Road (N11) as a pedestrian entrance and the modification of the existing vehicular entrance from Kill Lane (serving No 51-Clara) for use as a pedestrian entrance only.
- Provision of ancillary bin storage, 24 no. car parking spaces (10 spaces within undercroft parking, 14 outdoor carparking spaces), 27 no. bicycle parking spaces (9 no. spaces for visitors and 18 no. spaces for staff) green roofs
- All associated site development works including engineering, landscaping, and boundary treatments.

2.2. On the 4<sup>th</sup> day of May, 2023, the applicant submitted their **further information** response to the Planning Authority. It included amended elevations to address overlooking arising to No. 53 Bray Road and revised drawings showing EV Charging Points to accord with Development Plan standards. The revised layout also moved the cycle parking location from within the undercroft parking area to two locations externally. Additionally, storage racks were located at the pedestrian route along the north east boundary and Kill Lane pedestrian entrance as well as amendments to pedestrian and cycle provisions/road markings. Further documentation was provided including but not limited to a daylight, sunlight and shadow assessment that examined impact of the proposed development on amenity spaces as the impact of trees and hedges on daylight/sun lighting on adjacent residential units, a Cycle Quality Audit, through to revised drainage details. This response was not deemed to require new public notices.

## 3.0 Planning Authority Decision

### 3.1. Decision

On the 30<sup>th</sup> day of May, 2023, the Planning Authority decided to **grant** permission subject to 24 no. conditions. Of note are the requirements of the following bespoke conditions:

- |                   |  |
|-------------------|--|
| Condition No. 2:  | Requires a minimum of 5 no. electric vehicle charging points.  |
| Condition No. 3:  | Requires the cycle parking to accord with their Development Plan requirements and the DLRCC document titled: ' <i>Standards for Cycle parking and Associated Cycling Facilities for New Developments</i> ', January, 2018.   |
| Condition No. 4:  | Requires the measures set out within the submitted Outline Construction Management Plan, dated November 2022 to be carried out.  |
| Condition No. 5:  | Requires the measures outlined within the submitted Travel Plan, dated November 2022, to be carried out.   |
| Condition No. 7:  | Measures to avoid conflict between construction activities and pedestrian/vehicular movements on Kill Lane and the surrounding public roads during construction works.   |
| Condition No. 8:  | Limits surface water outfall discharge rate for the site to QBAR (calculated using site specific data) or 2l/s/ha, whichever is greater, subject to the Unit Outlet Diameter of the flow control device not being less than 50mm in diameter, as detailed in the CFI response. |
| Condition No. 10: | Requires the provision of a sufficient attenuation volume for the 1 in 100-year rainfall return period (plus 20% allowance for climate change) on site, as detailed in the CFI response.   |

- Condition No. 11: Requires the proposed green roof to accord with the requirements of Appendix 7.2 of the County Development Plan 2022-2028, BS EN 12056-3:2000 and 'The SUDS Manual' (CIRIA C753).
- Condition No. 13: Attenuation system requirements.
- Condition No. 14: Arboricultural requirements.
- Condition No. 15 & 16: Landscaping requirements.
- Condition No. 17: Waste management requirements.
- Condition No. 18: Requires preparation and agreement of a rodent/pest control plan; noise planning report; and, an operational waste management plan prior to the commencement of development.
- Condition No. 24: Restricts any development on site until such time as all financial contributions have been paid.

A number of advisory notes accompany this notification to grant permission. They are summarised as follows:

- Note 1: Sets out Section 34(13) of the Planning and Development Act 2000, as amended.
- Note 2: Deals with the matter of consent for encroachment or oversailing of adjoining properties.
- Note 3: Requires any alterations to the drainage systems on site to comply with Building Regulation.
- Note 4: Compliance with the requirements of Irish Water.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The **final Planning Officer's report** (30.05.2023) is the basis of the Planning Authority's decision. It indicates that they were generally satisfied that the applicant

had addressed the further information items, subject to safeguards of appropriately worded conditions including those dealing with the matters of Environmental Health, Landscaping and Engineering. It considers that no Appropriate Assessment of Environmental Impact Assessment concerns arise and sets out that the 96-bedroom residential care facility would be subject to the payment of financial. The Planning Officer considered that the nature, scale, and location of the proposed development is acceptable, and they were satisfied that it would not give rise to any undue overshadowing, overlooking or overbearance. Overall, they considered that the proposed development as amended accorded with relevant planning provisions and guidance. Accordingly, they conclude with a recommendation to grant permission on the basis that the proposed development accorded with the proper planning and sustainable development of the area.

The **initial Planning Officer's report** concluded with a request for further information on the following matters:

- |                |  |
|----------------|--|
| Item No. 1(a): | Submit proposals to reduce any negative impact that would arise to the rear gardens of adjoining residential properties.   |
| Item No. 1(b): | Submit a Sunlight/Daylight Assessment.   |
| Item No. 2(a): | Demonstrate provision of electric vehicle charging points.   |
| Item No. 2(b): | Requires a revised cycle parking; associated cycle parking facilities; and, a Cycle Audit.   |
| Item No. 2(c): | Revised pedestrian access routes; relocation of 'Stop' signage in order to encourage pedestrian priority on Kill Lane; provision of shark teeth carriageway outbound lane; demonstrate that front boundary treatment has a maximum height of 1.1m for a minimum of 1.1m on either side of the proposed vehicle entrance; and, provision of segregated pedestrian entrance to facilitate an internal pedestrian route to the main entrance. |
| Item No. 3:    | Requires further drainage details.   |



Item No. 4: Includes the provision of a Demolition & Construction Waste Management Plan; a Construction Environmental Management Plan; a Noise Report; and, an Operational Waste Management Plan.

### 3.2.2. Other Technical Reports

- **Parks & Landscape Services (11.05.2023):** Their final report considered that there was no significant change in the landscape proposal relative to that set out in the proposed development as lodged. They raised no objection to the principle of the proposed development subject to implementation of the Tree Protection drawing by the applicant's arborist on the basis of ensuring the protection and protection of good trees on site. It also sought that a landscape consultant be retained for the implementation of the Landscape Plan by way of condition.
- **Environmental Enforcement Section (09.05.2023):** Their final report considered that the applicant had satisfactorily dealt with the further information request subject to the safeguards of a number of recommended conditions dealing with the matters of Construction Waste; Pest Control; Construction Environmental Management; Noise Planning; Environmental Monitoring; Operational Waste Management; and, Resource Waste Management.
- **Drainage (08.05.2023):** Their final report considered that the applicant had satisfactorily dealt with the further information request subject to the safeguards of imposing a number of recommended conditions dealing with the matters of surface water drainage; green roofs; any changes to surfacing of parking and hardstanding areas and connections to public infrastructure in the event of a grant of permission.
- **Transportation (29.05.23):** The final report was satisfied that the applicant had addressed the transportation items of concern raised in the Planning Authority's further information request. It concluded with no objection to the proposed development subject to the inclusion of five recommended conditions.

The **Initial Transportation Report (26.01.2023):** This report requested that electric vehicle charging facilities be provided in accordance with Section 12.4.11 of the Development Plan; that cycle parking provision meet the requirements of Section 12.4.6.11 of the Development Plan; that a Cycle Audit be submitted; that associated cycling facilities be provided; a revised Travel Plan be provided; an updated site

specific Construction Management Plan be provided; revised pedestrian and vehicle access arrangements including a revised vehicle entrance layout. Concludes with a request for further information.

- **Housing** (11.01.2023): The proposed development is exempt from Part V.

### 3.3. **Prescribed Bodies**

- 3.3.1. **Irish Water** (02.12.2022 & 09.01.2023): No objection, subject to standard safeguards.

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

- 3.4.1. During the course of the Planning Authority's determination of this planning application it received 9 No. Third Party Observations. The key issues raised can be summarised as follows:

#### **Suitability**

- There are more suitable locations than this for a nursing home facility.

#### **Traffic**

- This development would give rise to a traffic hazard on Kill Lane which is contended to be subject to significant pressures and delays, including has potential to give rise to queueing backing onto the N11 as a result of additional traffic turning right.
- This proposal would add to congestion and potential for accidents in its vicinity.
- The traffic surveys were not carried out during peak times.
- This development would cause disruption to Dublin bus routes 46A and 75.
- The parking provision is inadequate, and the proposed development would therefore exacerbate car parking pressure in its vicinity.

#### **Design and Layout**

- The proposed development represents overdevelopment of this site and should be significantly reduced in nature and scale.
- The removal of residential development from a quality bus corridor would set an undesirable precedent.

- The height of the proposed building would adversely dominate the skyline and would overtly dominate over buildings in its setting.
- Design is out of character with other developments on the N11 and Kill Lane.
- The northern wing of the building should be stepped back in its height so that it sits more respectfully with adjoining and neighbouring residential properties. This reduction in height would also reduce the significant adverse impacts that would arise from a building of this height and design.
- The nursing home use is not objected but the scale, mass, and height of it together with its overall design which would give rise to undue overlooking, overshadowing and visual overbearance of properties in its vicinity.
- The elevated ground levels of the site will result in the proposed building appearing to be much taller in its context.

### **Built Heritage Impact**

- In order to protect Foxrock Church as a focal point the height of the proposed building needs to be reduced by at least one storey and a more appropriate palette of materials for its external envelope be provided.

### **Amenity Impact**

- The proposed development would give rise to undue residential and visual amenity impacts.
- This development would introduce overlooking into the rear of properties that are not overlooked.
- The provision of more robust boundary treatments to limit adverse impact on adjoining properties is required. Improved screening alongside a boundary of a minimum height of 2.1m is required in this context.
- If permission is granted any works occurring before 8am is objected to.
- The level of outdoor lighting is objected to.

### **Other**

- This development is a significant departure from the previous development permitted on this site under P.A. Ref. No. D19A/0006.

- This development would materially devalue properties in its vicinity.
- The loss of trees and hedging from the site would be detrimental to local wildlife.
- There is a lack of public water and sewage infrastructure to accommodate it.
- The proposed development would give rise to undue nuisances that would be detrimental to established residential amenities.

## 4.0 Planning History

### 4.1. Site History – Recent/Relevant

- 4.1.1. **ABP-304979-19 (P.A. Ref. No. D19A/0006):** On appeal to the Board permission was **granted** for the demolition of two existing dwellings and construction of 2 apartment blocks. Of note Block 1 had frontage to the N11 and Kill Lane and relates to a part 3 storey, part 4 storey and part 5 storey over basement building providing a total of 30 No. apartments; and, Block 2 had frontage to Kill Lane and related to a part 3 storey and part 5 storey building providing a total of 15 No. apartments (Decision date: 04/03/2020).

### 4.2. Setting

- 4.2.1. No recent and/or relevant planning history in the setting of the site.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The Dún Laoghaire Rathdown County Development Plan, 2022-2028, is the operative County Development Plan under which the site is subject to land use zoning 'A' which has the objective: "*to provide residential development and improve residential amenity while protecting the existing residential amenities*". The land adjoining the site to the south, rear and on the opposite side of Bray Road (N11) is also zoned 'A' whereas the land on the opposite side of the Kill Lane and Bray Road (N11) junction is subject to the Objective SNI "*to protect, improve and encourage the provision of sustainable neighbourhood infrastructure*".
- 5.1.2. The adjoining stretch of the N11 is a 'Core Bus Corridor'.

- 5.1.3. On the opposite side of the N11, c94m to the south west of the site, is the Foxrock Architectural Conservation Area.
- 5.1.4. Section 4.3.2.6 Policy Objective PHP30 of the Development Plan deals with the matter of 'Housing for All'. It states that: *"it is a Policy Objective to: Support housing options for older people and persons with disabilities/mental health issues consistent with NPO 30 in the NPF, RPO 9.1 and 9.12 of the RSES. Support the provision of specific purpose-built accommodation, including assisted living units and lifetime housing, and adaptation of existing properties. Promote 'aging in place' opportunities for 'downsizing' or 'right sizing' within their community"*.
- 5.1.5. Section 4.2.1.8 Policy Objective PHP9: Health Care Facilities of the Development Plan indicates that it is a Policy Objective to support the provision and/or improvement of appropriate healthcare facilities including the provision of community-based primary care facilities, mental health and wellbeing facilities as well as encouraging the integration of appropriate healthcare facilities within new and existing communities.
- 5.1.6. Chapter 4 of the Development Plan on the matter of housing for older persons reiterates that as set out in the Housing Strategy under Appendix 2: *"the demographics for the County show a continued ageing of the population in excess of national ageing population trends. Ageing population and the need to provide suitable accommodation for older people has been recognised in the NPF and the RSES"*; that: *"the Council will place a strong emphasis on developments that will encourage the older population the County to downsize, while being also afforded the opportunity to live in their community"*; and: *"that proposals for accommodation for older people should be located in existing residential areas well served by social and community infrastructure and amenities such as footpath networks, local shops and public transport in order not to isolate residents and allow for better care in the community, independence and access"*. Further, it also indicates support for: *"the concept of independent and/or assisted living for those with a disability, and consideration should be given to the fact that some people require live-in care, when designing adapted housing units. The Council will support development which provides respite and/or residential care at appropriate locations and zonings throughout the County"*. In both situations it indicates such developments must accord with the principles of Universal Design.

- 5.1.7. Section 12.3.8.2 of the Development Plan deals with ‘Nursing Homes / Assisted Living Accommodation’. It sets out that when dealing with planning applications for such developments a number of criteria will be considered.
- 5.1.8. Section 12.8.4 of the Development Plan deals with the matter of ‘Open Space Quantity for Mixed Use, Non-Residential and Commercial’.
- 5.1.9. Section 4.3.1.2 Policy Objective PHP19 of the Development Plan states that it is a Policy Objective to densify existing built-up areas in the County through small scale infill development having due regard to the amenities of existing established residential neighbourhoods.
- 5.1.10. Section 3.4.1 of the Development Plan deals with the matter of Energy Efficiency in Building. It includes:
- Section 3.4.1.1 Policy Objective CA5: Energy Performance in Buildings – *“it is a Policy Objective to support high levels of energy conservation, energy efficiency and the use of renewable energy sources in existing and new buildings, including retro fitting of energy efficiency measures in the existing building stock”*.
  - Section 3.4.1.3 Policy Objective CA7: Construction Materials – *“it is a Policy Objective to support the use of structural materials in the construction industry that have low to zero embodied energy and CO2 emissions. (Consistent with the RPO 7.41 of the RSES)”*.
  - Section 3.4.1.4 Policy Objective CA8: Sustainability in Adaptable Design – *“it is a Policy Objective to promote sustainable approaches to the improvement of standards for habitable accommodation, by allowing dwellings to be flexible, accessible and adaptable in their spatial layout and design”*.
  - Section 3.4.2.1 Policy Objective CA10: Renewable Energy – *“it is a Policy Objective to support County, Regional, National and International initiatives and pilot schemes to encourage the development and use of renewable energy sources, including the SEAI Sustainable Energy Community initiatives, as a means of transitioning to a low carbon climate resilient County in line with national renewable energy targets”*.

- Section 3.4.4.1 Policy Objective CA18: Urban Greening – *“it is a Policy Objective to retain and promote urban greening - as an essential accompanying policy to compact growth”*.

- Section 3.4.3.2 Policy Objective CA17: Electric Vehicles – *“it is a Policy Objective to support, the Government’s Electric Transport Programme by progressively electrifying our mobility systems by facilitating the rollout of Electric Powered Vehicle Recharging Parking Bays across the County and on public roads and other suitable location. The provision of e-bike chargers will be supported subject to the availability of Funding. (Consistent with NSO 4 of the NPF and RPO 7.42 of RSES)”*.

5.1.11. Section 4.4.1.1 Policy Objective PHP35 of the Development Plan deals with the matter of Healthy Placemaking and states that: *“it is a Policy Objective to: Ensure that all development is of high quality design with a focus on healthy placemaking consistent”* through to: *“ensure that development proposals are cognisant of the need for proper consideration of context, connectivity, inclusivity, variety, efficiency, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking, wayfinding and detailed design”*.

5.1.12. Section 4.4.1.8 Policy Objective PHP42 of the Development Plan deals with the matter of Building Design & Height and states that it: *“is a Policy Objective to:*

- *Encourage high quality design of all new development.*
- *Ensure new development complies with the Building Height Strategy for the County as set out in Appendix 5”*.

Of note the policy in relation to building height throughout the County as provided for under the Development is detailed in three policy objectives as set out in the Building Height Strategy (BHS) (Appendix 5):

- Policy Objective BHS 1 – Increased Height.
- Policy Objective BHS2 – Building Height in areas covered by an approved Local Area Plan or Urban Framework Plan (UFP must form part of the County Plan).
- Policy Objective BHS 3 – Building Height in Residual Suburban Areas. The BHS also contains a detailed set of performance-based criteria for the assessment of height so as to ensure protection of the unique amenities of the County whilst also allowing increased height.



- 5.1.13. Section 12.11.2.3 of the Development Plan states: *“all planning applications for development in proximity to a Protected Structure must be accompanied by a design statement, with supporting illustrative material, demonstrating how it has been developed having regard to the built heritage, topography, and landscape character of the site. An accredited conservation architect or equivalent should be engaged at the outset of the design process to assist in determining the appropriate siting of the development in order to minimise the impact on the Protected Structure”*.
- 5.1.14. Section 12.11.3 Architectural Conservation Areas of the Development Plan in relation to development adjacent or immediately outside the boundary of an ACA sets out that they may also have an impact of their setting and context, therefore, an assessment of the impact on the character and appearance of the area may be required.
- 5.1.15. Section 5.8.9 Policy Objective T31 of the Development Plan deals with the matter of ‘Accessibility’ and states that: *“it is a Policy Objective to support suitable access for people with disabilities, including improvements to transport, streets and public spaces. Accessibility primarily concerns people with reduced mobility, persons with disabilities, older persons and children”*.
- 5.1.16. Section 4.4.1.10 Policy Objective PHP44 of the Development Plan requires a ‘Design Statement’ to accompany all commercial development over 1,000 sq.m. and demonstrate how the proposed development addresses or responds to the design criteria set out in the ‘Urban Design Manual - A Best Practice Guide’ (DoEHLG, 2009) and incorporates adaptability of units and/or space within the scheme.
- 5.1.17. Section 5.4.1 Policy Objective T1 Integration of Land Use and Transport Policies of the Development Plan states it: *“is a Policy Objective to actively support sustainable modes of transport and ensure that land use and zoning are aligned with the provision and development of high quality public transport systems”*.
- 5.1.18. Section 5.6.1 Policy Objective T11: Walking and Cycling of the Development Plan states: *“it is a Policy Objective to secure the development of a high quality, fully connected and inclusive walking and cycling network across the County and the integration of walking, cycling and physical activity with placemaking including public realm permeability improvements”*.
- 5.1.19. Section 5.7.2 Policy Objective T17: Travel Plans of the Development Plan requires the submission of Travel Plans for developments that generate significant trip demand



(reference also Appendix 3 for Development Management Thresholds) and seeks that Travel Plans reduce reliance on car-based travel and encourage more sustainable modes of transport over the lifetime of a development.

- 5.1.20. Section 5.7.4 Policy Objective T19 and Section 12.4.5 of the Development Plan sets out the Carparking Standards for the County.
- 5.1.21. Section 5.7.3 Policy Objective T18 of the Development Plan provides for Car Sharing Schemes as part of facilitating an overall reduction in car journeys and car parking requirements.
- 5.1.22. Section 5.8.2 Policy Objective T24: Motorway and National Routes of the Development Plan states that: *“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”*.
- 5.1.23. Sections 12.4.6 and 12.4.6.1 of the Development Plan sets out the Requirements for New Development.
- 5.1.24. Section 12.4.6.2 of the Development Plan sets out the Cycle Parking Assessment Criteria for non-residential of 400 sq.m.
- 5.1.25. Section 5.10 of the Development Plan deals with the matter of Contributions and Section 5.10.1 Policy Objective T35 deals specifically with Section 48 and 49 Levies.

## 5.2. Local Other

- ‘Council Cycle Standards’, (2018).

## 5.3. Regional

- 5.3.1. ***Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019:*** The primary statutory objective of the Regional Spatial and Economic Strategy for the Eastern and Midland Regional Authority is to support the implementation of the NPF.

Section 9.1 of RSES sets out that over its lifetime population growth and changing demographics will require a policy response to ensure positive health outcomes for older people.

RPO 9.1 states: “*local authorities shall ensure the integration of age friendly and family friendly strategies in development plans and other relevant local policy and decision making, including provision for flexible housing typologies, buildings and public spaces that are designed so that everyone, including older people*”.

Section 9.3 states that: “*there is a need to incentivise mobility in the housing market, to address social isolation among older people and to offer more choice by way of an increased supply of accommodation for all life stages*”.

#### 5.4. **National**

- ‘Project Ireland 2040 – National Planning Framework, (2018).
- ‘Housing Options for Our Ageing Population’, 2019.
- ‘*How to develop a Housing with Support Scheme for Older People Framework Toolkit*’ - Arising from the learning from Phase 1 and Phase 2 of the Dublin City Age Friendly Housing with Support Model, The Housing Agency, 2022.
- ‘Building For Everyone: A Universal Design Approach’.
- ‘National Disability Inclusion Strategy, 2017-2021’.
- Sustainable Urban Housing: Design Standards for New Apartments, as amended 2023.
- National Standards for Residential Care Settings for Older People in Ireland, (2016).
- National Quality Standards for Residential Care Settings for Older People in Ireland, 2009.
- HSE Estates – Sustainable Building Guidelines – Specification, design, construction & refurbishment of health care buildings.
- Housing for All – A New Housing Plan for Ireland, 2021.
- Urban Development and Building Heights, Guidelines for Planning Authorities, 2018.
- Design Manual for Urban Roads and Streets, (2013).
- Climate Action Plan, 2024.

- Appropriate Assessment of Plans and Projects in Ireland - Guidelines for Planning Authorities (2009, updated 2010).
- Building Research Establishment (BRE) 209 Guide - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice, (3rd Edition, 2022).
- National Sustainable Mobility Policy, 2022.
- 'Smarter Travel A Sustainable Transport Future, 2009 –2020'.
- 'Transport Strategy for the Greater Dublin Area, 2016-2035.

## 5.5. Natural Heritage Designations

5.5.1. None within the zone of influence.

5.5.2. The nearest Natura 2000 sites are:

- South Dublin Bay SAC (Site Code: 000210) and the Special Protection Areas: South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024 ) which are both located c2.7km to the north at their nearest point as the bird would fly.
- Special Protection Areas: Dalkey Islands SPA (Site Code: 004172) and Rockabill to Dalkey Island SAC (Site Code: 003000) are both located c5.5km to the east at their nearest point as the bird would fly.
- North Dublin Bay SAC (Site Code: 000206) and North Bull Island SPA (Site Code: 004006) are both located c8.1km to the north at their nearest point as the bird would fly.
- Wicklow Mountains SAC (Site Code: 002122); Wicklow Mountains SPA (Site Code: 004040) are both located c8.1km to the south west at their nearest point as the bird would fly.

## 5.6. EIA Screening

5.6.1. See completed Appendix 1- Form 1 & Appendix 1 – Form 2 attached to this report.

5.6.2. On the matter of environmental impact assessment screening regarding the proposed development sought under this application, the proposed development comprises of the part of an existing two separate residential plots that each contain a detached

dwelling, associated buildings and spaces that are bound to the rear and south by similar in nature residential plots. The site as amalgamated has road frontage onto Kill Lane and the Bray Road (11). The proposed development consists of the demolition of the existing buildings on site, the construction of a part 6-storey, part 5-storey 96-bedroom residential facility together with all associated site works and services on a stated 0.358ha site.

5.6.3. The development subject of this application falls within the class of development Class 10(b) (iv) of 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:

- Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

Also, Class 14 relates to works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment.

5.6.4. This proposal is located on brownfield serviced lands in inner city Dublin that are zoned 'Objective A' in the Dún Laoghaire Rathdown County Development Plan, 2022-2028. The objective of such lands seeks to: *"to provide residential development and improve residential amenity while protecting the existing residential amenities."* The proposed development is a permitted land use subject to safeguards at such a location. As a type of development, it is not a type of development that is unexpected in the suburban area of Foxrock in south county Dublin and located on the Bray Road (N11 Corridor).

5.6.5. The site is, therefore, below the applicable threshold of 10ha. It is proposed to demolish the existing buildings on site which are given a combined total gross floor space of 594m<sup>2</sup>. The proposed new building would include a basement component and has a given floor space of 4,990m<sup>2</sup> siting on a site area of 0.358ha. The proposal also includes excavation, landscaping, surfaces associated with pedestrian/vehicle/bicycle movements, parking, and related facilities; through to amended boundary treatments.

- 5.6.6. This site does not form part of any Natura 2000 Site and is situated at a significant lateral separation distance from the nearest such sites. As set out in Section 5.5 above the nearest such sites are South Dublin Bay SAC (Site Code: 000210) and the Special Protection Areas: South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which are both located c2.7km to the north of the site at their nearest point as the bird would fly. Beyond this are the Natura Sites of Dalkey Islands SPA (Site Code: 004172) and Rockabill to Dalkey Island SAC (Site Code: 003000) which are both located c5.5km to the east of the site at their nearest point as the bird would fly.
- 5.6.7. Having regard to the nature, scale, and size of the proposed development alongside its location and by reference to any of the classes outlined above, a mandatory EIA is not required in this case. Having examined the proposed development and all relevant documentation on file, I consider that it would not give rise to significant use of natural resources, production of waste, pollution, nuisance, nor would it pose a risk of accidents. The site is not subject to a nature conservation designation. The proposed development would be served by an upgraded connection to public water and drainage services, upon which its effects would be marginal and there is no capacity issues raised in relation to this public infrastructure to absorb the additional demands of the proposed development. The Kill Lane acts as a physical and visual barrier between the site and the Church of Our Lady of Perpetual Succour Protected Structure and the site occupies a corner site adjoined by the Bray Road (N11) on its western side where there is a planning precedent of buildings of height, scale and mass been permitted at deemed to be appropriate locations. Additionally, the Bray Road (N11) is a physical and visual barrier that provides distinctive separation between the Foxrock ACA located to the south east.
- 5.6.8. Additionally, an Appropriate Assessment Screening Report, Resource Waste Management Plan, Operational Waste Management Plan and Construction Environmental Management Plan accompanies this application including standard and to be expected measures required to address potential impacts from pollution of surface water.
- 5.6.9. I have also assessed the proposed development having regard to the above criteria and associated sub criteria having regard to the Schedule 7A and other information which accompanied this application including all relevant information on file.

5.6.10. I have also completed a screening assessment which are set out in the accompanying appendices attached to this report.

5.6.11. I have also taken into account the SEA and AA of the recently adopted Dún Laoghaire Rathdown County Development Plan, 2022-2028, as well as the EIA and AA carried out by them in their determination of this planning application. Additionally, all information which accompanied this application together with all relevant planning provisions through to EC Directives pertaining to this matter.

5.6.12. I recommend to the Board that the proposed development would not be likely to have significant effects on the environment and that the preparation as well as submission of an Environmental Impact Assessment Report would not therefore be required in this case. This conclusion of this is assessment is based on:

- The nature, scale, and extent of the proposed development, which is below the threshold in respect of Class 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended.
- The nature, scale, and extent of the proposed development, which is under the mandatory threshold in respect of Classes 14 of the Planning and Development Regulations 2001, as amended,
- The location of the site on brownfield serviced lands where this type of residential development is permitted in principle, subject to standard safeguards.
- The location of the development is outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations, 2001, (as amended).
- The results of the strategic environmental assessment of the Dún Laoghaire Rathdown County Development Plan, 2022-2028, undertaken in accordance with the SEA Directive (2001/42/EC).
- The existing pattern of development in this area, its setting as well as in the intervening lands between it and the nearest Natura 2000 sites. They consist of compact, dense, and suburban developed serviced lands.
- The availability of mains water and wastewater services to serve the additional quantum of development sought under this proposed development.

- The features and measures proposed to ensure no connectivity to any sensitive location.
- The location of the site outside of any sensitive location specified in Article 109 of the Planning and Development Regulations, 2001, (as amended).
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage, and Local Government (2003).
- The criteria set out in Schedule 7 of the Planning and Development Regulations, 2001, (as amended).

*Conclusion:*

On the basis of the foregoing, I have concluded that by reason of the nature, scale, and extent of the quantum of development sought, the location of the subject site in a serviced suburban landscape setting with this similarly characterising the nature of development between the site and the nearest Natura 2000 sites. Additionally, the lateral separation distance between the site and the nearest Natura 2000 sites. The proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required in this case.

## 5.7. Built Heritage

**Catholic Church of Our Lady of Perpetual Succour, Stillorgan Road, Kill Lane, Protected Structure (RPS Ref. No. 1984) /NIAH Reg. No. 60230099** (Note: this appeal site is located at its nearest point c38.9m to the south of this building).

Rating: Regional

Categories of Special Interest: Architectural, Artistic, Historical, Social, Technical.

NIAH Description: “*Detached ten-bay double-height Catholic church, built 1933-5, on a rectangular plan comprising nine-bay double-height nave opening into nine-bay single-storey lean-to side aisles centred on single-bay double-height apse (north) on a half-octagonal plan; single-bay four-stage tower (south-west) on a square plan...*”.

Appraisal: “*A church erected to a design by John Joseph Robinson (1887-1965) of Merrion Square, Dublin (Irish Builder 1934, 1101), representing an important*

*component of the twentieth-century ecclesiastical heritage of south County Dublin with the architectural value of the composition, one succeeding the so-called "Tin Church" erected (1906) by Reverend John Ryan (d. 1938) at Foxrock (Clare 2012, n.p.), confirmed by such attributes as the rectilinear plan form, aligned along a liturgically-incorrect axis; the construction in a gleaming silver-grey granite demonstrating good quality workmanship; the slender profile of the openings underpinning a streamlined Romanesque theme; and the arcaded "Hacienda"-like "campanile" embellishing the roofline as a prominent eye-catcher in the landscape..."*

## **6.0 The Appeal**

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

6.1.1. The Third-Party Appeal is summarised under the following broad headings below:

#### **Decision of the Planning Authority (PA)**

- The PA decision is not supported on the basis of the adverse amenity impacts it would have on their property in terms of its use and their enjoyment of it.
- The PA failed to have adequate regard of their concerns in the assessment of the proposed development.
- The PA's decision conflicts with the zoning of the area which provides a measure of protection for the existing residential amenities.

#### **Depreciation**

- The proposed development would materially depreciate the value of their property.

#### **Residential Amenity Impact**

- There is inadequate separation of this building of scale from their property. On this matter it is considered that the varied setback of 1500mm and 2600mm from their property boundary is inadequate.
- Particular concern is expressed to the proximity of the part five and part four storey element on the northern side and the six storeys in relation to the N11 frontage.



- This development would give rise to adverse overlooking of their property. The entire rear garden area would be overlooked. There are no reasonable measures provided to overcome the invasion of privacy that would arise.
- This development would give rise to undue overshadowing and loss of daylight/sunlight to their property.

### **Visual Amenity Impact**

- The proposed development would be visually obtrusive, overbearing, and oppressive in the context of their property. It would also be visually jarring and give rise to an abrupt transition in its suburban context.
- The proposed building would be significant in its height in comparison to their two-storey property.
- The proposed development would diminish the streetscape amenity and built character of its setting.
- The design is bland, and the building is monolithic of no architectural merit or sympathy with its setting.
- The height fails to comply with the Development Plan building height strategy.

### **Suitability of the Site**

- The scale of the proposed development is not suitable and would give rise to an insensitive overdevelopment of the site.

### **Other**

- Should the Board be minded to grant permission it is requested the northern end of the structure is stepped down to three storeys. It is also sought the omission of bedrooms 5 & 6 on the third floor and 5 to 8 on the 2<sup>nd</sup> floor be omitted. These amendments are given in the interest of the protection of their residential amenities.

## **6.2. Applicant Response**

6.2.1. The First Party's response is summarised under the following broad headings below:

### **Planning Authority Decision**

- The Board is requested to uphold the Planning Authority decision.

## **Planning Context**

- The need to provide residential care is highlighted and supported in the Development Plan.
- This Council area has a higher older population in comparison to other local authorities in the Eastern Midlands Region Assembly Area.
- This development aligns with achieving compact growth on suitably zoned brownfield sites.
- This building height accords with the Development Plan's Building Height Strategy.
- The proposed development is one that is permissible on Objective 'A' zoned lands.
- This building is of a lesser height in comparison to the previously permitted apartment building on this site.

## **Suitability of the Site**

- This serviced is situated along the N11 public transport corridor as well as within walking distance of amenities and public transport.
- The site was permitted a similarly sized apartment development by the Board under ABP-304979-19 under which they considered the site was suitable for a taller building.

## **Design**

- The proposed building is suitably stepped down in its height and built form in proximity to the appellants property.
- The design of the proposed building is an appropriate response for this location.

## **Residential Amenity Impact**

- The proposed development has been designed so that it would not give rise to any increase in shadow on the Appellants property and on other properties in the vicinity. Further, there are no rooms or windows serving habitable rooms that directly overlook the Appellants property.
- The windows to the north east elevation serve a stair core and would have minimal activity. Notwithstanding, they are willing to accept a condition for these windows to be fitted with obscure glazing.

- The Planning Authority was satisfied that no undue residential amenity impacts would arise to properties in the vicinity.

#### **Other**

- This residential care home is for people who require at hand medical care.
- This development will provide an opportunity for future residents to remain within or close to their existing home area and will cater for southern Dublin and Northern Wicklow area.
- The proposed development has been designed to accord with HIQA standards and to meet the requirements for Universal Design.
- It would not give rise to any undue environmental, flooding or traffic impacts.

### **6.3. Planning Authority Response**

- 6.3.1. The Planning Authority's response requests the Board to have regard to their Planning Officer's report and considers that the appeal raises no new issues that would justify a change in their attitude to the proposed development.

### **6.4. Observations**

- 6.4.1. None.

## **7.0 Assessment**

### **7.1. Introduction**

- 7.1.1. Having carried out an inspection of the site and its setting, alongside having had regard to all information on file through to the planning history of the site and setting together with all relevant local through to national planning policy provisions and guidance I am satisfied that the key issues arising in this appeal case for consideration are those raised by the Third-Party Appellant in their submission to the Board. I therefore propose to consider this appeal case under the following broad headings:

- Principle of the Proposed Development
- Compliance with Development Plan Provisions

- Residential Amenity Impact
- Visual Amenity Impact
- Other Matters Arising

- 7.1.2. I consider the matter of 'Appropriate Assessment' also requires examination which I propose to examine at the end of this assessment. I am satisfied that there are no other substantial planning issues that arise in this case including on matters related to drainage, transportation, open space, servicing through to environmental health. In this regard I am satisfied that these matters can be reasonably and appropriately addressed by way of standard conditions similar to those imposed by the Planning Authority in their notification to grant permission. With I note this grant of permission permitting the proposed development as revised by the applicant's further information response received by the Planning Authority on the 4<sup>th</sup> day of May, 2023.
- 7.1.3. For clarity, my assessment below is based on the proposed development as revised by the said applicant's further information response.
- 7.1.4. This is on the basis that it includes qualitative improvements to the proposed development particularly in terms of including more robust measures to limit potential for adverse overlooking of existing residential properties in its vicinity. Also, the revisions include improved bicycle provisions as well as more legible safe pedestrian routes within the site and connecting to the adjoining public realm. With this including creating primacy of the pedestrian access to the site from Kill Lane but also maintaining a more qualitative pedestrian access route to the Bray Road (N11) and in turn the bus stops located to the south of the site. Moreover, the revisions demonstrate improved sightlines for the vehicular entrance serving the proposed development from Kill Lane and provides improved measures to minimise any potential for conflict to arise between vehicle, pedestrian, and cyclists. Additionally, the further information response is accompanied by a more of more detailed documentation on key areas for consideration including for example it provides a Cycle Audit which is a requirement for a commercial development of this size; it provides Demolition and Construction Waste Management Plan; a Construction Environmental Management Plan; a Noise Report; and an Operational Waste Management Plan.
- 7.1.5. Together, this additional information together with the amendments which are not of a significant nature provides more detailed information to allow for a more informed

decision to be made in relation to the proposed development. I note however that the revisions do not result in a change to the positioning, floor area, height through to the number of bed spaces sought for the proposed residential care facility.

## **7.2. Principle of the Proposed Development**

- 7.2.1. As set out under Section 2 of this report planning permission is sought for the demolition of existing dwelling houses at No.s 51 and 52 Bray Road also referred to as 'Clara House' and 'Montrose' respectively and all associated outbuildings (Note: 594m<sup>2</sup>) as part of facilitating the construction of a six storey residential care home building that includes a part 4-storey and part 5-storey elements over basement built form with a given gross floor space of 4,990m<sup>2</sup> together with all associated site works and services. These associated works include but are not limited to modifications to the roadside boundaries addressing the Bray Road (N11) and Kill Lane as well as include associated car/bicycle parking, open space, bin storage through to landscaping of the site which includes the removal of soft landscaping features. It also sets out the minor nature of the amendments submitted by the applicant as part of their further information.
- 7.2.2. The site is zoned Objective 'A' under the Dún Laoghaire Rathdown County Development Plan, 2022-2028, which has a stated objective of providing residential development and improving residential amenity whilst balancing the protection of existing residential amenities.
- 7.2.3. This land use objective is the predominant land use zoning for the surrounding area. With it extending to adjoining and neighbouring lands to the rear and south of the site. Alongside these adjoining and neighbouring lands, particularly the urban block the site form's part being characterised by substantial detached dwellings on large garden plots. I note also that this rectangular in shape block urban block is bound on its western side by the Bray Road/N11 corridor, on its northernmost end by Kill Lane, on its eastern as well as southern side by Beech Park Road.
- 7.2.4. The existing dwellings that occupy No.s 51 & 52 Bray Road (N11) are not afforded any specific protection, including they are not subject to Protected Structure designation, nor do they form part of any Conservation Area streetscape scene or otherwise under the Development Plan. With both properties located c94m to the north east of the

Foxrock Architectural Conservation Area which is located on the opposite side of the Bray Road/N11 corridor which is a wide and heavily trafficked National Road that includes a 'Core Bus Corridor' and dedicated cycle lanes on either side. When taken together with the pattern of development that characterises the subject suburban block the site forms part of and the wider setting, I consider that the existing dwellings of 'Clara House' and 'Montrose' main visual and built contribution is that they add to the built as well as visual uniformity of the pattern of development that characterises the surrounding residential area.

- 7.2.5. I therefore raise no substantive concerns in relation to the demolition of the existing dwellings on the subject site and their associated ancillary structures, subject to safeguards including but not limited to demonstrating compliance with relevant requirements such as but not limited to Section 4.3.1.3 Policy Objective PHP20 of the Development Plan given the nature and extent of the development sought. This policy objective states that: *"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"*.
- 7.2.6. Within the site setting at the opposite side of the Kill Lane and N11 junction is the Church of Our Lady of Perpetual Succour, which is a designated Protected Structure under the Record of Protected Structures (RPS Ref. No. 1984) and is also rated under the NIAH Survey (NIAH Reg. No. 60230099) as 'Regionally Important'.
- 7.2.7. In this regard I note that the site at its nearest point is c38m to this visually prominent standalone and focal corner building of architectural heritage interest that positively contributes to the streetscape scenes of the Bray Road/N11 and Kill Lane. With the visual setting of this Protected Structure sensitive to change and afforded protection under Section 11.4.1.2 Policy Objective HER8 of the Development Plan. With this including works that would negatively impact upon its special character and appearance including its setting. Moreover, I note to the Board that Section 11.4.1.6 Policy Objective HER12: National Inventory of Architectural Heritage (NIAH) of the Development Plan also sets out that it is a Policy Objective to take into account of this inventory when considering proposals for development that would affect the historic or architectural interest of these structures.

- 7.2.8. Whilst the site is located in close proximity to this Protected Structure, I consider that Kill Lane is a visual buffer that separates this building and the urban block it forms part of where it stands alone as a focal and landmark building in the round that also marks its south western corner as well as provides containment to the adjoining Bray Road/N11 corridor. I therefore do not raise any significant concerns in relation to the provision of a taller and more dense building on the subject site subject to safeguards including Section 11.4.1.2 Policy Objective HER8 which in part seeks to protect Protected Structures from any works that would negatively impact their special character and appearance.
- 7.2.9. I also note that the site at its nearest point is located c86m to the north of the Foxrock Architectural Conservation Area. Section 11.4.2.2 Policy Objective HER14 which relates to demolition within an ACA which 'Clara House' and 'Montrose' are not. Nor do they have any significant positive contribution to the appreciation of this particular ACA that is located on the opposite side of the Bray Road (N11) which has a significantly different streetscape built attributes and visual amenity through to a more sylvan setting in comparison. With the Bray Road forming and visual as well as functional barrier between either side of this stretch of this national road. With this heavily trafficked national road containing examples of more compact, dense through to taller buildings that provide containment as well as visual focal points within the immediate and wider setting.
- 7.2.10. In this context I therefore do not consider that the demolition of the existing buildings on site would conflict with Section 11.4.2.1 Policy Objective HER13 of the Development Plan which provides protection for the character and special interest of designated as an Architectural Conservation Area including from new development immediately adjoining them, subject to safeguards.
- 7.2.11. In relation to the vacant situation of the site I also note that Policy Objective CS14 of the Development Plan sets out that it is a policy objective to address issues of vacancy as well as underutilisation of lands within the County and to encourage as well as facilitate the re-use and regeneration of vacant sites subject to safeguards. I am satisfied that the reversal of the site's vacant situation accords with this Development Plan policy objective.

- 7.2.12. On the matter of brownfield land redevelopment, I also note that the Core Strategy as set out under Chapter 2 of the Development Plan, including Section 2.6.2.1, recognises that one of the ways of achieving compact growth and regeneration is the redevelopment of brownfield lands as well as intensification of use. It also acknowledges that by channelling redevelopment opportunities to suitable brownfield lands that this will play its part in reducing the rate of land use change and urban sprawl as well as delivering increased efficiencies in land management and in turn supporting the Core Strategy's objective for a transition to a low carbon society.
- 7.2.13. In relation to the proposed six storey, including part four and part five storey, 96 no. bedroom residential care facility building, I note that permitted in principle land uses on Objective 'A' zoned land includes 'Assisted Living Accommodation' and 'Residential Institution' (Note: Table 13.1.1). In this regard, Section 13.2 of the Development Plan defines 'Assisted Living Accommodation / Retirement Homes' as buildings: "*for those that require assisted living in specifically designed units in which dining, recreation, hygiene and health care facilities can be shared on a communal basis*" and 'Residential Institution' as: "*a building or part thereof or land used as a residential institution and includes a monastery, convent, hostel, nursing home*". Having regard to these Development Plan definitions I am satisfied that the nature of land use proposed, i.e. a commercial led residential care facility with the proposed facility seeking to meet the complex and various needs of older people, with a focus on dementia care, within a residential care home setting, aligns with them in terms of functional land use. I am therefore satisfied that the residential care facility can be considered as a type of development that falls within the umbrella of either 'Assisted Living Accommodation / Retirement Homes' and/or 'Residential Institution'. As such it is reasonable to consider it to be as a land use one that is generally deemed to be permitted in principle at this location, subject to safeguards.
- 7.2.14. The principle of the proposed buildings six storey height is a departure from the established pattern of mainly two storey development within the urban block No.s 51 & 52 Bray Road from part of and therefore requires separate detailed assessment against for example the Building Height Strategy of the Development Plan alongside other relevant planning provisions and guidance. This I propose to examine further in my assessment below.



- 7.2.15. I further note that Section 4.2.1 of the Development Plan sets out that common features of exemplar sustainable communities include delivering liveable neighbourhoods which are inclusive and cater to the needs of people in all stages of their lifecycle, i.e. children, people of working age, older people, persons with disabilities.
- 7.2.16. Additionally, in relation to housing choice it states: *“to ensure that a mixture of house types and sizes is developed to reasonably match the requirements of the different categories of households, as may be determined by the planning authority, and including the special requirements of older people”*. This is reiterated under Section 4.3.2.6 Policy Objective PHP30 which indicates that it is a policy objective to support housing options for older people and persons with a disability as well as support the provision of specific purpose-built accommodation, including but not limited to assisted living unit.
- 7.2.17. Further, Section 12.3.8; Section 4.3.2.1 Policy Objective PHP25 and Section 4.3.2.6 Policy Objective PHP30 in a consistent manner with the ‘Housing for All – A New Housing Plan for Ireland, 2022’; NPO 30 of the National Planning Framework alongside RPO 9.1 and 9.12 of RSES support housing options for all. With this indicated as including older people and persons with disabilities through to the provision of specific purpose-built accommodation, including assisted living units and the like to suit their needs.
- 7.2.18. Moreover, the Sustainable and Compact Settlement Guidelines for Planning Authorities under Chapter 4 seek the creation of sustainable communities also requires a diverse mix of housing and variety in residential densities across settlements. This will require a focus on the delivery of innovative housing types that can facilitate compact growth and provide greater housing choice that responds to the needs of single people, families, older people, and people with disabilities, informed by a Housing Needs Demand Assessment (HNDA) where possible. In relation to these Guidelines, I note that the Development Plan and Appendix 2 set out that: *“the demographics for the County show a continued ageing of the population in excess of national ageing population trends”*. It further sets out that in line with regional as well as national planning provisions the Housing Strategy for the County has had regard to the Planning and Local Government and the Department of Health published a Policy Statement in 2019 – ‘Housing Options for Our Ageing Population’. This is on the basis

that it seeks to facilitate and implement the Policy Statement this document as well as promoting and supporting the appropriate provision of housing for older people as part of sustainable communities.

#### 7.2.19. Conclusion:

Having regards to the above I am satisfied that the proposed development which essentially comprises of the provision of a residential care facility on this vacant serviced brownfield residentially zoned suburban site is generally consistent with local, regional and national planning provisions, subject to safeguards.

### 7.3. Compliance with Development Plan Provisions

- 7.3.1. Given that the proposed development seeks permission for a residential care facility Section 12.3.8.2 of the Development Plan which sets out a number of criteria for consideration of such applications requires detailed consideration.
- 7.3.2. In relation to Section 12.3.8.2 first criteria, it indicates that such facilities will be located into established neighbourhoods/residential areas well served by community infrastructure as well as amenities. It also states that: *“future residents should expect reasonable access to local services such as shops and community facilities”*.
- 7.3.3. The subject site is located within the suburban area of Foxrock a well-established residential context in south county Dublin and forming part of metropolitan Dublin, c12km by road to the south of its city centre. It is located on the opposite side of the Kill Lane junction with the N11 which contains a Church of Our Lady of Perpetual Succour, it is located c85m to the north of a Dublin Bus Stop on Bray Road serving Routes 145 and 155 with the Dublin Bus Stop on the opposite side of the Bray Road also serving these Dublin Bus Routes as well as Route 143. On the opposite side of Kill Lane and within c30m of the site is another Dublin Bus Stop serving Route 46A. The site is c560m to the north of the Old Bray Road which contains a number of retail outlets, a bank, a petrol station, food offers through to laundry just of the junction with the N11 with connectivity via 46A, 145 and 155 Bus Routes. Towards the end of the Old Bray Road and fronting onto the N11 is Cornelscourt Shopping Centre. With this providing a number of retail offers including a pharmacy and there is also a dental practice located in proximity to it with it similarly accessible via the 46A, 145 and 155 Bus Route with a Bus Stop immediately alongside it.

- 7.3.4. The site is also c1.4km as the bird would fly from the centre of Deansgrange. There are a number of medical facilities within the surrounding area. Including Deansgrange Medical Facility which is located c850m from the site and accessible via the 46A Bus Stop which is located within close proximity to it. There are public and private hospitals within the wider suburban setting.
- 7.3.5. The overall area is an established residential and accessible by public transport location with a wide variety of synergistic services, amenities, and other community facilities to the nature of the proposed development. With this accessibility aided by a qualitative public realm which in the vicinity of the site and these locations include quality pedestrian footpaths and timed crossing points in the vicinity of this site's corner location on the southeastern side of the junction of Kill Lane and the Bray Road (N11) with this public domain also incorporating good street lighting, signalised junctions for road crossing, bus shelters for users of the main Dublin bus stops in the vicinity through to dedicated cycle lanes.
- 7.3.6. On the basis of the above I am therefore satisfied that the location of the proposed residential care facility accords with the first criteria of Section 12.3.8.2 of the Development Plan.
- 7.3.7. In relation to the second criteria of Section 12.3.8.2 of the Development Plan, it requires consideration of the potential impact on the residential amenities of adjoining properties. I also note that the Third-Party Appellant consider that the proposed development, if permitted as proposed and as amended by the further information response, would adversely impact on their established residential amenities by way of undue overlooking, overshadowing, overbearance through to depreciation of the value of their property. I consider that these concerns are not unreasonable given the significant change in context that would arise from the proposed nature, scale, and extent of the proposed redevelopment of No.s 51 & 52 Bray Road as amended. I therefore propose to examine each of these concerns in turn below:

Overlooking:

As previously set out in this report the proposed development was subject to revisions as part of the applicant's further information response. In this regard, the Planning Authority's further information request sought measures/revisions to the proposed development in order to address their concerns that the proposed development would

give rise to overlooking from the windows serving the proposed southeastern elevation at upper floor levels. I note that the adjoining property to the south east of the site is a substantial detached dwelling called 'Kilmoylan' (No. 53 Bray Road). The curtilage of this property runs alongside the entirety of the south eastern boundary of the site.

In response to this concern the applicant revised the southeastern elevation of the proposed building by way of reducing the height of the windows on the first and second floor levels. This included amending the cill height by raising it by 500mm from the finished floor level. It also included cill projections of 600mm and the introduction of artificial topiary and additional tree planting to block any direct views to No. 53 Bray Road, in particular to its rear private amenity space. Alongside these measures further additional landscaping was also introduced along the southern boundary with No. 53 Bray Road in order to minimise overlooking arising from the proposed.

The Planning Authority considered that these measures addressed their concerns in relation to the matter of overlooking arising from the southeastern elevation of the proposed building towards the adjoining property of No. 53 Bray Road. Notwithstanding, I consider that these measures lack detail through to I raise the concern that they are not of sufficient robustness to provide together a permanent solution arising from the first and second floor level of the proposed building. On this point, I raise particular concerns in relation to the use of artificial topiary. On the basis of the information provide I do not consider this to be a permanent or qualitative design measure nor is the cill projections of 600mm with this significantly changing this facades coherence as a contemporary elevational treatment with other elevational treatments to this in the round building on a corner site addressing the N11 corridor. I also consider that there is a lack of detailing in relation to the proposed amended landscaping scheme.

Should the Board be minded to grant permission in the absence of a more resolved site sensitive measures to address overlooking I am not convinced that the proposed south eastern elevation of the proposed building would not give rise to permanent undue overlooking of properties in its vicinity. This in turn would be contrary to Objective 'A' land use zoning objective which seeks that an appropriately balance be achieved between new developments and the protection of existing residential amenities of properties in their vicinity.

Addition, the further information request did not seek any additional measures and/or revisions to address any overlooking concerns arising from the proposed development on the residential amenity of the adjoining property of No. 1 Kill Lane (Cremorne). I note that this property is owned and occupied by the Third-Party Appellants.

At present this adjoining property is visually buffered from any views from and/or overlooking from No.s 51 & 52 Bray Road irrespective of the fact that both of these properties are vacant. The largely evergreen and mature dense planting that exists to the rear of these properties including along the property boundary with Cremorne effectively block any views of the rear elevation of these properties and their associated rear amenity spaces.

It would appear that the existing planting on site is denser towards the rear of No.s 51 Bray Road with the rear of this property also including a number of mature trees.

Notwithstanding, the mature tree and hedge planting present to the rear of the site alongside that within the adjoining curtilage of No. 1 Kill Lane results in this property having an established rear private amenity space which is not significantly overlooked despite its suburban setting and in the context of the difference in ground levels between the rear elevations of No.s 51 & 52 Bray Road which occupy higher finished floor levels. With the land falling away from them in a north east direction and from the site's roadside boundary with the Bray Road/N11.

The Appellants in their submission to the Board raise the concern that the proposed development as lodged and as amended did not consider the significant change in context that would arise from the proposed development on their property. They raise concerns that the proposed development includes the effective removal of most of the existing natural features, in particular the natural features that afford visual screening, as part of facilitating the proposed development and its associated spaces. The loss of these features together with the insertion of the residential care facility 6-storey building with a part five storey and part four storey built form siting on higher ground levels and with this building having a lateral separation of between 1.58m and 2.69m at its nearest point to the boundary of their property. Alongside this new built insertion being within 3.03m of the side boundary of their dwelling with an absence of any effective landscape and boundary buffering would be visually overtly dominant in its

juxtaposition with their 2-storey detached dwelling and would seriously injure their residential amenities by way of overlooking.

The First Party indicate that despite there being no rooms or windows that directly overlook No. 1 Kill Lane from the eastern projection of the residential care facility building they are willing to fit opaque glazing on the windows of their stair core of their north east elevation despite it being a low activity zone within the interior of this building.

I consider that this measure in part would reduce the actual perception of overlooking that would arise for the north-east elevation of the proposed building. Notwithstanding, I consider such a measure would be appropriate also for the ground level of the proposed building on the basis of the significant difference in height that exists between this floor level and the lower ground levels of Cremorne.

Further, I consider that more robust landscaping measures, such as evergreen pleached trees particularly to the north and south of this nearest elevation to No. 1 Kill Lane appropriate to provide all year-round soft landscaping screening. Ideally, to achieve a consistent landscaped visual buffering and screening along this boundary I consider that the position of the building should be positioned at a minimum an additional one metre at its nearest and furthest point away from the boundary to No. 1 Kill Lane. Thus, giving rise to modest increase in lateral separation distance of between 2.58m and 3.69m with this allowing a more appropriate deep soil provision alongside the north east elevation than that proposed.

Additionally, the provision of appropriately placed tree planting in the south eastern corner of the site alongside an appropriate in height solid boundary treatment would be appropriate to mitigate actual and perception of being overlooked for the adjoining properties of Cremorne and Kilmoylan. But would also more positively contribute to the loss of sylvan character from this site by way of the significant loss of trees and hedging from this site to accommodate the construction of the proposed residential care facility. This would also positively improve the presentation of the proposed development as viewed as part of the streetscape scene of Kill Lane. Moreover, such measures would also reduce the amenity impact on other properties within the urban block the site forms part of. Particularly given that the existing and established context

is one of low density two storey properties with ground levels falling in a north east direction.

In this established residential suburban context, a level of actual and perception of being overlooked is to be expected. Notwithstanding, the proposed residential care facility with its maximum height of 6-storeys and higher ground levels would give rise to a significant change in context for residential properties in its vicinity. I consider that there is sufficient space to achieve the repositioning of the proposed building westwards closer towards the Bray Road boundary of the site. This is based on the site's corner location bound by the N11 on its western side with the area in between the N11's roadside boundary and the façade addressing it consisting of green landscaped space. The impact of this change would I acknowledge give rise to a staggered building line forward of the building line that currently characterises Bray Road properties to the south of it, however, the proposed building is a more compact, dense, taller building that is reflective of a different time and type of residential land use.

Conclusion: Having regard to the above considerations I am not satisfied that the proposed development as revised has achieved a site appropriate balance between the redevelopment scheme sought and the protection of the established residential amenity of properties in its vicinity. I consider that more meaningful measures could be achieved to overcome the undue actual and perception of overlooking of properties in its immediate vicinity, particularly in terms of providing a more reasonable protection from undue overlooking. I therefore recommend the Board should it be minded to grant permission to impose the measures I have set out above in the interests of protecting residential amenities of properties in the vicinity from undue overlooking and I consider such measures are appropriate having regards to the specific considerations set out under 12.3.8.2 and under Section 12.3.1.1 of the Development Plan which I note sets out that it is a policy objective to promote high quality design outcomes for all new development.

- 7.3.8. **Sunlight, Daylight & Overshadowing Impacts:** Sustainable Residential Development and Compact Settlement Guidelines under Section 3.4.2 sets out considerations of character, amenity and the natural environment indicate that new developments should respond to and evaluate of impact on local character. Including under Step 2 (b) it states that it will be: "*necessary to consider the impact of a proposed*



*development on the amenities of residential properties that are in close proximity to a development site. The key considerations should include privacy, daylight and sunlight, and microclimate".* These particular matters are considered in more detail under Chapter 5. With Section 5.3.7 of the Guidelines on the matter of daylight stating that: *"the provision of acceptable levels of daylight in new residential developments is an important planning consideration, in the interests of ensuring a high quality living environment for future residents. It is also important to safeguard against a detrimental impact on the amenity of other sensitive occupiers of adjacent properties"*.

It further indicates that in cases where a technical assessment of daylight performance is considered by the Planning Authority to be necessary that regard should be had to quantitative performance approaches to daylight provision outlined in guides like 'A New European Standard for Daylighting in Buildings' IS EN17037:2018, UK National Annex BS EN17037:2019 and the associated BRE Guide 209 2022 Edition (June 2022), or any relevant future standards or guidance specific to the Irish context.

In addition to this I consider that it is of further relevance that the Development Management Criteria sets out under Section 3.2 of the Urban Development & Building Height Guidelines that in relation to taller buildings at the scale of the site indicate that their form, massing and height should be carefully modulated to maximise access to natural daylight, minimise overshadowing and loss of light.

At a local level, the Development Plan under 12.3.1.1 sets out its design criteria which seeks to achieve a high standard of design through to liveable neighbours includes as part of the criteria that account will be had when assessing applications the relationship of buildings to one another, including consideration of sunlight/daylight standards.

Also, Section 12.3.5.2 of the Development Plan, indicates that all proposals for residential including those over three storeys in their height shall provide for acceptable separation distances between blocks to avoid negative effects such as overshadowing effects and provide sustainable residential amenity conditions.

The Third-Party Appellant raises concerns that the proposed development as revised would give rise to a diminishment of sunlight, daylight penetration through to undue overshadowing of their property. In turn they contend that this would seriously injure their residential amenities.



This concern was also raised by the Planning Authority in their determination of the proposed development as lodged and resulted in Item No. 1b of their further information request seeking clarity on this matter. I note also it requested an assessment of the internal spaces of the residential care facility proposed.

As part of the applicant's further information response, they included a report titled: 'Daylight & Sunlight Assessments of a Proposed Nursing Home Development at Kill Lane, Foxrock, Co. Dublin', dated 18<sup>th</sup> day of April 2023. This report sets out that there will be a minimal reduction to the available daylight and sunlight levels to the adjacent dwellings with all areas assessed continuing to meet or exceed the required recommendations of the BRE Guidelines, 2022. It also examined the quality of the proposed development also concluding that the examination having regard to the recommendations of BR209:2022 which advice assessment against the methods set out in BS EN17037 with it setting out that the UK has a similar climate to Ireland. With the overall assessment finding that 100% of the living, dining, kitchen, and bedroom spaces achieve the target values of BS EN 17037:2018+A1:2021. Thus, the results indicate that the rooms will achieve a high level of daylight. In relation to the public and communal amenity spaces it indicates that these are well orientated for sunlight penetration and that all spaces exceed the 2 hours sunlight over 50% of the area as per the recommendations of the BRE Guidelines, 2022.

Conclusion: Having regard to the findings of the Sunlight, Daylight and Shadow Assessment provided by the applicant as part of their further information response I concur with the Planning Authority that whilst the proposed development will give rise to change, particularly in relation to adjoining properties like the appellants, it is within the parameters deemed to be accord with relevant standards and a level of overshadowing is to be expected from developments within the context of an established suburban setting like this. I also consider that the recommended setback from the boundary of the proposed building by a meter would reduce the level of impact on the appellants property so that the resulting amenity impact would not be significantly inconsistent with the previous Boards grant of permission for an apartment scheme on this site under ABP-304979-19.

7.3.9. **Overbearance:** The Third-Party Appellant raises concerns that the proposed height, mass, scale, and volume of the proposed residential care facility six storey building which I note at its tallest point would have a height of 18.2m would give rise to undue visual overbearance of their property.

The proposed development as originally submitted to the Planning Authority was deemed to be acceptable in the context of the local through to national planning provisions as well as guidance with the building height not significantly different to the previous residential apartment scheme permitted on appeal to the Board under ABP-304979-19. I also note that the Boards grant permission related to the proposed development as revised by way of the applicant's further information response submitted during the course of the Planning Authority's determination of this application.

I note that at the time this report has been prepared this grant of permission had yet to expire; notwithstanding, it was determined under the previous local planning provisions but also the regional and national planning provisions as well as guidance of that time. All of these relevant planning provisions and guidance have been subject to change in the intervening time.

In relation to this grant of permission it consisted of the construction of two apartment blocks with 'Block 1' having frontage onto the N11 and Kill Lane and having a part 3 storey, part 4 storey and part 5 storey over basement built form. Block 1 contained 30 apartment units. This building had a height that projected c10.86m above that of the Appellants property and in the intervening space that included 'Block 2' there was more robust landscaping alongside the overall two blocks combined resulted in lower site coverage in comparison to the current application for consideration by the Board.

More critically 'Block 2' had frontage to Kill Lane and related to a part 3 storey and part 5 storey building providing a total of 15 No. apartments. Of note relative to the Appellants property which is referred to in the history documentation for ABP-304979-19 as both 'Alderford' and 'Cremorne' siting on lower ground levels the nearest 3-storey element had as said graduated in its height to 3-storey that projected c10.34m above that of the ground levels of their property thus giving rise to a difference between in its roof height of 2.45m relative to the Appellants 2-storey dwelling and 7.7m

difference at tallest 5-storey building height which was setback from the Appellants property.

It was also positioned with a greater lateral separation distance from the Appellants property boundary. With its staggered elevation at its nearest point being 2.65m from it and at its furthest point 3.85m alongside with a more robust landscaping in between.

Of further note Block 2 was also positioned closer towards Kill Lane with its rear building line set forward towards Kill Lane and significantly back from the rear building line of the Appellants property.

In comparison the proposed residential care facility as already discussed is positioned with less lateral separation distance between it and the Appellants property with little in the way of any commensurate replanting of the linear strip of planting that currently exists alongside the boundary with their property.

Relative to No. 53 Bray Road it has a similar lateral separation and with, in comparison to this existing property, the proposed building nearest to it would have a difference in roof height of between c6.08m and 6.88m due to this property's staggered ridge line.

Relative to the Appellants property the relationship between the proposed building, the nearest side elevation of this proposed building that faces towards their existing property the ridge height difference is that it projects c4.41m and c7.41m above it. The façade treatment of this elevation is also bland and monolithic with as previously discussed no meaningful visual buffering or softening of this elevation to lessen its visual impact when viewed from the streetscape scene through to private domain of properties in its vicinity.

On this point I also consider in comparison between the quality of elevational treatment through to landscaping the previous scheme was more qualitative in terms of its palette of materials through to included more site sensitive soft landscaped boundaries against the sensitive to change boundaries of the Appellants property and No. 53 Bray Road. With this in turn also being of benefit when viewed from other neighbouring properties within its subject suburban block to its south; south east and east.

Further, the previously permitted two apartment blocks provided a stronger verticality in response to the site and its setting which arguably responded better to a context that included a Protected Structure on this opposite side of the Kill Lane and N11

junction. With verticality in terms of its built form and height being part of its architectural response to not only its religious use and characteristic church building typologies that often includes tower elements and in the case of this Protected Structure benefitting from further emphasis in its setting from its higher ground levels.

The site as said also occupies a site where the ground level falls away in a north east direction with the angularity of the design, the built form and the treatment of materials failing in my view to provide more meaningful verticality in its elevational response.

This in my view together with the lack of adequate separation distance, graduation in built form through to visual softening adds to the potential of this building to be visually overbearing in terms of its relationship with existing built forms. Particularly in my view the appellants property adjoining it on Kill Lane.

While I am of the view that this corner site as a receiving environment is an appropriate for a building of greater height, scale, and volume. Including I consider that there is a precedent on this site for built forms of similar height to that now proposed at corner locations along the N11 corridor. With this approach being consistent with local through to national planning provisions on serviced zoned at this highly accessible and in proximity to many amenities, community infrastructure and the like that is synergistic to residential in nature developments. Through to a taller building on this amalgamated site has the potential to be a focal corner building of interest that could balance with the Protected Structure on the opposite side of Kill Lane/N11 junction. But also contribute positively to the placemaking along the N11 given the width of this heavily trafficked national road, subject to safeguards, without compromising unduly the established residential amenities of properties in its vicinity.

I nonetheless consider despite for example the tallest northeastern portion of the building being just over 29m on average from the side boundary to No. 1 Kill Lane with this elevation addressing this property's semi-private domain and at such a lateral separation distance it does not giving rise to any direct overlooking of this or any other properties in its vicinity. Notwithstanding, a more robust landscape buffer as already discussed would soften the visual appearance of the proposed building which is a significant departure from adjoining and neighbouring Kill Lane properties. I also consider that there is a need for further consideration of more qualitative elevational

treatments addressing Kill Lane and N11 in terms of both adding visual qualitative interest and stronger verticality emphasis to break up its strong horizontal appearance.

In this context I consider it appropriate that a more detailed examination of the proposed building against relevant building height strategies and height guidelines is required as part of the Boards examination of the merits of the proposed development. This I propose to examine separately in my assessment below.

Conclusion: In the absence of any amendments to deal with the concerns raised above I am not satisfied that the proposed development is one that has provided sufficient measures to reduce its visual overbearance relative to No. 1 Kill Lane (Cremorne), the appellants property. In this regard should the Board be minded to grant permission I again reiterate my previous recommendation that the proposed building be at a minimum setback by an additional 1m from the boundary with No. 1 Kill Lane. Further, that more appropriate site as well as setting sensitive landscaping buffering and physical boundary treatment is provided along the boundary with this property and also along the rear garden area of Kilmoylan (No. 53 Bray Road); that the window openings of this elevation in their entirety are permanently fitted with obscure glazing in the interests of safeguarding from overlooking and perception of overlooking; through to a revised elevational treatment with the use of a more qualitative palette of materials to reduce the monolithic appearance of this façade alongside similar reconsideration of a more qualitative use of materials for this building, including strengthened vertical emphasis, so that this new building would be more successful as a building that would be visible in the round from the public domain.

- 7.3.10. **Depreciation of Property Values:** The Third-Party Appellant raises concern that the proposed development as revised, if permitted, would have the potential to devalue their property.

The proposed development relates to the demolition of two existing dwelling houses and the construction of a 96-bedroom residential care facility in a building with a maximum 6-storey height.

Despite the appeal site forming part of a well-established mature residential suburban area and a highly coherent in use as well as built form residential building stock it is not unreasonable given particularly locally planning provisions to expect the amalgamation of two residential serviced zoned brownfield sites within south city

suburb of Foxrock for a more compact, denser and more people intensive redevelopment to be proposed. Particularly given the location of this highly accessible by public transport and in proximity to a plethora of synergistic land uses site at the corner of N11/Kill Lane junction.

I therefore consider that subject to site appropriate safeguards, including qualitative architectural design and layout response that has due cognisance to the sensitivity of residential amenity of properties in its vicinity to change, that a residential care facility could not be reasonably considered to be a bad neighbour type of development in this context.

Further, the Appellant has not provided any expert-based evidence that would support and demonstrate that the proposed development would give rise to a quantifiable material depreciation of the Appellants property value or any other properties in its vicinity and how such a conclusion was reached.

Conclusion: I am satisfied that there is no expert-based evidence to support that the proposed development would give rise to a depreciation of value of property in its vicinity.

**7.3.11. Third Criteria of Section 12.3.8.2 of the Development Plan:** This section of the Development Plan requires the provision of at least 20% of the overall site area as open space. In this regard I note that Table 12.7 of the Development Plan identifies and defines three categories of open space for residential developments, i.e. communal, public, and private.

The proposed development is one that occupies a modest site and as such it is constrained in its ability to provide any meaningful and functional passive and/or recreational communal or public open space.

It proposes private open space in the form of landscaped grounds alongside a number of balconies. At ground level, *albeit* relating to some sloping in level grounds a total of 1,469-sq.m. of landscaped area within the southern and western portion of the site is proposed. This provision was deemed to be acceptable to the Planning Authority.

I also note that under Section 12.8.4 of the Development Plan which deals with the matter of 'Open Space Quantity for Mixed Use, Non-Residential and Commercial' that it sets out a requirement of least 15 sq.m. open space per resident. This scheme as said includes 96 bedrooms which are essentially designed to accommodate one

resident. As such this gives rise to a minimum requirement of 1,440-sq.m. which the total landscaped area exceeds by 29-sq.m. Also in a manner that accords with this section of the Development Plan the landscaped area has been designed to be accessible for all users and provide links to adjoining public footpaths, it incorporates age friendly principles in its overall design through to it takes account of the location of the facility by way of providing pedestrian and cycle connectivity to the public domain alongside orientates the building and its spaces so that it can maximise light penetration to these spaces but also buffering from the N11.

The landscaped scheme provided with the application as lodged and was updated as part of the applicant's further information response but is essentially the same as that originally lodged. There appears to be some conflict between it and the site layout plans. Notwithstanding, the landscaping scheme shows a mixture of passive and active spaces. Amongst the positive features within this scheme is its active pathways, a putting green, an outdoor pavement flagged chest board, enclosed garden, and seating area.

Additionally, it provides a pedestrian route to the public domain of the N11 to a pedestrian gate that is positioned towards the southern end of this roadside boundary. Thus, providing a vehicle free route to access from the site to the pedestrian pathway on the N11 that is located in close proximity to an N11 Bus Stop. With these stops forming part of a Core Bus Corridor that runs along this National Road.

However, for the most part the roadside boundary consists of the retained 1.8m to 2m course rubble stone wall behind which is dense planting. With the roadside boundary amended to contain only the pedestrian access onto the N11 mentioned above. This opening would be 1.8m wide and fitted with a solid timber gate. Moreover, as noted the site levels fall from the roadside boundary with the N11 in a north east direction. As such the physical and natural landscape features should attenuate noise to a level that would not be exceptional in such a suburban location despite the high volumes of traffic accommodated along the N11.

I also consider that the open space provision benefits from good passive surveillance from the proposed residential care building and that the provision of enclosed open space amenity spaces is necessary to meet the needs of dementia patients given that this is indicated as a primary focus for this residential care facility.



Conclusion: Subject to the boundary modifications noted previously in this report for the boundary alongside No. 1 Kill Lane (Cremorne) and additional buffering alongside the rear boundary of No. 53 Bray Road should the Board be minded to grant permission for the proposed development I raise no significant issue with the open space provision for future residents, staff and visitors of the proposed residential care facility subject to the safeguards recommended by the Planning Authority's Parks and Landscape Services report dated the 11<sup>th</sup> of May, 2023. These measures in my view would ensure a more qualitative outcome by way of ensuring appropriate measures are in place to deal with arboricultural matters of concern, i.e. tree retention and appropriate protective measures. They also seek the retention of a landscaping consultant and the appropriate implementation of the landscaping plan. I am therefore satisfied that the proposed development is consistent with third criteria of Section 12.3.8.2 of the Development Plan and as set out in my examination of other matters below I consider it appropriate that communal and public open space is dealt with by way of the payment of a financial contribution given the modest area of the site. With the Development Plan providing flexibility in contexts like this for the same.

- 7.3.12. **Fourth Criteria of Section 12.3.8.2 of the Development Plan:** This requires adequate provision of parking facilities (Refer also to Section 12.4.5). I note that the revised design includes the provision of 5 no. electrical charging points in the undercroft which accords with Section 12.4.11 of the Development Plan. The provision of in addressing the Planning Authority's Transportation Division concerns and this requirement is also reiterated under Condition No. 2 of the Planning Authority's notification to grant permission.

The Planning Authority considered that the 24 no. car parking spaces also accorded with the Development Plan provisions and the site is one that adjoins a Core Bus Corridor.

Further improvements were made to the proposed development parking provisions for cycle parking so that it accorded with the Development Plan provisions as well as those set out in the document titled 'Cycling Facilities for New Development', January, 2018.

Subject to a number of further amendments that could be achieved by way of condition no further concerns were raised in relation to the parking provision for the proposed



development and the improved access arrangements facilitating the proposed development. Including the sole vehicle access onto Kill Lane.

I also note that in comparison to the apartment scheme permitted by the Board under ABP-304979-19 that this previous scheme contained 45 apartment units served by 41 no. car parking spaces. In comparison to the proposed residential care facility now sought I am satisfied on the basis of the information before me that it would not give rise to any significant additional vehicle movements onto the Kill Lane nor is it likely that the level of car parking proposed is inadequate to cater for this use, its residents who are unlikely to have a high requirement for private car parking, its staff through to visitors to the facility, including those involved in maintenance, services and the like.

Conclusion: Subject to the recommendations of the Planning Authority's Transportation Division being included as part of any grant of permission I am satisfied that the proposed development in terms of parking at this highly accessible location adjoining a Core Bus Corridor and in proximity to bus stops on the N11 as well as Kill Lane, accords with the fourth criteria of Section 12.3.8.2 of the Development Plan.

**7.3.13. Fifth Criteria of Section 12.3.8.2 of the Development Plan:** In my assessment above I have already set out that I consider that the proposed development could be improved by a more qualitative palette of materials, finishes and treatments. I have also set out my reasons that there is a need to revisit elevations including the south east and north east elevations with this also being in the interests of achieving a more qualitative visual design outcome for this building as appreciated in the round through to in response to its visually prominent location alongside the heavily trafficked N11 and alongside given its proximity to a visually prominent Protected Structure.

Conclusion: Should the Board be minded to grant permission I am of the view that the design, palette of materials and visual amenity outcome could be further improved by way of appropriately worded conditions. Subject to these changes I am satisfied that the proposed development would generally accord with the fifth criteria of Section 12.3.8.2 of the Development Plan.

**7.3.14. Sixth Criteria of Section 12.3.8.2 of the Development Plan:** In my assessment above I have already set out that I am satisfied subject to safeguards that this corner site with frontage onto the N11 is capable of accommodating a taller, more dense, more compact through to people intensive residential land use. Moreover, as

discussed, I do not consider that the height, the scale, and extent of development is out of character with more recent developments permitted alongside the N11. Further, the site as discussed above has an extant permission for a more substantive in height, size, and scale two block apartment blocks (Note: ABP-304979-19). With the proposed development sought under this application having a slightly lower building height in comparison to tallest 'Block 1' permitted under this scheme.

Conclusion: I am satisfied that the amalgamated plots of No. 51 & 52 Bray Road (N11) is an appropriate location where a building of size and scale that departs from the two-storey predominant context of its suburban block can be accommodated. With this departure permissible under local through to national planning provisions subject to site appropriate safeguards. Thus, I raise no substantive issue with the appropriateness of this site for a proposed development of this size and scale.

**7.3.15. Seventh Criteria of Section 12.3.8.2 of the Development Plan:** This criterion relates to proximity of high-quality public transport links and provision of good footpath links. As already discussed above I consider that the site is accessible to the N11 which contains a Core Bus Corridor/Quality Bus Corridor and located in close proximity to bus stops on both the N11 and Kill Lane which serve high frequency bus routes that provide good connectivity within this suburban area but also to other transport infrastructure options within the Metropolitan Area. Along the N11 and Kill Lane roadside boundaries of the site there is also a dedicated cycle lane with the public footpaths in between being of a good width and in a good state of repair. With this being the case in the context of the wider public domain. The design as revised includes improved cycle parking and facilities for future users of the site. These amendments through to the provision of a Cycle Audit demonstrate that it now accords with the Development Plan requirements including Section 12.4.6. and the Councils document 'Standards for Cycle Parking and Associated Cycling Facilities for New Developments', (2018). With these being consistent with national guidance on such matters.

Conclusion: I am satisfied that this proposed residential care facility is located in proximity to high quality public transport links and the proposed development links its internal pedestrian access routes onto Kill Lane as well as the N11 onto an existing good quality pedestrian footpaths that provides good connectivity to its setting that includes as said a number of high frequency bus routes that in turn provides good

connectivity to the wider Metropolitan Dublin, including other public transport and active transport routes beyond.

- 7.3.16. **Compliance with Section 12.3.8.2 of the Development Plan:** On the basis of the above I am satisfied that the proposed development subject to the recommended amendments in general is compliant with the requirements of this section of the Development Plan.
- 7.3.17. **Building Height:** The Board previously granted permission for a slightly taller building than the proposed building height sought under this application under ABP-304979-19. The part six storey, part five storey and part four storey building sought under this application has a maximum height of 18.2m. As discussed, I acknowledge that this is a substantial departure from the prevailing two storey in built forms of the residential buildings that characterise the suburban block the site forms part of and that of the wider surrounding setting.

On the matter of height, I first of all note to the Board that the site is not one that is identified in the Development Plan for tall buildings. With the previous application on the site considered by the Board under the previous Development Plan and in the intervening time local through to national planning provisions on the matter of height has evolved and changed.

In relation to the current Development Plan the Planning Authority's policy in relation to building height throughout the County is detailed in three policy objectives as set in its Building Height Strategy which is contained in Appendix 5. Of particular relevance, Policy Objective BHS 1 deals with the matter of increased height and Policy Objective BHS 3 deals with the matter of building height in residual suburban areas.

I also note that in a manner that accords with Section 4.4.1.10 Policy Objective PHP44 of the Development Plan that it is a requirement that a design statement accompanies commercial development over 1,000-sq.m. This proposal relates to a commercial operated residential care facility whose gross floor space of 4,990-sq.m. which significantly exceeds this threshold. This proposal is accompanied by such a statement which sets out that the proposed development is of a height that can be accommodated by its receiving environment without giving rise to any undue amenity impacts on its surroundings, including its streetscape scenes.

Under Section 1.1 of Appendix 5 the previous Development Plan's upward and downward modifiers have been replaced with a comprehensive set of performance-based criteria for development management assessment of applications for increased height, thus ensuring increased height in appropriate locations whilst protecting the residential amenity of the County. With Appendix 5 setting out a Building Height Strategy for the County that accords with the Urban Development and Building Height, Guidelines for Planning Authorities, 2018, and the National Planning Framework so that it aligns with national planning policy provisions and guidance.

Of note Section 3.5 of Appendix 5 states that: *"the N11, owing to its width, strategic importance, and public transport facilities, has the potential to become an attractive urban corridor enclosed by taller buildings of high quality, at locations which are also proximate to social and community infrastructure"*. It further states that: *"the N11 corridor has seen a pattern of taller apartment schemes constructed at key corner sites along its route through the County"*.

In relation to such schemes, it indicates that these are restricted from taking access directly from the N11. It states that: *"corner sites at junctions between the N11 and the larger side roads have been the most common location for intensification of development. These developments have tended to range from 3 to 7 storeys. The width of the corridor, at over 40 metres, provides an opportunity for taller buildings to enclose this space."*

It further acknowledges that successive Development Plans since 2004 have promoted higher densities within a 500m catchment of a Quality Bus Corridor alongside the current building heights strategy allows for increased height where a number of upward modifiers are met.

In relation to suburban infill development, it indicates under Section 3.7 that many examples of higher density and taller buildings relate to prominent corner sites on sites that exceed 0.5ha. Whilst the cumulative area of No.s 51 & 52 Bray Road does not meet or exceed this threshold with the site area given as 0.358ha it is of note that it sets out that the general approach in terms of taller buildings has been to taper height from a high point in the centre of the site down to the site boundaries where the height of adjacent buildings can often be lower.

It sets out under Policy Objective BHS 3, which deals with the matter of building height in residual suburban areas, that it is a policy objective to promote general building heights of three to four storeys coupled with appropriate density to ensure in such areas that a balance between the reasonable protection of existing amenities including residential amenity and the established character of the area. This policy objective refers to SPPR 3 of the Building Height Guidelines stating: *“that there may be instances where an argument can be made for increased height and/or taller buildings in the residual suburban areas”* and any such proposal must be assessed in accordance with the criteria set out under Section 5.1 of Section 5 of Appendix 5. It is further of note that in the context of the built-up area of the County it defines increased height as buildings taller than the prevailing building height in the surrounding area, i.e. more than 2 storeys taller. With this relating to areas outside of existing or forthcoming Local Area Plan’s which I note the site does not form part of either.

Moreover, under Section 4.3.2 of Appendix 5 of the Development Plan sets out that a balance also has to be had between the protection and enhancement of heritage assets while ensuring the continued development of the County through the 21<sup>st</sup> Century.

In this regard it states that: *“new developments should respond to local character and protect and enhance the built heritage and new buildings should not have an adverse effect on a protected structure in terms of scale, height, massing, alignment and materials”* and that the impact on protected structures should be considered as part of the assessment against the performance-based criteria set out under Section 5. In relation to architectural conservation areas Section 4.3.1 sets out a similar approach.

I therefore propose to assess the proposed residential care building which at its tallest point is 6-storeys with a given height of 18.2m against the Table 5.1 of Appendix 5 of the Development Plan assessment criteria for tall buildings which is consistent with those set out under Section 3.2 of the Building Height Guidelines. Such an assessment is necessary given that the proposed building in terms of its main structure is more than 2-storeys above that of its prevailing context. With as said its suburban block consisting of two storey residential dwellings on garden plots and with the surrounding context being one where the predominant building height is two storeys. I do, however, note that the building graduates in its height alongside Kill Lane to four storeys in

height and that the proposed building has a four-storey height adjacent to the rear private amenity space of No. 53 Bray Road (Kilmoylan).

Further, I also note that the performance-based criteria set out in the Development Plan seek to take into account the protection of residential amenities, the protection of the County's built and natural heritage and the promotion of compact growth in suitable locations throughout the County.

Under the following bullet points below I propose to assess the proposed development against Section 3.2 of the Building Height Guidelines and Table 5.1 of Appendix 5 of the Development Plan:

- *At the scale of the relevant city/town;*
- *At scale of district/neighbourhood/street;*
- *At the scale of the site/building; and*
- *County specific criteria.*

Taking each point in turn my conclusions are as follows:

- *At the scale of the relevant city/town:*
  - As discussed in this assessment this appeal site is well served by public transport with high capacity, frequent service, and good links to other modes of public transport. With the site being in close proximity to Dublin Bus Stop (Stop ID: 2018) which is located to the north of the site alongside the roadside boundary of the Church of Our Lady of Perpetual Succour. This stop serves Dublin Bus Route 46A which provides connectivity to Pheonix Park and Dún Laoghaire which during weekdays operating every 8 to 10 minutes during AM and PM peak hours.

On the opposite side of the N11 from the Church of Our Lady of Perpetual Succour is Dublin Bus Stop ID: 2060 with it serving Bus Routes 46A, 143, 84X, 155, 145 and Aircoach 700 with these routes providing a variety of connectivity including the Aircoach to Dublin Airport; 84X providing connectivity to Newcastle/Kilcoole to Eden Quay; 143 providing connectivity to Southern Cross Road and Sandyford Luas; 155 providing connectivity between Bray Rail Station and Ikea/Ballymun; 145 providing connectivity between Southern Cross

Road and Aston Quay. With most of these Dublin bus routes operating every 10 minutes during AM and PM peak hours alongside the Aircoach operating every 15-minutes during AM and PM peak hours.

To the south of the site on the eastern side of the N11 is Dublin Bus Stop ID: 3259 which serves Dublin Bus Routes 145 and 155 with Dublin Bus Stop ID 3258 on the opposite side of the Bray Road serving Dublin Bus Routes 143, 145 and 155. These bus routes operate in general every 10 minutes during AM and PM peak hours.

These four bus stops or all located less than 200m by foot from the appeal site.

- The proposed development seeks to provide increased height at a key corner site with frontage onto the N11 and Kill Lane where the public domain of each of these heavily trafficked roads are characterised by their wide widths.
- Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views.<sup>3</sup> Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect. The various visual impact assessments provided with this application indicate that that the proposed building is of a height that can be positively received at this location as well as successfully add a focal building of interest to its corner location. With the design including graduation of building height towards Kill Lane through to settling the building into ground levels of the site that slope in a north east direction as part of reducing the visual impact of its additional height. I am generally satisfied that the proposed building would not give rise to any adverse visual impact subject to safeguards including the measures previously recommended in my assessment above which can be achieved by suitably worded conditions.
- This corner site with frontage onto the N11 is a location considered suitable for taller buildings under the Development Plan's height strategy and there has been a pattern of taller as well as buildings of scale and with greater people intensity land uses along it. With these adding more successful containment of



this national route. The provision of a residential care facility within an established predominantly residential area that is serviced and is proximate to social and community facilities is consistent with the Development Plan's Housing Strategy for the county. This strategy as previously set out in this assessment seeks to ensure the housing needs for older persons through to persons with disability are met within residential neighbourhood settings.

- The angular built form together with the settling of this building into its sloping in nature ground level site results in it being of subservient height building when viewed as part of the visual setting of the Protected Structure (Note: Church of Our Lady of Perpetual Succour) on the opposite side of the N11 and Kill Lane junction.

Additionally, the width of the N11 is such that it acts as visual and physical barrier in terms of the appreciation of the Foxrock Architectural Conservation Area. Together with the western side of its suburban block that fronts onto the N11, the site is not essential to supports and reinforce the appreciation of the nearby Foxrock ACA streetscape scene as appreciated from the N11.

Whereas a building of scale and contemporary expression has the potential to add visual interest and containment of the N11 / Kill Lane junction as well as the streetscape scenes of these public roads.

Against this context the proposed building subject to safeguards would not detract from the appreciation of any built heritage sensitive setting. Overall, I am satisfied that the proposed development responds to the scale of adjoining developments despite its departure in height and scale but also untaps the latent potential of a corner location along the N11 where taller of scale buildings have successfully contributed to the built containment of this heavily trafficked national route.

- *At the scale of district/neighbourhood/street:*
  - The built form is an L-shape with the main elevation located closest but setback from the N11, with the building sunk into the changing site ground levels as well as graduating in its built form, mass, volume, and scale towards adjoining properties of Kill Lane where it has a four-storey height. Additionally, the proposed building is setback from the side of Kilmoylan (No. 53 Bray Road) as



well as in relation to its rear private amenity space its built form in terms of its lowest ground level is sited at a much-reduced height which effectively results in this part four and part five storey building at this point having a graduated building height away from this property. With the nearest section having effectively a two-storey height setback from the boundary to this property. Alongside the staggered flat roof over consisting of two green roofs and not indicated for use as additional private open space amenity.

- The design includes measures to ensure qualitative passive surveillance over the amenity space through to enclosed spaces designed to cater for the needs of its future occupants.
- The building has varying heights, scales, and setbacks relative to the public domain of the N11 and Kill Lane. In this regard it positively responds to each streetscape scene and improves pedestrian safety by not including vehicle access to the N11 and allowing for pedestrian access only on to it.
- The provision of a residential care facility would positively contribute to the mix of uses in the wider community.
- *At the scale of site/building:*
  - The Daylight and Sunlight Analysis submitted with the further information response demonstrates that access to natural daylight and ventilation seek to minimise overshadowing and loss of light for properties in the vicinity in a manner that is consistent with required standards. In relation to future occupation of the residential care facility, its associate amenity spaces as well as in relation to the internal and external neighbouring properties amenity also are demonstrated to accord with required standards.
  - The design of the building has been modulated and orientated to maximise access to natural daylight and ventilation to its interior spaces alongside to position recreational and passive open space amenity at ground and above where they also have good access to natural daylight as well as are not unduly overshadowed.

- Having regards to the positioning of the proposed building, its height, mass, scale, orientation, and relationship to other buildings it is unlikely to result in any adverse microclimate impacts.
- The design of the proposed building seeks to define the opposite corner site from the Church of Our Lady of Perpetual Succour without its height, mass, scale, and volume being overtly dominant and overbearing when viewed as part of this Protected Structures visual setting.
- The proposed development has been revised to minimise undue overlooking of properties in its setting. The Planning Authority deemed these measures overcame their concerns on this matter and as discussed further improvements to this can be achieved by way of appropriately worded conditions.
- The used of qualitative external palette of materials, finishes and treatments through to limiting any further development projecting above roof level should ensure that the proposed building sits comfortably with its setting whilst still being legible as a built insertion of its time. Further, improved verticality could be achieved by way of condition to ensure that facades are not unduly monolithic and a more site sensitive as well as contemporary approach to limit overlooking arising from the south east elevation facing towards No. 53 Bray Road could address the visual incongruity of the projecting eaves as well as overcome the lack of quality and permanency of the artificial topiary.
- The proposed building seeks to achieve a BER rating of A3 and the overall design of the building seeks to align with climate policy provisions that support the transition to a greener, low carbon, climate resilient and more sustainably connected development.
- The site has extant permission for a residential development with 'Block 1' being slightly higher than that proposed under this application (Note: ABP-304979-19).
- *County Specific Criteria*
  - As discussed above the proposed residential care facility is a type of land use that is deemed to be permissible subject to safeguards on lands zoned 'Objective A' under the Development Plan.

- The Development Plan sets out as part of its Housing Strategy that the county's demographic show a continued ageing population and with Section 4.3.2.1 Policy Objective PHP25 of the Development Plan indicating that it is a Policy Objective to support as appropriate the delivery of the actions set out in the 4 pathways contained in 'Housing for All – A new Housing Plan for Ireland, 2021' and Section 12.3.8 of the Development Plan indicates that the County Council will seek to promote an age friendly approach by ensuring that both existing and proposed residential developments are future proofed for an ageing population.
- The Development Plan under Section 4.3.2.6 – Policy Objective PHP30 in a matter that accords with Section 9.12 of RSES and NPO 30 of the NPF supports housing options for older persons and those with disabilities through to the provision of specific purpose-built accommodation including assisted living units.
- Section 12.3.8.2 of the Development Plan as examined above supports the provision of nursing homes and assisted living accommodation in established neighbourhoods / residential areas and locations that are well served by community infrastructure and amenities. This location accords with such a location and is not remote from community infrastructure and amenities with high accessibility and connectivity for future residents and staff to local services such as shops, medical facilities, and the like. With the site also one that is highly accessible by active travel modes and public transport for visitors as well as staff.
- The N11 including its corner sites are recognised under Appendix 5 of the Development Plan to be suitable locations for taller buildings given that the width of the road is a suitable receiving environment given its width at c40m. At its least generous point I note that the N11 has a width of c37.8m alongside the southernmost end of the N11 roadside boundary. With the width of the adjoining stretch of Kill Lane tapering down to c20m in the vicinity of the site. Alongside, the height of the building setback as well as reduction to four-storeys in height, a height that can provide suitable containment of a road of this width.

- The size of the site is modest with two dwellings thereon. Though these buildings are both suitable for deep retrofit in a manner that would accord with Section 12.3.9 of the Development Plan. Notwithstanding, this in itself would not realise the untapped latent potential of this corner highly accessible serviced residential zoned site that forms part of an established residential neighbourhood located along the N11 corridor, a location identified by Appendix 5 of the Development Plan, as a suitable location for taller buildings of scale, subject to safeguards.
- The Development Plan in manner that accords with the NPF seeks to focus development to suitable brownfield/infill development within our existing built-up areas. This site is a brownfield and vacant site with untapped potential at a highly accessible serviced and zoned location where residential developments are deemed to be permitted in principle, subject to safeguards.
- Subject to safeguards discussed in the assessment above, I consider that the proposed development would be compliant with Policy Objective BH3 (Building Height in Residual Suburban Areas) given that it achieves a reasonable balance between the protection of existing amenities, the established character of the area and the new development with its shortfall being such that they can be reasonably be addressed by appropriately worded condition to ensure that the outcome of the proposed development is one that would not give rise to serious injury of residential and/or visual amenities. Alongside in a manner that achieve improved consistency with the relevant requirements of the Development Plan.
- The proposed development gives rise to no SEA, EIA, AA or EclA issues.
- This application is accompanied by various design studies and visual impact assessments that demonstrate that the site is suitable for a building of this height, scale, and mass.
- The Core Strategy as set out in Chapter 2 of the Development Plan aligns with Section 1.3.2 of the Compact Settlement Guidelines for Planning Authorities in that it supports taller buildings that exceed the traditional scale at accessible parts of our cities, subject to safeguard, including that the scale and form of development is appropriate to the receiving environment.

- The part six, part five and part four storey building is necessary to achieve an appropriate density and scale of development on this serviced residential zoned site in an accessible and well served corner site that includes corner frontage to the N11 corridor. This is against the context that Section 3.7 of Appendix 5 in relation to 'Suburban Infill' sets out that there has been a discernible pattern of gradually increasing residential densities in 'infill sites' within the built-up area of the County over the last 20 years with many having a higher density and taller building height profile than the prevailing local low-rise.
- At a local Policy Objective PHP42 of the Development Plan requires buildings of height to comply with the Building Height Strategy for the County as set out in Appendix 5. I am generally satisfied that the proposed development is one that has demonstrated in its design, layout and supporting documentation that includes specific visual and built environment assessments is an appropriate taller building for this site and its setting, subject to safeguards, in a manner that accords with the Developments Building Height Strategy which accords with the Urban Development and Building Heights, Guidelines for Planning Authorities, 2018.

Conclusion: On the basis of the above I am satisfied that the height of the proposed residential care facility when taken together with its scale, mass and volume is generally consistent with Section 3.2 of the Building Height Guidelines and Table 5.1 of Appendix 5 of the Development Plan. There is also planning precedent for buildings of greater height at this location alongside at locations that includes corner sites that adjoin the N11 with such locations deemed to be suitable location subject to safeguards for taller buildings.

7.3.18. Having regards to the above I concur with the Planning Authority that the proposed development is generally in compliance with the Development Plan requirements alongside is a type of development that is reflective of the current and future demographic conditions for the County, with this showing an ageing demographic for which the Council seeks to ensure that there is appropriate housing options for in accordance with their Housing Strategy and the principles of the Policy Statement 'Housing Options for Our Ageing Population' 2019, and the document "Housing for All – A New Housing Plan for Ireland, 2021". While I am cognisant that the Development Plan seeks to ensure an appropriate balance is reached between the provision of new

development and existing development particularly in an established residential context like this in this case though the proposed development will give rise to a change in context for its immediate context, including for residential properties in its vicinity, this level of change is not exceptional in this suburban context in what is a highly accessible location where taller buildings are deemed to be acceptable subject to safeguards.

7.3.19. In this regard I have set out that significant improved outcomes could be reasonably be achieved to the proposed development by setting it back from the boundary of Cremorne (No. 1 Kill Lane), revisions to the landscaping, boundary and elevational treatments.

7.3.20. I consider that these amendments are necessary to ensuring that a more appropriate balance is achieved between the proposed development and the established residential amenities particular relative to the properties adjoining its north eastern and south eastern boundary in the interests of ensuring that it accords with the Objective 'A' land use zoning of these lands through to ensuring compliance with Section 4.3.1.3 Policy Objective PHP20 of the Development Plan. This policy objective seeks to protect existing residential amenity where they are adjacent to proposed higher density and greater height infill developments.

#### **7.4. Other Matters Arising**

7.4.1. **Residential Amenity Future Occupants:** The proposed development seeks permission for a residential care facility, and I note that HIQA are the relevant authority for standards of residential care in this regard. The development plan does not set specific internal residential amenity space standards for this nature of land use and as said requires an such facilities to not be remotely located through to provide at least 20% of the overall site area as open space with Section 12.8.4 setting out the standards for open space provision for commercial type residential developments. This I note allows flexibility to pay a contribution *in lieu* of public open space through to public realm and public realm improvement works. An approach that was deemed to be acceptable by the Planning Authority in this case given the size constraints of the site. HIQA standards refer to the provision of access to safe, accessible, and appropriate outside spaces where residents may spend meaningful time outdoors. I note that the design of the spaces includes a mixture of active and passive spaces at

ground floor level as well as additional open space in the form of open space provision provided above ground in balconies. Including different access points internally to ensure more safe and convenient access to different external amenity spaces that are provided at different grades to the west and south of the main building.

I consider further clarity in terms of ventilation and potential for internal spaces including bedrooms to overheat, a matter that could be addressed as well as is likely to be addressed by improved ventilation solutions as part of ensuring a qualitative internal environment for occupants, staff, visitors, and the like.

I also consider that the sunlight, daylight, and overshadowing analysis shows that the internal spaces demonstrate that required standards would be achieved.

Conclusion: Overall, I consider that the design provides an appropriate internal and external amenity for future occupants and staff if permission were to be granted.

**7.4.2. Site Access Arrangements:** I note that the Planning Authority's Transportation division raised no objection to the proposed development as revised subject to safeguards. As discussed, the site is a highly accessible location by active and public transport means. A point that is made in the accompanying Travel Plan.

The design as revised includes qualitative improvements to the overall access arrangements and provisions for vehicle, cycle as well as pedestrian in a manner that demonstrates compliance with the required Development Plan standards.

Notable improvements include the provision of electric charging points, providing improved segregated pedestrian entrance from Kill Lane for pedestrians which allows for safer access to the proposed development in a north east direction, with as noted a Dublin Bus Stop located in this direction on the opposite side of Kill Lane; the provision of additional road markings and relocation of the 'STOP' sign as part of providing pedestrian priority onto Kill Lane as well as providing Shark Teeth markings on the carriageway outbound lane through to improved sightlines onto a section of Kill Lane where the posted speed limit is 50kmph.

I concur with the Planning Authority that the quantum of traffic generated by the proposed development can be sustainably absorbed by the surrounding road network including during peak time hours without giving rise to any undue road safety and traffic hazards, subject to safeguards.



In this regard I note that the Planning Authority's grant of permission under Condition No. 2 required a minimum of 5 No. Electric Vehicle Charging Points; Condition No. 3 required compliance with the cycle parking provisions of the Development Plan and also the Councils document titled 'Standards for Cycle Parking and Associated Cycling Facilities for New Developments', dated January, 2018; Condition No. 5 required implementation of the submitted Travel Plan through to Condition No. 7 required all necessary measures to avoid conflict between construction activities and pedestrian/vehicle movements on Kill Lane.

Moreover, I am also of the view that the proposed development is one that would not give rise to any significant additional quantum of traffic in comparison to the permitted 45 apartment unit scheme by the Board under ABP-304979-19.

While I note the concerns raised by the Appellant in terms of potential for this proposed development to give rise to additional traffic hazards through to overspill of car parking in the surrounding area, I am not convinced that they have demonstrated how this would occur given that the proposed revisions, the car parking provision meeting the required standards and the like in what is as said a highly accessible location.

Should the Board be minded to grant permission for the proposed development I recommend that it include the bespoke transportation conditions as mentioned above which formed part of the Planning Authority's notification to grant permission. Subject to these conditions I am satisfied that the proposed development in this highly accessible location with qualitative active travel links would give rise to traffic congestion or would it endanger public safety by reason of traffic hazard.

7.4.3. **Natural Features/Ecology (New Issue):** The appeal site consists of two amalgamated residential plots both containing a detached dwelling house and their associated structures on what are large garden plots that has a mature and particularly to the rear a more sylvan character given the presence of trees and hedge planting. The site is not subject to any specific tree protection designation, nor does it form part of or is it in proximity of any designated ecologically sensitive area. The accompanying Tree Survey indicates 19 no. individually described trees and 4 no. tree lines on this 0.358ha site. These have been categorised as follows:

- No category "A" trees.
- 6 No category "B" trees.



- 8 No. category "C" trees and tree groups.
- 9 No. category "U" trees and tree groups.

It clarifies that the tree loss arising to facilitate the proposed residential care facility development would be as follows:

- 6 No. Category "B" trees
- 5 No. Category "C" trees and tree groups.
- 1 No. category "U" trees and tree groups.

As such the total related tree/tree group loss is quantified as 12 No. trees/tree groups within what is as said a modest in area that consists of two detached dwelling plots with their associated mature garden plots. With the wider setting containing pockets of varying sizes urban green spaces but the main urban greening relating to similarly low to medium grained residentially developed land with manicured gardens together with ad hoc tree planting along public roads.

In relation to tree loss this accompanying report describes the site as one that is visually dominated by several lines of evergreen trees, mostly Monterey and Leyland Cypress but also includes a number of deciduous tree species. It describes the coniferous trees on site as having outgrown any hedging potential and beginning to suffer mechanical issues considered typical of the species in mid and later life.

It further sets out that these trees are therefore considered to be unsustainable regardless of any development on site and with other trees suffering from their planting being in close proximity to structures. As such it considers they have little scope for sustainability due to the impact of site preparation works including demolition which would undermine these trees.

This report also highlights the lack of management of the trees and hedge groupings on site with some of the tree species being suitable only for retention on large and more open sites. It also sets out an age profile for the trees on site with 74% classified as being sub-mature and 52% being of medium to long-term sustainability. With this figure being considered to be compounded by the presence of category "U" trees and tree lines.

Section 6.7 of this report refers to bats with regards to acknowledging that other legislation may affect tree cutting and felling, noting the "Wildlife Act 1976 (as amended), as well as the EU Habitats Directive, and the protection they provide to animals, including Bats that may feed, roost or even breed in trees.

In this context it is acknowledged that the protection afforded by this legislation means that particular care must be taken in the pruning or felling of trees that may contain Bats and, on this basis, it is recommended that specific specialist advice should be sought. There is no examination of the site for the presence of any protected animals, species through to any invasive species.

I consider that there is potential on this site for the felling of trees associated with facilitating the proposed residential care facility building through to its associated spaces to disturb feeding as well as nesting birds and bats. This is despite the modest size of the site, the fact that it forms part of two vacant detached dwelling plots with their associated built structures thereon, through to the condition through to limited value of some of the deciduous and coniferous tree/hedge species.

In order to mitigate this potential impact, it is my opinion that as a precaution a bat survey should be carried out by a suitably qualified ecologist during the active bat season prior to the commencement of any development on site. Any subsequent destruction of bat roosting sites should be supervised by a qualified ecologist and under licence.

For clarity I also do not consider it necessary for this low in biodiversity value site for the preparation of an Ecological Impact Assessment and the above recommendation is as said a precaution relative to the vacant for some time state of No.s 51 & 52 Bray Road which has resulted in decay of the buildings thereon and their curtilages to become overgrown as well as areas of limited human activities. Further, I note that there are no drainage ditches or channels bisecting the site nor does it adjoin any watercourse. As such I am satisfied that the proposed development would not negatively impact on the reptile or amphibian population in the area. Moreover, there is no evidence to suggest that the site is suitable for foraging habitat for badgers or that there are any setts within or adjoining the site nor is there any evidence to suggest the presence of any protected mammals.

I also concur with the recommended measures of the Planning Authority's Parks & Landscape Services division as set out in their report dated the 11<sup>th</sup> of May, 2023. Their recommendations essentially seek the implementation of the tree protection measures to protect the good quality trees on site for which retention is indicated. As well as they seek the retention of an arboricultural consultant and a landscape consultant which would achieve the implementation of the Landscape Plan. Such measures would be in the interests of ensuring a satisfactory landscape treatment of the site and ultimately a more qualitative urban greening outcome. This is in addition to the previous recommendations in my assessment above in relation to more robust planting along the site boundaries with No. 1 Kill Lane (Cremorne) and No. 53 Bray Road (Kilmoylan).

Conclusion: Overall, having regard to the present condition of the site, with no special concentrations of flora or fauna, together with the information submitted with this application, I am generally satisfied that the redevelopment of the site would not negatively impact on biodiversity. However, should the Board be minded to grant permission I recommend that they impose the recommended conditions set out above in the interest of safeguarding trees to be retained and ensuring a qualitative landscaping outcome for the site and the preparation of a precautionary bat impact assessment.

- 7.4.4. **Roof Structure (New Issue):** Given the significant flat roof over, with this including green roof, which are also known as a living roof or vegetative layer that is grown on a rooftop, should the Board be minded to grant permission I recommend that it includes an appropriately worded condition limiting access to the roof over for maintenance purposes only. Additionally any additional structures, fixtures through to fittings other than those indicated in the submitted drawings should be subject to a separate grant of permission on the basis that they could visually diminish the achievement of a qualitative place-making building as appreciated from the public realm by way of their potential to give rise to highly visible clutter that would break the roofline of this building as appreciated from the public realm, including the streetscape scenes of the N11 and Kill Lane. Further structures have the potential to visually compromise the setting of the Protected Structure on the opposite side of the Kill Lane and N11 junction.

7.4.5. **Lighting (New Issue):** I note that concerns were raised by Third Parties during the determination of this proposed development by the Planning Authority in relation to undue light overspill and the potential nuisances arising from the same. I note that limited lighting details are provided with this application, including as revised. I also note that the Planning Authority raised no issue in relation to this matter in their assessment of the proposed development nor did they include any condition seeking for the agreement of a final lighting scheme. Notwithstanding, given the corner location of this site adjoining the heavily trafficked N11 and Kill Lane alongside adjoining as well as neighbouring residential properties to its south east and north east it would be appropriate as part of any grant of permission to include by way of a condition the requirement for the agreement of the final lighting scheme prior to the commencement of development to ensure that no undue overspilling of light occurs from the proposed development onto the public and private domain of its setting. I also note that the provision of appropriate boundary treatments alongside the boundary with No. 1 Kill Lane would in part help to abate light overspill from vehicles accessing as well as egressing from the site once in operation during low light and night time hours.

Conclusion: Should the Board be minded to grant permission I consider it appropriate to include a condition requiring the agreement of a lighting scheme for the proposed development. Such a condition would also be consistent with Section 10.4.2 Policy Objective EI15 of the Development. This sets out that it is policy objective to ensure that the design of external lighting schemes minimise the incidence of light spillage or pollution in the immediate surrounding environment and has due regard to the residential amenity of surrounding areas.

7.4.6. **Energy Performance in Buildings (New Issue):** This application is accompanied by a 'Sustainability Report' which indicates that it is proposed provisionally to achieve a BER of 'A3'.

This report does appear to suggest that there is an issue with the design in terms of overheating of most bedroom blocks, yet it indicates that cooling systems will only be provided to kitchen, laundry, comms room and clinic/medicine stores and that ventilation will be provided locally within the building via ceiling mounted local/extract fans to all en-suites, bathrooms, sluices, WC's etc. Given that bedrooms proposed are single aspect, alongside the lack of clarity on these matters within this report

through to the time that has passed since this application was lodged there has been on-going technological and sustainable building advances.

I therefore consider it appropriate that any grant of permission include a condition seeking an up-to-date Energy Performance for the proposed building as part of ensuring compliance with Section 3.4.1.1 - Policy Objective CA5 and 3.4.1.3 Policy Objective CA7 of the Development Plan. Such a condition could also seek clarity on how the matter of overheating of internal spaces is to be resolved.

In relation to Section 3.4.1.1 – Policy Objective CA5 of the Development Plan it indicates that it is a policy objective to support high levels of energy conservation, energy efficiency and the use of renewable energy sources in new buildings. Additionally, Section 3.4.1.3 – Policy Objective CA7 indicates it is a policy objective of the Development Plan to support the use of structural materials in the construction industry that have low to zero embodied energy and CO2 emissions in a manner consistent with RPO 7.41 of RSES. Overall Section 3.4.1 of the Development Plan seeks to achieving sustainable planning outcomes as part of delivering a low carbon and a climate resilient County. Such an approach is ultimately consistent with CAP24.

Further, Section 10.3.2 of the Development Plan which deals with the matter of waste seeks favour of the recovery of residual wastes from demolition through to Section 12.2.1 of the Development Plan in a coherent manner also seeks a sustainable approach to the reuse of demolition and excavated materials.

Conclusion: In relation to the above concerns, I consider that the Board should it be minded to grant permission to the proposed include appropriate conditions to deal with such matters.

- 7.4.7. **Noise (New Issue):** Should the Board be minded to grant permission I recommend that it impose a condition requiring compliance with the recommendations and mitigation measures set out in accompanying Noise Impact Report in the interest of protecting the residential amenity of properties in the vicinity from undue noise nuisance, including from demolition, construction through to plant during operations of the proposed residential care facility. I consider that such a condition would accord with Section 10.4.1 Policy Objective EI14 of the Development Plan which sets out that the requirements for air and noise pollution with these relating to higher level strategic policies which relate to ensuring a high-quality environment and achieving a healthy

county. Further, Section 12.9.3 of the Development Plan seeks that the design of buildings and services should consider and incorporate acoustic attenuation/mitigation as required, to ensure that the operational phase of the development does not generate unacceptable noise levels or odour nuisance within the receiving environment.

7.4.8. **Advertisement/Signage:** This proposal includes no details in relation to any signage associated with the residential care facility. I therefore recommend as a precaution should the Board be minded to grant permission that it includes a condition restricting advertisement and signage erected or displayed on the building, within the curtilage and the perimeters of the site in the interest of safeguarding the visual amenity of the area.

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

Further, the proposed development does not provide any communal and/or public open space. As such a special contribution is required to be paid under the provisions of the Development Plan. In this regard I note that Section 6.2 of the said Scheme sets out the payment for such circumstances and states that: *“as adopted 9th October 2023 concerned, an additional financial contribution of €7,500,000 per hectare shall be calculated on a pro rata basis on the quantum of the shortfall in public open space and monies paid in accordance with such condition shall be applied to the provision of and/or improvements to a park and/or enhancement of amenities in the area”*.

The Planning Authority’s notification to grant permission set out a requirement to pay the sum of €219,235.22 in respect of the provision of community and parks.

Subject to the payment of this contribution the lack of provision of communal &/or public open space in what is as said a modest in area site was deemed to be acceptable to the Planning Authority (Note: Condition No. 23).

I note this flexibility is provided for within the Development Plan, in particular under Section 12.8.4 for commercial residential developments which I note requires a minimum provision of 10% of the site area and in relation to Nursing Homes/Housing for the Elderly/Assisted Living Accommodation.

Should the Board be minded to grant permission I recommend that it include the financial contributions set out in the Planning Authority's notification to grant permission on the basis that these accord with the nature of the development as provided for under their specific Development Contribution Scheme.

7.4.10. **Drainage:** Should the Board be minded to grant permission for the proposed development I recommend that it include the bespoke conditions set out under Condition No.s 8, 9, 10, 11, 12 and 13 of the Planning Authority's notification to grant permission in the interests of public health, ensuring compliance with sustainable urban drainage systems, through to ensuring all driveways and hardstands within the development are finished with suitable permeable paving in a manner that accords with Section 12.4.8.3 of the Development Plan.

7.4.11. **Mobility Management:** Given the evolving public transportation network and despite the provision of a Travel Plan, as a precaution it is considered appropriate that prior to the occupation of the proposed residential care facility if implemented that an up to date a Mobility Management Plan (MMP) shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling and walking by residents/occupants/staff employed in the development. The mobility strategy shall be prepared and implemented by the management company for this residential care facility and if deemed appropriate by the Planning Authority the specific measures that are agreed shall be subject to an annual monitoring for a defined number of years following the commencement of the residential care facilities operations with these results subject to their consideration and placement on the public file. Such a condition would be in the interest of achieving a reasonable modal split in transport and travel patterns in the interest of sustainable development, particularly in the context of the sites highly accessible location via public transport through to the availability of active transport routes.

7.4.12. **Earthworks:** Given the changing levels of this sloping in a north easterly direction site, with the proposed building being in part settled into the higher point of the site



and with a number of the ancillary associated spaces requiring excavation in order to achieve suitable ground levels, it would be appropriate that any grant of permission includes a condition dealing with what are likely to be significant earthworks to accommodate this proposed development. Such a condition would be in the interests of environmental protection through to the protection of the residential amenities of properties in the vicinity of the proposed development.

- 7.4.13. **Section 34(13) of the Planning & Development Act, 2000, as amended:** Given that the proposed development has the potential to interfere with what appears to be shared boundaries with No. 1 Kill Lane (Cremorne) and No. 53 Bray Road (Kilmoylan) through to I note that it would appear that existing natural features on site for which felling and removal from site are proposed appear to oversail boundaries, particularly that of No. 1 Kill Lane, as a precaution I recommend that the Board include an advisory note setting out the said section of the PDA which states that: *'a person shall not be entitled solely by reason of a permission under this section to carry out any development'*. Therefore, in the event permission is granted, there may be other legal considerations that apply, and which the landowner/developer may need to address outside of the planning system. Further, they must be certain under civil law to ensure that they have all rights in relation to the land and the works for which they intend to implement as part of any grant of planning permission.

## 8.0 AA Screening

- 8.1.1. I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 as amended.
- 8.1.2. The subject site is not located within or adjacent to any Natura Site. As set out in the report above the closest Natura 2000 Sites to it are South Dublin Bay SAC (Site Code: 000210) and the Special Protection Areas: South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024 ) which are both located c2.7km, respectively, to the north at their nearest point as the bird would fly with Dalkey Islands SPA (Site Code: 004172) and Rockabill to Dalkey Island SAC (Site Code: 003000) which located a further c5.5km, respectively, to the east at their nearest point as the bird would fly.
- 8.1.3. The 0.358 hectares appeal site which is comprised of the amalgamated plots associated with No.s 51 & 52 Bray Road forms part of an urban block that is zoned



Objective 'A' which permits residential in nature developments including residential care type facilities which are permitted in principle subject to safeguards. The site in its current form contains two detached dwelling houses likely date to the mid-20<sup>th</sup> Century and their associated buildings as well as spaces. As set out under Section 2.1 of this report the proposed development consists of demolition of the existing buildings on site which are given to have a total gross floor space of 594m<sup>2</sup> and the construction of a residential care facility which includes a lower ground part basement level part six, part 5 and part 4-storey irregular L-shaped building with a given gross floor space of 4,990m<sup>2</sup> together with associated ancillary spaces and revised access to the public domain.

- 8.1.4. The site is located within the mature predominantly residential suburban setting of Foxrock/Deansgrange in south county Dublin. Though overgrown and being sylvan in character to the rear there is no supporting evidence it is of any ecological and/or biodiversity significance outside of potential for its soft landscaped spaces which contains trees and hedgerow deciduous as well as coniferous species supporting bird and bat species in this location, a matter that can be dealt with under the precautionary principle by way of appropriately worded conditions that would be standard to apply to such circumstances. The nearest watercourse is Deansgrange Stream which is located c0.8km on lower ground levels to the east of the site as the bird would fly and at this point forms part of Clonkeen Park. There are proposals for a flood relief scheme for Deansgrange Stream which has a history of fluvial flooding. On the opposite side of the N11 forming part of the Foxrock Golf Club there is also drainage channels. These I note at their nearest point are c0.5km to the west of the site.
- 8.1.5. As the site does not overlap with any Natura site there is no risk of direct habitat loss of fragmentation to occur because of the proposed development. Additionally, as the site is comprised of brownfield land with the landscaped spaces therein comprised of mature once manicured garden spaces it does not support populations of any fauna species linked to the qualifying interest (QI) populations of any Natura Sites including those listed above.
- 8.1.6. I consider any pathways between the site and the Natura 2000 sites noted above, all of which are in Dublin Bay, would be via surface water drainage and wastewater drainage. There is no hydrological pathway via the site, watercourses, or drainage channels in the area. Should any adverse event occur during demolition, construction

and operational phases, given the distance to between the site and Natura sites, including the closest Natura Sites, i.e. South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) any silt or pollutants will settle out, be dispersed, or diluted in the intervening environment. I also note that the qualifying interest (QI) for the SAC are not found on this inland brownfield remote from the coast suburban environment and in relation to the SPA its bird species are mobile species that would avoid water impacted by surface water contamination which over the distance involved would if arising from this site or in combination with other projects would be negligible and imperceptible. Further, the site is not one that would have foraging and nesting opportunities for this SPA's QI's.

- 8.1.7. The proposed development would place an additional demand over the existing situation on the public foul drainage as well as water supply. While there is capacity in potable water to cater for the demands generated by the proposed development and this proposal includes measures to limit surface water drainage leaving the site. There are no effects arising from the proposed development during demolition, construction and/or operation which could act in combination with any other plans or projects that could result in significant effects to any Natura 2000 Site or Sites or any other environmentally sensitive site or sites.
- 8.1.8. Having regards to the above, alongside the nature, scale, and location of the proposed development, I am satisfied that it can be eliminated from further assessment because the proposed development would not have any appreciable effect on any Natura 2000 Site or Sites.
- 8.1.9. The reason for this conclusion is as follows:
- The nature, scale and extent of the proposed development would not have a likely significant effect on any Natura 2000 Site or Sites either alone or in combination with other plans or projects.
  - Standard pollution controls that would be employed regardless of proximity to a Natura 2000 Site or Sites and effectiveness of same. Additionally, the surface water measures proposed are not needed to avoid, prevent, or reduce significant effects on Natura 2000 Sites within Dublin Bay and that no mitigation has been put forward in this regard.
  - Separation distance from the site and the nearest Natura 2000 Sites.

- There is no direct hydrological pathway between the site and Natura 2000 Sites in Dublin Bay. If there were an adverse circumstance to give rise to an indirect hydrological pathway any contaminants or pollutants will settle, be dispersed, or diluted within the intervening environment including the marine environment to a negligible and imperceptible level before reaching any such sites.
- The predicted from the limited zone of influence of potential impacts would be restricted to the immediate vicinity of the proposed development and would not affect the conservation objectives of any Natura 2000 Site or Sites.
- The location of the development is in a serviced suburban area and the intervening landscape between it the site and the nearest Natura 2000 Site is urban inner city in nature.
- The limited zone of influence of potential impacts of the proposed development and the potential impacts being restricted to the immediate vicinity.

#### 8.1.10. Conclusion:

As set out under Section 8.1.1 above I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a Natura Site and therefore Appropriate Assessment (Stage 2) (under Section 177V of the Planning and Development Act, 2000, as amended) is not required in this case. No measures intended to avoid or reduce harmful effects on Natura sites were considered in reaching this conclusion.

## 9.0 Recommendation

9.1. I recommend that permission be **granted**.

## 10.0 Reasons and Considerations

10.1. Having regard to the Objective 'A' zoning objective which applies to the site and its setting under the Dún Laoghaire-Rathdown County Development Plan, 2022-2028, which seeks to provide residential development and improve residential amenity while

protecting the existing residential amenities, under which the proposed residential care facility is deemed to be permissible, the site's corner location with frontage onto the N11 identified under the Development Plan's Building Height Strategy which is set out under Appendix 5 as being a location suitable for taller buildings, subject to safeguards, with the site forming part of an established serviced and highly accessible residential suburban setting a type of setting that is deemed to be suitable for this type of land use under Section 12.3.8.2 of the Development Plan, subject to safeguards, the Development Plans Housing Strategy which in a manner that accords with 'Housing Options for Our Ageing Population', 2019, and the Government policy, 'Housing for All – A new Housing Plan for Ireland, 2021' which seeks to ensure appropriate provision of housing options including for older people and for people with disabilities within existing residential areas well served by social and community infrastructure and amenities together with the nature, scale and extent of the proposed development it is considered that subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the residential amenities of the area or of property in the vicinity, would be acceptable in terms of built heritage and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 4<sup>th</sup> day of May, 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The proposed development shall be amended as follows:

(a) The proposed north eastern elevation of the residential care building shall along its entire length be setback by a minimum of an additional 1-meter with the additional lateral separation distance from its boundary with No. 1 Kill Lane (Cremorne). With a linear row of semi-mature evergreen pleached trees planted alongside the entire length of the boundary with No. 1 with this linear row of planting returning alongside the boundary with No. 53 Bray Road (Kilmoylan). In addition, additional semi-mature individually placed trees shall be provided within the south eastern corner of the site. The placement of these trees shall reinforce the natural screening as well as provide visual softening of the proposed building as viewed from the properties in its vicinity.

(b) The south eastern elevation shall be revised to provide a more contemporary and permanent overlooking solution that replaces the deep cill projections and artificial topiary measures submitted with the revisions to the proposed development as submitted to the Planning Authority on the 4<sup>th</sup> day of May, 2023. In this regard, it is considered that angled windows together with provision of louvres would be preferable to reduce the potential for overlooking from this elevation on adjoining residential properties.

(c) All window openings on the north eastern elevation shall be permanently fitted with obscure or opaque glazing.

(d) The elevational treatment of the proposed development will be revised to include qualitative improvements to its external palette of materials with this including additional vertical and horizontal of all of its elevations so as to break up sections of elevational treatments that are unduly monotonous through to lacking appropriate visual interest and quality. With particular concern the elevational frontage addressing the N11, Kill Lane and the north-eastern elevation addressing No. 1 Kill Lane (Cremorne).

(e) Revised screen walls of increased height and constructed of brick or concrete block or similar durable materials and, if in concrete block, shall be suitably capped and rendered [on both sides in a finish that matches the external finish of the dwelling that adjoin the site] in order to appropriately screen their side and rear garden. Such walls shall be a minimum of two metres

in height above ground level of the site on the north eastern side addressing No. 1 Kill Lane (Cremorne) and shall be a minimum of two metres in height above the side and rear garden level of No. 53 Bray Road (Kilmoylan). Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of visual and residential amenity.

3. A schedule of all materials to be used in the external treatment of the development to include a variety of high-quality finishes, such as brick and stone, roofing materials, windows and doors and boundary walls shall be submitted to and agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of visual amenity.

4. Surface water drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services including:
  - (a) The surface water outfall discharge rate for the site shall be limited to QBAR (calculated using site specific data) or 2l/s/ha, whichever is greater, subject to the Unit Outlet Diameter of the flow control device not being less than 50mm in diameter, as detailed in the further information response prepared by Waterman Moylan Engineering Consultants and submitted to the Planning Authority on the 4<sup>th</sup> day of May, 2023.
  - (b) The applicant shall ensure that a penstock is provided in the flow control device chamber and that the flow control device provided does not have a bypass door, as detailed in the further information response prepared by Waterman Moylan Engineering Consultants, and submitted to the Planning Authority on the 4<sup>th</sup> day of May, 2023.

- (c) The applicant shall provide a sufficient attenuation volume for the 1 in 100-year rainfall return period (plus 20% allowance for climate change) on site, as detailed in the further information response prepared by Waterman Moylan Engineering Consultants and submitted to the Planning Authority on the 4<sup>th</sup> day of May, 2023.
- (d) The proposed green roof shall be designed, installed, and maintained in accordance with the requirements of Appendix 7.2 of the County Development Plan 2022-2028, BS EN 12056-3:2000 and The SUDS Manual (CIRIA C753).
- (e) Any changes to parking and hardstanding areas shall be constructed in accordance with the recommendations of the Greater Dublin Strategic Drainage Study for sustainable urban drainage systems (SuDS) i.e. permeable surfacing, and in accordance with Section 12.4.8.3 Driveways/Hardstanding Areas of the County Development Plan 2022-2028. Appropriate measures shall be included to prevent runoff from driveways entering onto the public realm as required. Where unbound material is proposed for driveway, parking, or hardstanding areas, it shall be contained in such a way to ensure that it does not transfer on to the public road or footpath on road safety grounds.
- (f) The attenuation system, including the flow control device, shall be installed according to the planning application plans and conditions, and set to the maximum permitted discharge limit. This shall include photo documentation of the installation process, and self-certification from whom installed the system. The applicant shall then facilitate an inspection from the Planning Authority if required and will proceed to connection if the inspection is deemed satisfactory.

**Reason:** In the interest of public health and surface water management.

- 5. (a) Car parking and bicycle parking provision in accordance with the layout, finishes and quantity of spaces shall be as submitted to the planning authority on the 4<sup>th</sup> day of May, 2023. The dimensions of the circulation aisles, car parking spaces and the details of the bicycle parking spaces shall be subject to

the written agreement of the planning authority. With this including the cycle parking provision accordance with the Dún Laoghaire-Rathdown County Development Plan, 2022-2028 requirements and with the Dún Laoghaire-Rathdown County Councils 'Standards for Cycle parking and Associated Cycling Facilities for New Developments', dated January 2018.

(b) A minimum of 5 no. Electrical Charging Points shall be provided at the proposed development in accordance with Section 12.4.11 Electrically Operated Vehicles of the current DLRCC County Development Plan. The remaining car parking spaces shall be fitted with ducting for electric connection points to allow for future fitout of charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(c) The Applicant shall prevent any mud, dirt, debris or building material being carried onto or placed on the public road or adjoining properties as a result of the site construction works and repair any damage to the public road arising from carrying out the works.

(d) All necessary measures shall be taken by the Applicants and Contractor to avoid conflict between construction activities and pedestrian/vehicular movements on Kill Lane and the surrounding public roads during construction works.

(e) No objects, structures or landscaping shall be placed or installed within the visibility triangle exceeding a height of 900 mm, which would interfere with or obstruct, or could obstruct over time, the required visibility envelope onto Kill Lane.

**Reason:** To ensure that there is adequate car parking and bicycle parking spaces to serve the development, and to provide parking facilities for all users of the development in order to avoid on-street parking and congestion.

6. a) No additional development, to that indicated and hereby permitted, shall take place above roof level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication



aerials, antennas, or equipment, unless authorised by a further grant of planning permission.

b) Access to non-amenity roof areas shall be restricted for the purpose of maintenance works only.

**Reason:** To protect the residential and visual amenities of the area.

7. Prior to the commencement of development, the developer shall enter into Connection Agreements with Uisce Éireann (Irish Water) to provide for service connections to the public water supply and wastewater collection network.

**Reason:** In the interest of public health and to ensure adequate water/wastewater facilities.

8. a) Prior to the commencement of any development works on the site, the applicant shall undertake a bat survey by a competent qualified person or consultancy to ascertain the presence of any bat activity on the site in relation to roosting and foraging and an assessment of any potential impact on the species arising from the proposed development. The nature and methodology of this survey shall be agreed with the planning authority prior to the commencement of the survey. No building, feature or vegetation shall be altered or removed prior to this survey and assessment. Full details of the survey and assessment shall be submitted to the planning authority in advance of any development works on the site. Such the presence of bats be established on the site no development shall occur until the necessary permission/derogation licence has been obtained from the appropriate statutory body.

b) Trees to be removed on site shall be felled in late summer or autumn. Should the presence of bats be identified on site any disturbance shall be managed in a manner to be agreed in writing with the planning authority on the advice of a qualified ecologist.

**Reason:** In the interest of bat protection and to provide for the preservation and conservation of this species.

9. A lighting scheme shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes, spaces, and entrances to the scheme. This scheme shall have regard to the findings of the Bat Survey and its recommended measures. Details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the operation of the proposed residential care facility.

**Reason:** In the interests of amenity and public safety.

10. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. Details of the ducting shall be submitted to and agreed in writing with the Planning Authority prior to the commencement of development.

**Reason:** In the interests of visual and residential amenity.

11. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:
- (a) Details of all proposed hard surface and/or permeable surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing, road, and parking surfaces within the development.
  - (b) Measures for the protection of those trees which it is proposed to be retained shall be submitted to, and agreed in writing with, the planning authority before any trees are felled.
  - (c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of tree to be retained, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots and canopies of trees to be retained are protected.
  - (d) Proposed locations of all trees and other landscape planting in the development, including but not limited to the linear rows of evergreen pleached

trees along the boundaries with No. 1 Kill Lane (Cremorne) and No. 53 Bray Road (Kilmoylan), including details of proposed species and their size as well as the planting interval of these trees along these boundaries.

(f) Details of proposed outdoor furniture, including bollards and lighting fixtures.

(g) Details of proposed boundary treatments at the public road perimeter of the site, i.e. Kill Lane and Bray Road/N11 including heights, materials, and finishes. This shall include heights, materials, and finishes.

(h) All trees shall be inspected by a suitable qualified expert for bats prior to felling. In the event a roost is found the developer shall require a derogation license from the National Parks and Wildlife Service.

(i) Any clearance of vegetation from the site should only be carried out in the period between the 1st of September and the end of February i.e., outside the main bird breeding season.

(j) Access to green roof areas shall also be strictly prohibited unless for maintenance purposes.

(k) All trees, shrubs and hedge plants supplied shall comply with the requirements of BS:3936, Specification for Nursery Stock. All pre-planting site preparation and post planting maintenance works shall be carried out in accordance with the requirements of BS: 4428 (1989) Code of Practice for General Landscape Operations (excluding hard surfaces). In addition, all new tree planting shall be positioned in accordance with the requirements of Table 3 of SS 5837: 2012 'Trees in Relation to Design, Demolition and Construction – Recommendations'.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme, with all boundary works completed prior to the commencement of operation of the residential care facility and all landscaping works implemented fully in the first planting season following the completion of the development. In addition, any plants, trees or hedging which die, are removed, or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of visual amenity, to ensure a satisfactory landscape treatment of the site, in order to screen the development and assimilate it into its surrounding suburban setting.

12. No development shall take place until details of earthworks have been submitted to, and agreed in writing with, the planning authority. These details shall include the following:
- (a) Soil and subsoil cross-sections.
  - (b) Plans and sections showing the proposed grading and mounding of land areas, including the levels and contours to be formed.
  - (c) The relationship of the proposed mounding to the existing vegetation to be retained, the boundaries with the public road and the boundaries with No. 1 Kill Lane (Cremorne) and No. 53 Bray Road (Kilmoylan).

No earthworks shall take place within the crown of any trees to be retained. Development, including landscaping required by condition number 11 of this order, shall be carried out in accordance with the approved earthworks plan.

**Reason:** In the interest of residential and visual amenity.

13. Site development and construction works shall be carried out between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of properties in the vicinity.

14. During the operational phase of the proposed development the noise level shall not exceed (a) 55 dB(A) rated sound level between the hours of 0700 to 2300, and (b) 45 dB(A) 15min and 60 dB LAfmax, 15min at all other times , (corrected for a tonal or impulsive component) as measured at the nearest dwelling or at

any point along the boundary of the site. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To protect the residential amenities of property in the vicinity of the site.

15. Prior to the commencement of the residential care facility's operations, a Mobility Management Plan (MMP) shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling and walking by residents/occupants/staff employed in the development. The mobility strategy shall be prepared and implemented by the management company for the development.

**Reason:** In the interest of encouraging the use of sustainable modes of transport.

16. A Demolition, Construction and Environmental Management Plan shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. This plan shall include but not be limited to demolition and construction phases controls for dust, noise and vibration; waste management; location of the site and materials compound(s) including area(s) identified for the storage of construction refuse; location of areas for construction site offices and staff facilities; details of site security fencing and hoardings; protection of soils, groundwaters, and surface waters; site housekeeping; emergency response planning; site environmental policy; and project roles and responsibilities.

**Reason:** In the interest of environmental protection, residential amenities, public health, and safety.

17. A detailed Construction Traffic Management Plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for

construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

**Reason:** In the interest of sustainable transport and safety.

18. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

**Reason:** In the interest of proper planning and sustainable development.

19. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained, and waste shall be managed, in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste, in the interest of protecting the environment and the amenities of properties in the vicinity.

20. No advertisement or signage structure shall be erected or displayed on the building, within the curtilage or perimeters of the site, unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity.

21. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority a Climate Action and Energy Statement for the proposed residential care facility building.

**Reason:** In the interest of proper planning, sustainable and climate resilient development.

22. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

23. The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development



Act 2000, as amended, in respect of public and communal open space, as provided for in Section 12.8.4 of the Dún Laoghaire-Rathdown Development Plan, 2022-2028, which benefits the proposed development. The amount of the contribution shall be agreed between the planning authority and the developer, or in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of community and public parks infrastructure, which will benefit the proposed development.

**Advisory Note:** *Section 34(13) of the Planning and Development Act 2000 (as amended) states that ‘a person shall not be entitled solely by reason of a permission under section 37(g) to carry out any development’.*

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

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Patricia M. Young  
Inspector

31<sup>st</sup> day of October, 2024.

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	<b>ABP-317332-23</b>			
<b>Proposed Development Summary</b>	<b>Demolition of No.s 51 &amp; 52 Bray Road and construction of 96-bedroom residential care facility together with all associated site works and services</b>			
<b>Development Address</b>	<b>No.s 51 (Clara House) &amp; 52 Bray Road (Montrose), Foxrock, Dublin 18.</b>			
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	✓	
		<b>No</b>	No further action required	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>				
<b>Yes</b>		Class.....	EIA Mandatory EIAR required	
<b>No</b>	✓	Is of a class but does not exceed the relevant quantity, area, or limit of that class. (Note: Class 10(b) or Class 14 of Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended).	Proceed to Q.3	
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>				
		<b>Threshold</b>	<b>Comment (if relevant)</b>	<b>Conclusion</b>
<b>No</b>		N/A		No EIAR or Preliminary Examination required
<b>Yes</b>	✓	Is of a class but does not exceed the relevant quantity, area, or limit of that class. (Note: Class 10(b)(iv) or Class 14 of Part 2, Schedule 5 of the Planning and	Following factors are noted:	Proceed to Q.4

		Development Regulations, 2001, as amended). 5	Site area of 0.358ha / 96 no. bedroom residential care facility with a gross floor space of 4,990m <sup>2</sup> facilitated by the prior demolition of existing structures with a gross floor space of 594m <sup>2</sup> .	
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4. Has Schedule 7A information been submitted?		
No	<input checked="" type="checkbox"/>	Preliminary Examination required
Yes	<input type="checkbox"/>	Screening Determination required

31<sup>st</sup> day of October, 2024.

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

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

## Appendix 2 - Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	<b>ABP-317332-23</b>	
<b>Proposed Development Summary</b>	<b>Demolition of No.s 51 &amp; 52 Bray Road and construction of 96-bedroom residential care facility together with all associated site works and services</b>	
<b>Development Address</b>	<b>No.s 51 (Clara House) &amp; 52 Bray Road (Montrose), Foxrock, Dublin 18.</b>	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b></p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions, or pollutants?</p>	<p><i>It is consistent with the nature of development that is deemed to be permissible on land zoned 'Objective A' under the Dún Laoghaire Rathdown County Development Plan, 2022-2028, in the suburban area of Foxrock adjacent to the Bray Road (N11) in south county Dublin City Development Plan, 2022-2028, with this land use zoning reflecting the predominant residential character of its setting. The nature, scale and extent of the mixed use proposed development is not exceptional within this context.</i></p> <p><i>The proposed development would produce standard expected waste, emissions/pollutants that correlate with its nature and extent during demolition, construction, and operational stages. The waste, emissions and/or pollutants would not be exceptional in its suburban setting that forms part of Metropolitan Dublin.</i></p> <p><i>Further, should permission be granted and implemented, there is no capacity issues in terms of the public water and foul drainage infrastructure.</i></p>	<p>No.</p> <p>No.</p>
<p><b>Size of the Development</b></p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p>	<p><i>The proposed development is not consistent with the predominant nature of development in the immediate context of the site given the prevalence of standard low to medium density residential development, notwithstanding within the wider setting including along the N11 corridor recent development has been more compact and dense including taller buildings as part of more efficient use of serviced zoned lands in a consistent manner with local through to national</i></p>	<p>No.</p>

<p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p><i>planning provisions and guidance. The proposed development is not considered exceptional in terms of development within its context.</i></p> <p><i>The surrounding context is a developed long established suburban area within south Dublin forming part of the larger Metropolitan area of Dublin city where any changes that occur are largely incremental and seeking to improve existing residential building stock or providing ad hoc more compact and dense brownfield people intensive redevelopment as provided for under its Objective A land use zoning under the Dún Laoghaire Rathdown County Development Plan, 2022-2028 . As such the proposed development would not give rise to any significant cumulative considerations having regard to existing and/or permitted projects.</i></p>	<p>No.</p>
<p><b>Location of the Development</b></p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p><i>The proposed development relates to two amalgamated brownfield sites in a serviced suburban area of south Dublin. urban area location. There are no Natura 2000 sites within its zone of link and there is no link to any Natura 2000 site(s) beyond this. If, however, any adverse evident did arise, the impacts that could arise from any pollutants, contaminants and the like that could have potential for adverse impact on the qualifying interests of any Natura 2000 sites would be diluted to the extent that they would give rise to a negligible and an imperceptible impact on them. I also note that this is also the case in relation to the site's relationship with any Proposed Natural Heritage Areas with the nearest being Dalkey Coastal Zone And Killiney Hill (Site Code: 001206) which is located c3.3km to the south east of the site as the bird would fly.</i></p> <p><i>As above.</i></p>	<p>No.</p> <p>No.</p>
<p style="text-align: center;"><b>Conclusion</b></p>		
<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p><u><b>EIA not required.</b></u></p> <p><i>This conclusion is based on best scientific data, locational factors, the nature of development sought, the development history of the site and its setting; the lateral separation distance between the site and</i></p>	<p><b>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</b></p> <p>N/A.</p>	<p><b>There is a real likelihood of significant effects on the environment.</b></p> <p>N/A.</p>

<i>nearest Natura 2000 site/sites as well as other sites of environmental sensitivity through to the lack of any connectivity between them and the site; through to the site containing existing connections to services and the available public infrastructure capacity to absorb the drainage demands of the development sought.</i>		
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*31<sup>st</sup> day of October, 2024.*

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

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

**DP/ADP:** \_\_\_\_\_

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

(Only where Schedule 7A information or EIAR required).