



An
Bord
Pleanála

Inspector's Report ABP-317996-23

Development	Construction of a 2-8 storey over basement with existing retail/commercial units to be retained at ground floor level 'build to rent' residential scheme of 165 No. dwellings and all associated site works.
Location	Balally Shopping Centre, Blackthorn Drive, Sandyford, Dublin 16.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	LRD23A/0214
Applicant	Westleton Ltd
Type of Application	Large-Scale Residential Development
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party vs. Refusal
Appellants	Westleton Ltd

Observers

1. Frank Finnegan
2. Cathal Carolan
3. Martin Ryan
4. Patric Neeson
5. Angela & Gerry McGrath
6. Bridget and Frank Nerney
7. Aine McGrath
8. Michelle & Tony Gordon
9. Kathleen Kavanagh
10. Pamela Doyle
11. Deirdre Maher
12. Eamonn Moran
13. Jeff Holland
14. Colleen Melwani
15. Michael & Alma Murray
16. Catherine Evans
17. Mary Beatty
18. Daniel Meagher
19. Michael Murphy & Patricia Lowth
20. Donato Guiliano
21. Harutyun Shahumyan
22. Zdravko Manojlovic
23. Pat & Noleen Kealy
24. John Freeney & Rosetta Nulty
25. Owen Reynolds
26. Paul & Carolyn Caffrey
27. Ciara Troy
28. Sinead Starrs
29. Genevieve Whitfield
30. Gordon Sutherland
31. Patricia Regan
32. Helen Pierce
33. Olivia Hunt
34. Paul Heffernan
35. Mary Scully
36. Mary Darcy
37. Anne Dunne
38. Catherine Crawford
39. Xavier & Fiona Tynan
40. Paul & Martina Nolan
41. Valerie & Tony Gannon
42. Rosie & Willie Webb
43. John Crean
44. Emerson Loureiro
45. Muireann O'Sullivan & Derek McCormick
46. Balally Pharmacy
47. Helene & David Keenan
48. David & Mary Scully
49. Geraldine Alvey
50. Peter Rock
51. Alan Mortell
52. Lucy Lambe
53. Paula Lucas
54. Michael O'Mara
55. Fergus McGettigan

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|-------------------------------------|---------------------------------|
| 56. Louis Heath | 63. Steven Howard & Breda Walsh |
| 57. Jessica Tynan | 64. Noel Clarke |
| 58. Tom Keane | 65. Robert Long |
| 59. Wedgewood Residents Association | 66. Sunril Adhikary |
| 60. Conor & Sandra O'Byrne | 67. Douglas Doyle |
| 61. Brendan Cahill | 68. John & Ann Keaveny |
| 62. Cara & Mark Callan | 69. Sheila Murphy |
| | 70. Tom Flynn |

Date of Site Inspection

1st November 2023

Inspector

Stephen Ward

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1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.9678 hectares (net area 0.8371) and is located within the suburban area of Balally at the southern end of Dublin City. The site is distanced c. 7.5km south of the city centre and c. 500m north of the M50 Motorway. The Dunmartin Link Road runs in a north-south direction at a distance of c. 80m east of the site. The LUAS Green Line and the associated Kilmacud stop is c. 650m north of the site, while there is a bus stop, cycle route, and footpath along Blackthorn Drive to the south of the site.
- 1.2. The surrounding area to the north, south, and west is mainly characterised by low-density suburban housing interspersed with open spaces, small-scale commercial uses, and community facilities such as the Church/Pastoral Centre along Maples Road to the north and the primary school along Cedar Road to the west. The site bounds onto Blackthorn Drive to the south. To the east is a public open space which adjoins the Drummartin Link Rd. Further east of the Link Rd is the Sandyford Business Park where the character of development is substantially different and consists of higher density mixed-use development of significant height and scale.
- 1.3. The site itself currently comprises Balally Shopping Centre, consisting of 2 separate single storey buildings and associated perimeter car parking. The centre extends to 2,399m² and includes a Supervalu shop, pharmacy, takeaways, credit union, post office, and others (more than a dozen units in total). A third building (Ollie's pub/restaurant) is in separate ownership and is excluded from, but surrounded by, the application site. Vehicular access is provided off Cedar Road (west) and Maples Road (north).

2.0 Proposed Development

- 2.1. The original application involved the construction of a 2-8 storey over basement 'build to rent' residential scheme of 165 No. dwellings in 3 no. blocks. The existing retail/commercial units at ground floor level would be retained. As part of the response to a Further Information Request, the proposed development was reduced to a 6-7 storey development of 129 no. units. The appeal also includes suggested proposals for the further reduction of the scheme to 121 no. units. The proposed housing mix for the various schemes can be summarised as follows:

Table 1 – Housing Mix

Apartment Type	Original Application	Further Information	Appeal Option
	No. of Units (%)	No. of Units (%)	No. of Units (%)
Studio	7 (4)	5 (4)	5 (4)
1-bed	102 (62)	81 (63)	76 (63)
2-bed (3-person)	8 (5)	6 (5)	6 (5)
2-bed (4-person)	48 (29)	37 (28)	34 (28)
Total Units	165 (100)	129 (100)	121 (100)

- 2.2. Internal communal amenity space for residents is provided on the first-floor level. The proposed development will also provide for communal amenity space of 1,643 sqm at podium level. Provision of private open space in the form of balconies or terraces is provided to all individual apartments. A separate community facility is also proposed 165 sqm in size.
- 2.3. The original application proposed 312 no. bicycle parking spaces of which 224 no. are long term spaces provided in secure bicycle stores, 84 no. are short term space for visitors (mainly distributed at surface level) and 4 no. spaces are provided for the community facility. It also proposed 104 no. car parking spaces, 41 of which were intended to serve the residential units and were located at basement level while 63 spaces were provided at surface level (12 no. surface car parking spaces will be for residential use and 51 spaces will serve existing retail located at surface level). It is proposed to access the proposed development via the existing entrances on Cedar Road and Maples Road to the west and north of the site respectively.
- 2.4. The development will also provide for all associated ancillary site development infrastructure including site clearance / minor demolition works, removal of external stairs, excavation and resurfacing of car parking, removal of overhangs, the construction of foundations, public realm improvements, switch room, water tank rooms, storage room, meter room, sprinkler tank room, comms room, bin storage, bicycle stores, green roofs, hard and soft landscaping, attenuation area and all associated works and infrastructure to facilitate the development including connections to foul and water supply and surface run off.

2.5. The key figures relating to the proposed development are summarised in the following table (including subsequent revisions where applicable).

Table 2 - Key Figures for the Proposed Development

	Original Application	Further Information	Appeal Option
Site Area	0.9678 ha (gross) 0.8371 ha (net)	No change	No change
No. of apartments	165 units	129	121
Non-residential Uses	Community facility (c.165 sq.m) Internal communal space (c.435 sq.m)	Internal communal space reduced to c. 397m ²	Internal communal space reduced to c. 397m ²
Gross Floor Area	2,399m ² (existing shopping centre) 13,713m ² (proposed, excluding basement)	11,019m ² (proposed, excluding basement)	10,518m ² (proposed, excluding basement)
Residential Density	165 / 0.8371ha = 197 uph (net)	154	145
Plot Ratio	16,112m ² / 8,371m ² = 1.9	1.64	1.58
Height	2 to 8 storeys (over basement)	6-7 storey	6-7 storey
Dual Aspect	55%	53%	55%
Car Parking	104 no. car parking spaces (53 no. residential and 51 no. retail)	No change	No change
Bicycle parking	312 no. cycle parking spaces (224 no. long term spaces, 84 no. short term, 4 no. community spaces)	242 spaces (170 no. long term, 72 no. short term)	242 spaces (170 no. long term, 72 no. short term)
Communal Amenity Space	1,643 sqm	No change	No change
Public Open Space	None	No change	No change
Part V	17 units (10%)	13 units (10%)	Not specified

2.6. In addition to the standard plans and particulars, the application was accompanied by the following documents and reports (additional details were submitted as part of the further information response and appeal):

- Planning Report and Statement of Consistency
- Response to LRD Opinion
- Draft BTR Covenant
- BTR – Support Facilities & Community Analysis
- Environmental Impact Assessment Report Screening
- Statement in accordance with Article 103(1A)
- Community & Social Facilities Audit
- Appropriate Assessment Screening
- Ecological Impact Assessment and Bat Survey
- Architectural Design Statement including Part V details, Residential Quality Assessment, and Schedule of Areas.
- Operational Waste Management Plan
- Outline Construction Management Plan
- Resource and Demolition Waste Management Plan
- Ground Investigation Report
- Archaeology Assessment Report
- Life Cycle Report
- Site Specific Flood Risk Assessment
- Traffic and Transport Assessment
- Public Transport Capacity Assessment
- Quality Audit including Cycle Audit and Road Safety Audit
- Mobility Management Plan
- Daylight & Sunlight Assessment

- Lighting Report
- Arborist Report, Tree Condition Survey & Report
- Landscape Architects Report
- Landscape & Maintenance Specification and Management Plan
- Landscape (townscape) and Visual Assessment
- Verified Views
- Environmental Noise Assessment
- Engineering Planning Report
- Hydrological & Hydrogeological Risk Assessment
- Wind Microclimate Modelling Report
- Stormwater Audit
- Telecommunications Impact Assessment Report
- Sustainability Report/Energy Statement
- Part V pack.

3.0 Planning Authority Pre-Application Opinion

- 3.1. A 'stage 1' section 247 meeting took place on 11th August 2020. A pre-application LRD meeting under Section 32C of the Planning and Development Act 2000 (as amended) then took place on 22nd September 2022 between the representatives of the applicant and the planning authority.
- 3.2. A Large-Scale Residential Development (LRD) Opinion was issued under Section 32D of the Act on the 19th of October 2022. This Opinion concluded that the documents submitted did not constitute a reasonable basis on which to make an application for permission for the proposed LRD.
- 3.3. The Opinion outlined a series of areas areas/issues to be addressed in order for the submitted documents to constitute a reasonable basis on which to make an LRD application. The requirements can be summarised as follows:

- (1) An indicative masterplan for the site and surrounds to justify the block layout and separation distances.
- (2) A quantitative and qualitative assessment that provides a breakdown of the public, private and communal open space provision in accordance with Development Plan standards.
- (3) A detailed rationale/justification for the urban design approach and visual impact of the development.
- (4) A justification of the proposed mix of uses to comply with Development Plan zoning and retail objectives.
- (5) A detailed public open space circulation/permeability plan.
- (6) Justification of the proposed density having regard to local and national policy.
- (7) Justification of the proposed height and massing having regard to Development Plan policy (PHP42 and the Building Height Strategy).
- (8) Evidence of an adequate level of residential amenity for future residents and the protection of amenity for existing properties.
- (9) Evidence as to the adequacy and quality of the residential facilities and amenity space associated with the BTR units.
- (10) Evidence has been provided to demonstrate that there is sufficient social and community infrastructure in the area.
- (11) Justification in relation to the omission of a creche on site.
- (12) Demonstration that the development would integrate with the planned road and public realm infrastructure upgrade objectives for Blackthorn Drive.
- (13) Clarification of environmental enforcement measures for noise, waste management, and construction management.
- (14) Clarification of a range of traffic and transportation issues relating to planned projects, access, car/cycle parking, and traffic generation.
- (15) Additional information regarding compliance with open space standards, tree protection proposals, and communal open space (roof garden) proposals.
- (16) Clarification of surface water drainage proposals and flood risk management.

3.4. Pursuant to Article 16A (7) of the Planning and Development Regulations 2001 (as amended), the applicant was notified that in addition to the requirements as specified in Article 23, the following information (in summary) should be submitted with any application for permission:

- a) Summary of consultations and response to meetings.
- b) Legal Covenant and Management Structure details for BTR development including Property Management Strategy Report.
- c) Details regarding site ownership and any agreements with adjoining landowners.
- d) A quantitative and qualitative assessment which provides a breakdown of the communal and public open space.
- e) Complete set of drawings and verified views (including winter views).
- f) Housing Quality Assessment
- g) Report on the proposed materials and finishes.
- h) A quantitative and qualitative assessment which provides a breakdown of the communal and public open space.
- i) Tree Survey Report and Arboricultural Impact Assessment.
- j) Social and Community Audit.
- k) Building Lifecycle Report
- l) Hard and soft Landscaping Plan including play area details.
- m) Telecoms impacts Assessment and Utilities Report.
- n) Taking-in-charge details including on Site Layout Plan.
- o) Public Lighting details.
- p) Response to Climate Action Development Plan policy.
- q) Details of works and landscape integration with proposed cycle ways and road improvement plans.
- r) Phasing Plan.
- s) Ecological Impact Assessment (EcIA).

- t) EIAR Screening Report.
- u) Proposal under Part V.
- v) Consistent figures and information throughout reports.

4.0 Planning Authority Decision

4.1. Decision

By order dated 16th of August 2023, the planning authority made a decision to refuse permission for the following reasons:

- 1) *The proposed development is presented within the context of an indicative masterplan which, with related documents, has not been able to demonstrate that there would be no significant impacts on the amenities of existing and/or potential uses at adjacent sites in close proximity to the proposed development, namely the pub site in the centre of the subject site, and the adjacent site to the east. Concerns remain as regards overshadowing, servicing, access, and overlooking.*

The proposal represents piecemeal development that would compromise the successful redevelopment of the balance of the neighbourhood centre zoned site. It represents an unsatisfactory approach that is contrary to Policy Objectives MFC1, MFC3 and Ret7 in that it would preclude high quality place making for multifunctional centres and would negatively impact on part of the neighbourhood centre zoning and on the viability and vitality of the neighbourhood centre in part, and as such would be contrary to the proper planning and sustainable development of the area.

- 2) *The applicant has not detailed, through a Construction Management Plan or otherwise, the ways that noise and air pollution issues associated with construction of basements in this location can be addressed or appropriately mitigated to the satisfaction of the technical departments of the Council. It is considered that the proposed development represents a threat to the vitality and viability of the existing retail and services within the site and adjacent to*

the site during the construction phase. As such, the proposed development would be contrary to the zoning objective for the site which is to 'protect, provide for and/or improve mixed-use neighbourhood centre facilities'.

4.2. Planning Authority Reports

4.2.1. Further Information Request & Response

Following the initial consideration of the application, a Further Information Request was issued by DLRCC. The issues raised in the request can be summarised as follows:

- 1) Proposals to reduce the height of blocks A, B, and C and the impact on the visual amenity and character of the area. Revised drawings and supporting studies shall also be submitted.
- 2) Proposals to address significant overshadowing of the pub building and adjoining site to the east.
- 3) Clarification as to whether the daylight/sunlight assessment for outdoor amenity areas included provision for an 8-storey block to the east of the site as envisaged in the submitted master plan for the site.
- 4) Proposal for external storage for the apartments.
- 5) Clarification as to whether the Part V proposal comprises 16 or 17 units.
- 6) Submit full set of inward-facing elevation drawings for each block.
- 7) Clarify parking arrangements for a redeveloped pub site.
- 8) Submit the following in relation to Transportation matters:
 - Cyclist and pedestrian verge treatments along Blackthorn Drive.
 - Increased off-street car parking for the residential development.
 - Revised cycle parking provision for the overall site development.

Submit the following in relation to waste management:

- Construction and Demolition Waste Management Plan Procedures to enable tracking of all waste generated to final destination.

- Construction Management Plan Environmental Management and Monitoring Proposals Complaints management Proposals.
- Preparation of a report by suitably qualified specialists detailing noise planning in the design of building services in the completed development and detailing construction methodology.
- Operational Waste Management Plan.
- Resource Planning Submission of a Materials Source and Management Plan.

9) Submit detailed information in relation to:

- A more detailed Construction Environmental & Management Plan.
- Action Plan to address construction noise, dust, and vibration effects.
- Community liaison proposals.

As previously outlined, the applicant's response to this request included a reduced scheme of 129 no. units up to 6-7 storeys in height.

4.2.2. Planning Reports

The DLRCC assessment of the proposed development is outlined in two Planning Reports followed by an Addendum report from the Senior Planner. The main issues raised in the reports can be cumulatively summarised under the following headings:

Principle of development

- The location is suitable for BTR residential accommodation in accordance with Policy Objective PHP28 and the 'Neighbourhood Centre' zoning for the site.

Density

- Balancing local and national policy provisions, including the proximity and capacity of public transport services, as well as the characteristics of the immediate receiving environment, the site has the potential to accommodate densities of at least 50 uph. The proposed density (197 uph) is acceptable subject to assessment of existing/proposed residential amenity, the provision of sufficient open space, and compliance with policy on infill development.

Effects on the existing retail units

- The pub site (0.055ha) has been excluded from the application site and the indicative masterplan demonstrates how the site could be developed as a 7-storey residential building containing 12 no. dual-aspect units. This would be a reasonable approach which would consolidate the perimeter block and would not unduly impact on the development potential of the pub site, subject to further assessment of daylight/sunlight and car-parking provision.
- The FI response includes updated shadow studies which show concerning and significant overshadowing of the pub building site.
- The Vertical Sky Component (VSC) effect on the public house windows is particularly high due to the close proximity of the proposed scheme but is acceptable in terms of the impact on the existing use and other non-residential 'NC' uses.
- The further information response indicates that any future commercial ground floor unit on the pub site would share spaces within the other retail units, as is currently the case, and that any additional residential development (8 units suggested) could be served by 3 under-croft spaces. The suggested solution is substandard and would constrain the development potential of the pub site, which would constitute an unsatisfactory piecemeal approach.
- Legal issues regarding the effects on existing units are outside the scope of planning control.

Development Potential of adjoining DLRCC site (to east)

- While the Further Information request highlighted concerns regarding overshadowing of this site, the Senior Planner's Addendum report ultimately concluded that the layout does not place an undue burden on the development potential of the site.
- However, the Senior Planner's report did consider that aspects of the height at the eastern end (particularly the podium above supermarket) should be revisited with regards to impacts on the development of the adjoining site.

Residential Amenity

- Subject to some additional mitigation measures/conditions, separation distances are adequate to prevent overlooking and will not unduly impact on the development potential of surrounding lands.
- The Spatial Daylight Autonomy (SDA) results for the proposed habitable rooms are considered acceptable having regard to the need to densify development and the proposed compensatory measures.
- Sunlight Exposure levels for the proposed units is considered acceptable having regard to the need to densify the site.
- Sunlight to outdoor amenity areas will be acceptable, even with the inclusion of the indicative 8-storey DLRCC block to the east.
- Results for daylight/sunlight impacts on surrounding windows are acceptable.

Residential Standards

- The proposed housing units assist in achieving an appropriate mix.
- The proposal complies with apartments standards, in respect of size, ceiling height, lift/stair cores, dual aspect ratio (50%), internal storage, and private open space.
- The further information response includes unacceptable proposals to include external storage space (38m²) at the expense multi-function space at the 1st floor of Block A. Any permission should include a condition requiring the replacement of apartment A1-06 with an external storage space.
- BTR residential support facilities and amenities (2.6m² per unit in original application) are considered acceptable subject to the requirement of laundry and maintenance/repair rooms by condition.

Open Space

- No public open space is proposed. Any permission should include a special contribution towards the upgrade of Fernhill Park and Gardens (regional park).

- Communal open space (1,643m²) exceeds the minimum requirement. Its podium/roof level location is acceptable given the limited options for the site, subject to the provision of 2m high perimeter glass screens.
- Proposals for play areas and landscaping are acceptable subject to conditions.

Building Height & Visual Impact

- The site is within a 'residual suburban area' for the purposes of assessment in accordance with the Building Height Strategy. The original design was considered a 'taller building' as per BHS3 and required assessment as per Table 5.1 of the Building Height Strategy. The assessment concluded that the proposed height/scale did not comply with the performance-based criteria outlined in Table 5.1 and was unacceptable (as outlined in the Further Information request).
- In assessing the revised 6 to 7-storey proposal as per the further information response, the Senior Planner addendum report did not ultimately conclude that the building heights were in contravention of the Building Height Strategy. It acknowledged that building heights were problematic in certain locations insofar as they impact on the current/future amenities of adjacent sites but concluded that the height was '*acceptable in and of itself*'.

Community Facilities

- The absence of a childcare facility is acceptable.
- The inclusion of a community facility (165m²) is welcomed and supports policy PHP5 and other Development Plan objectives.

Ecological Impacts

- The removal of trees and vegetation is acceptable when balanced against the need for compact housing growth on brownfield sites.
- There would be no unacceptable ecological impacts subject to the proposed mitigation measures.

Access & Parking

- As per the further information response, the interface and treatment of footpaths/cycleways along Blackthorn Drive is acceptable subject to conditions.

- Proposed car parking for the shopping centre (51 spaces) would represent a reduction of 73 spaces but there are no concerns in this regard.
- As per the further information response, the proposed residential car parking ratio is 0.41. The Senior Planner's Addendum ultimately outlines that the car parking proposals would not warrant a refusal of permission.
- As per the further information response, the proposed cycle parking (242 no. spaces) is acceptable.

Construction Management

- Notwithstanding the further information response, concerns from the Environmental Health Officer and Waste Management section remain about noise and dust management and the proximity of existing buildings, as well as the possible excavation/piling of granite during the continued operation of surrounding educational, religious, and commercial facilities. Although the EHO and Waste Management section suggested conditions to deal with this issue, it is more prudent to have the information prior to permission being granted.
- The Outline Construction Management Plan contains insufficient detail regarding the proximity of excavation to existing road infrastructure and the need for excavation/piling of solid granite to support the sides of the excavation.
- Any permission should include a phasing plan rather than limiting the permission to the standard 5-year duration.

Environmental Assessments

- The proposal has been screened for Appropriate Assessment and it has been determined that it would not significantly impact upon a Natura 2000 site.
- Having regard to the nature and scale of the development, there is no real likelihood of significant effects on the environment. The need for EIA can, therefore, be excluded at preliminary examination stage.

Conclusion

- While the principle of residential development is acceptable, redevelopment of the site needs to be informed by a robust masterplan.

- The application fails to demonstrate that the development potential of the pub site would not be affected by daylight/sunlight restriction, a lack of basement parking, and restricted potential for ground floor uses as a result of parking requirements. This would negatively impact on place-making, the vitality of the neighbourhood centre, and the development potential of the overall site.
- The proposal would require significant design amendments which would not be possible to resolve by condition.
- The application has not detailed how construction noise and air pollution, including potential granite rock breaking, can be satisfactorily mitigated. This has the potential to cause highly disruptive impacts on human health, business, and adjacent building users, both within and outside the site.
- The Senior Planner's Addendum recommends that permission be refused for the two reasons outlined in the DLRCC decision.

4.2.3. **Other Technical Reports**

Transportation Planning: The initial report requested further information on the issues as outlined in point 8 of the FI Request. The subsequent report on the FI response outlines that any permission should include conditions including clarification of setbacks, bus stop, and pedestrian crossing treatment along Blackthorn Drive; and construction traffic management proposals.

Drainage Planning: No objections to surface water/flooding impacts subject to conditions.

Parks: Recommends that a special contribution (€1,088,775) be paid as a result of the absence of public open space and to fund improvements in Fernhill Park and Gardens. Conditions should also address tree protection, open space/play areas, and green roofs.

Environmental Waste Management: The initial report requested further information on the issues as outlined in point 8 of the FI Request. The subsequent report on the FI response outlines outstanding concerns regarding the proposed works that require clarification on the extent of excavation and piling required and associated environmental and structural concerns; operational waste; measures to protect surrounding buildings/people from environmental nuisance; and construction

management/traffic. It recommends related conditions that should be attached to any permission.

Environmental Health Officer: The initial report requested further information on the issues as outlined in point 9 of the FI Request. The subsequent report on the FI response outlines outstanding construction stage concerns regarding noise, vibration, excavation, demolition, air/dust, and community liaison. It outlines that a final Construction Environmental Management Plan should be agreed to address these concerns.

Housing: No objection subject to agreement of Part V details by condition.

Architects: The report on the FI response focuses on the impacts on the DLRCC site to the east, which is planned to be developed in 2024. It raises concerns in relation to the need for further setback and height reduction; adverse impacts on the development potential of the DLRCC site; the inclusion of openings along the eastern façade; inadequate boundary details; overshadowing impacts; and inadequate co-ordination of public realm between the two sites.

Public Lighting: The lighting design is not acceptable and revised proposals should be submitted for evaluation.

4.3. **Prescribed Bodies**

Irish Water: No report received.

Transport Infrastructure Ireland: No observations to make on the proposal.

National Transport Authority: No report received.

4.4. **Third Party Observations**

The planning authority received 163 no. submissions on the original application and 119 no. submissions on the further information response. The issues raised were generally consistent with the observations on the appeal (see section 7.2 of this report). Apart from the recorded observers in this appeal case, it is noteworthy that the planning authority received objections on behalf of the Cash and Carry Kitchens unit within the shopping centre (impact on operations), the primary school to the west

of the site (impact on operations), and the adjoining pub/restaurant business (legal interest and impact on operations).

5.0 Planning History

There has been a wide range of planning applications for alterations to the existing units within the shopping centre site, the most recent and relevant of which can be summarised below.

P.A. Reg. Ref.: D22A/0954 – Permission granted (March 2023) for change of use from vacant printer's unit to retail convenience use and the amalgamation of these units to extend the existing convenience retail unit (Supervalu) at ground floor level by c.305sqm., together with associated works.

P.A. Reg. Ref.: D17A/0889 - Permission granted (January 2018) for the merging of Units 9 and 10 into one retail unit, operating as a pharmacy, and associated works to new shop front.

6.0 Policy Context

6.1. National Policy

6.1.1. Having considered the nature of the proposal, the receiving environment, and the documentation on file, including the reports and submissions from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (the 'Sustainable Residential Development Guidelines'), including the associated Urban Design Manual (2009).
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020) (i.e. 'the Apartments Guidelines').

- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the ‘Building Height Guidelines’).
- Childcare Facilities – Guidelines for Planning Authorities 2001 and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme.

Other relevant national guidelines include:

- Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities (Department of Environment, Heritage and Local Government, 2009).

6.1.2. ‘Housing for All - a New Housing Plan for Ireland (September 2021)’ is the government’s housing plan to 2030. It is a multi-annual, multi-billion-euro plan which aims to improve Ireland’s housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes:

- To purchase or rent at an affordable price.
- Built to a high standard in the right place.
- Offering a high quality of life.

6.1.3. ‘Project Ireland 2040 – The National Planning Framework (NPF)’ is the Government’s high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards ‘compact growth’, which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains several policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints.
- NPO 4 promotes attractive, well-designed liveable communities.
- NPO 6 aims to regenerate cities with increased housing and employment.
- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards.

- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking.
- NPO 27 seeks to integrate alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility.
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location.
- NPO 35 seeks to increase densities through a range of measures including site-based regeneration and increased building heights.

6.1.4. The Climate Action Plan 2023 implements carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050. By 2030, the plan calls for a 40% reduction in emissions from residential buildings and a 50% reduction in transport emissions. The reduction in transport emissions includes a 20% reduction in total vehicle kilometres, a reduction in fuel usage, significant increases in sustainable transport trips, and improved modal share.

6.2. Regional Policy

6.2.1. The primary statutory objective of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031 (RSES) is to support implementation of Project Ireland 2040 and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region.

6.2.2. The site is located within the identified 'Dublin City and Suburbs' area. The Dublin Metropolitan Area Strategic Plan (MASP), which is part of the RSES, seeks to focus on several large strategic sites, based on key corridors that will deliver significant development in an integrated and sustainable fashion. The 'Metrolink – Luas Corridor' involves upgrades to the Luas Green Line and will support development in the south of the county at Sandyford, Cherrywood and Ballyogan as new/emerging mixed-use districts and Strategic Employment locations.

6.2.3. The following RPOs (summarised) are of particular relevance:

RPO 4.3 supports the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within Dublin City and suburbs and ensure that future development areas are co-ordinated with infrastructure.

RPO 5.4: Development of strategic residential development areas shall provide for higher densities and qualitative standards set out in national guidance documents.

RPO 5.5: Residential development shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, supported by the development of Key Metropolitan Towns in a sequential manner.

6.2.4. The Greater Dublin Area Transport Strategy 2022-2042 (NTA) sets out a framework aiming to provide a sustainable, accessible, and effective transport system for the area which meets the region's climate change requirements, serves the needs of urban and rural communities, and supports the regional economy.

6.3. **Local Policy**

Dun Laoghaire Rathdown County Development Plan 2022-2028

6.3.1. The site at Balally adjoins the designated 'Mixed Use District' at Sandyford in accordance with the Core Strategy. Sandyford Business District is identified as a key strategic employment location within the M50 and on the Luas Greenline corridor, which delivers sustainable growth through the alignment of employment growth with identified strategic residential growth areas. Core Strategy objective CS11 aims to deliver 100% of all new homes that pertain to Dublin City and Suburbs within or contiguous to its geographic boundary.

6.3.2. In accordance with Chapter 13 'Land Use Zoning Objectives', the application site is zoned as 'NC Neighbourhood Centre', with the objective to '*protect, provide for and/or improve mixed-use neighbourhood centre facilities*'. There is a 'Strategic Road Reservation' along the Dunmartin Link Road to the east, as well as 'Long Term Road Objectives/Traffic Management/Active Travel Upgrades' for the same Link Road and Blackthorn Drive to the south.

6.3.3. Chapter 3 'Climate Action' outlines how the creation of a climate resilient county is an overarching strategic outcome of the plan and that this theme permeates the

entire plan. This includes the Core Strategy approach of promoting compact growth and development along public transport corridors.

6.3.4. Chapter 4 'Neighbourhood – People, Homes and Place' aims to increase delivery of housing subject to alignment with the NPF and RSES; the Core Strategy, Housing Strategy, and Housing Need Demand Assessments; and embedding the concept of neighbourhood and community into spatial planning.

6.3.5. Section 4.2 deals with 'People' and aims to facilitate a balance between additional housing units, community facilities, and quality of life. Relevant policies/objectives can be summarised as follows:

PHP3: Ensure that supporting neighbourhood infrastructure/land is provided in conjunction with, and as an integral component of, residential development.

PHP4: Promotes the concept of sustainable urban villages and '10-minute' neighbourhoods.

PHP5: Supports improved community facilities.

PHP6: Encourage childcare facilities as an integral part of new residential developments. In general, at least one facility for all new residential developments.

6.3.6. Section 4.3 deals with 'Homes' and relevant policies/objectives can be summarised as follows:

PHP18: Promotes increased density on suitable sites subject to suitable design which respects the character of the surrounding area.

PHP27: Encourages an appropriate mix of housing.

PHP28: Facilitate Build-to-Rent residential development in suitable locations in accordance with the 'Apartments Guidelines' (2020) and any amendments. A proliferation of Built-to-Rent should be avoided in any one area.

6.3.7. Section 4.4 'Place' promotes quality design and healthy placemaking in accordance with national policy and guidance. It sets out policies/objectives aimed at achieving a high quality of design and layout in residential developments. Policy objective PHP42 aims to ensure high quality design of all new development and compliance with the Building Height Strategy for the County (consistent with NPO 13 of the NPF).

6.3.8. Chapter 5 'Mobility and Transport' outlines a range of policies and objectives which aim to integrate land use and transport policy, thus promoting compact sustainable growth, traffic demand management, and modal change towards increased use of public transport and active travel.

6.3.9. Chapter 7 'Towns, Villages and Retail Development' also deals with 'Neighbourhood Centres'. The relevant policies/objectives can be summarised as follows:

MFC1: Supports the development of Neighbourhood Centres as multifunctional centres which provide a variety of uses for the community they serve.

MFC3: Supports proposals for development in towns and villages that provide for a framework for renewal where relevant and ensure the creation of a high-quality public realm and sense of place.

RET7: Supports Neighbourhood Centres as the focal point of the communities/neighbourhoods, including an appropriate mix, range and type of uses, subject to the protection of the residential amenities of the surrounding area.

6.3.10. Chapter 9 'Open Space, Parks and Recreation' outlines the importance of such resources in terms of health and well-being, social interaction, connectivity, and biodiversity. Policy objective OSR4 promotes public open space standards in accordance with the 'Sustainable Residential Development Guidelines'.

6.3.11. Chapter 12 of the Development Plan deals with Development Management. The following sections are relevant:

12.3 outlines guidance on criteria for residential developments and neighbourhood infrastructure. It aims for high quality design to improve the living environment and facilities for residents.

12.4 sets out Transport guidance, including standards relating to traffic management, road safety, and parking.

12.6 deals with towns, villages, and retail development, including s. 12.6.1 criteria for the assessment of development proposals in Neighbourhood Centres.

12.8 deals with Open Space and Recreation, including quantitative and qualitative standards for residential developments.

6.4. Environmental Impact Assessment Screening

Introduction

- 6.4.1. The application includes an EIA Screening Report prepared by Enviroguide Consulting. The purpose of the report is to identify and assess any potential for environmental impact associated with the proposed development and to determine if EIA is required. The methodology section of the report confirms that the report has had regard to 'The Environmental Impact Assessment of Projects, Guidance on Screening (European Commission, 2017)'. Section 3.2 of the report confirms that the criteria set out in in Schedule 7 and 7A of the Planning and Development Regulations 2001, as amended (the 2001 Regs) have been incorporated. This section outlines my assessment of the need for an Environmental Impact Assessment Report (EIAR), which will enable the Board to make a determination on the matter.

Mandatory Thresholds

- 6.4.2. Schedule 5 Part 2 of the 2001 Regulations provides that mandatory EIA is required for a range of development classes. Those with relevance to the proposed development are discussed in the following sections.
- 6.4.3. Under Class 10 (b)(i) the threshold relates to the construction of more than 500 dwelling units. The proposed development involves a maximum of 165 units (reduced to 129 units), which is significantly below the mandatory threshold.
- 6.4.4. Class 10(b)(iv) relates to *'Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use)'*. I do not consider that the application site is within a 'business district'. I consider that the site is within part of a 'built-up area' where the 10ha threshold applies. The application site has a total area of 0.97ha., which is significantly below the threshold.
- 6.4.5. Class 13 relates to changes, extensions, development, and testing and refers to:
(a) Any change or extension of development already authorised, executed, or in the process of being executed (not being a change or extension referred to in Part 1) which would:

(i) result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, and

(ii) result in an increase in size greater than –

- 25 per cent, or

- an amount equal to 50 per cent of the appropriate threshold, whichever is greater.

- 6.4.6. The proposed development would not change/extend the number of existing/authorised dwellings within the development and, therefore, does not affect Class 10(b)(i). The development would extend to include additional areas (0.13ha) outside the existing site (0.84ha). However, this would not result in the development exceeding the site area threshold (10 ha) as per Class 10(b)(iv). Finally, I note that the existing site includes a shopping centre, which is included in Class 10(b)(iii) – ‘Construction of a shopping centre with a gross floor space exceeding 10,000 square metres’. However, the proposed development involves residential development which would not change or extend the existing shopping centre floorspace. Having regard to the above, I am satisfied that Class 13(a) would not apply.

Sub-Threshold Development

- 6.4.7. Class 15, Part 2, Schedule 5 of the Regulations provides that EIA will be required for ‘Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7’.
- 6.4.8. I am satisfied that the applicant’s EIA Screening Report and the other information submitted with the application includes the information specified in Schedule 7A of the Regulations, and that the relevant information has been compiled taking into account the relevant criteria set out in Schedule 7 of the Regulations. I am also satisfied that the application has provided any further relevant information on the characteristics of the proposed development and its likely significant effects on the environment, including information on how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation have been taken into account. Accordingly, the Board is required under Art. 109 (2B)(a) of the Regulations to carry out an examination of, at the least,

the nature, size or location of the development for the purposes of a screening determination regarding the likelihood of significant effects on the environment.

Submissions

- 6.4.9. The content of the third-party and prescribed body submissions is outlined in sections 4 and 7 of this report. They mainly raise general planning issues and are dealt with in the 'Assessment' in section 8 of this report. However, the observations do raise concerns that the development will significantly impact on the environment in terms of noise, air, biodiversity, water contamination, human health, and visual amenity. The planning authority decision also raised significant concerns about the construction stage impacts relating to noise and air. The issues raised regarding environmental impacts have been considered in the completion of this EIA screening exercise.

Screening Determination for EIA

- 6.4.10. In carrying out a screening determination under Art. 109 (2B)(a) of the 2001 Regulations, the Board is required to have regard to the criteria outlined in Article 109 (4)(a). As previously outlined, I am satisfied that the application contains sufficient information in accordance with these criteria, and I have completed an EIA screening assessment as outlined in Appendix 1 of this report.
- 6.4.11. The characteristics of the development would be consistent with the existing and planned uses in the area. I acknowledge that the proposal is of a significantly greater scale compared to immediately surrounding development and that it will cause changes to the locality, but I do not consider that it would have significant effects on the wider landscape character or environment. The use of natural resources, materials, and substances would be typical of such development and would not result in significant effects for human health or the environment. The construction stage has the potential for contaminants, noise, dust, and other disturbances, but I am satisfied that these potential impacts will be satisfactorily addressed through the CMP, the EclA, the RDWMP, the CEMP, and the HHRA. There would be an increased local population, but I am satisfied that this has been appropriately planned in the Development Plan and would be adequately serviced by existing and planned physical infrastructure and social/community facilities.

- 6.4.12. The proposed development is not located in, on, or adjoining any European site, any designated or proposed Natural Heritage Area, or any other listed area of ecological interest or protection. The EclA and AA Screening Report has considered the proximity and potential for connections to such designated/ecological sites in the wider surrounding area and I am satisfied that there would be no significant effects on same. Similarly, I am satisfied that it has been demonstrated that there will be no significant effects on protected, important, or sensitive species of flora or fauna which use areas on or around the site. There are no significant landscape, historic, or cultural features likely to be affected by the development.
- 6.4.13. The site and surrounding area do not contain high quality or scarce resources and the surrounding water resources are not likely to be significantly affected. There would not be any significant congestion effects on key transport routes and the development would be suitably designed and managed to promote sustainable transport modes, thereby avoiding significant environmental problems such as excessive transport emissions etc. Surrounding land use and facilities have been considered and I do not consider that there would be any significant effects as a result of the proposed development.
- 6.4.14. The potential cumulative effects with existing, approved, and planned development have been considered, for both the construction and operational phase. The majority of existing/planned development is of a similar residential nature and includes potential cumulative effects at construction stage (e.g. traffic, noise, dust) and operational stage (e.g. traffic, water services). However, I consider that these effects are consistent with the existing and planned use of the area and that they would be suitably mitigated by design measures and conditions to avoid significant effects.
- 6.4.15. I have acknowledged the third-party observations regarding the potential for significant environmental effects, as well as the concerns of the planning authority. However, having regard to the foregoing and Appendix 1 of this report, I have concluded that the proposed development would not be likely to have significant effects on the environment (in terms of extent, magnitude, complexity, probability, duration, frequency, or reversibility) and that the preparation and submission of an environmental impact assessment report is not therefore required.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. The DLRCC decision to refuse permission has been appealed by the applicant. As previously outlined, the appeal suggests that, if necessary, the proposed development could be further amended to a reduced total of 121 units. It also outlines the background relating to the application and the approach adopted. The grounds of appeal relate primarily to the reasons for refusal and can be summarised under the following headings.

Refusal Reason 1 – Impacts on existing & potential uses

Masterplan & Separation Distances

- The approach does not compromise planning applications for the ‘pub site’ or the adjoining DLRCC site to the east. It would support the regeneration of the centre.
- The scheme provides significant separation distances to avoid overlooking within the development and of adjoining lands.
- Objective 13 of the NPF favours performance-based assessment of building height and separation and SPPR1 of the Draft ‘Sustainable and Compact Settlements Guidelines for Planning Authorities’ promotes a more relaxed approach towards separation distances (i.e. up to 16 metres).
- Measures to facilitate the development of the pub site are outlined in the HRA appeal document (Appendix 2) and can be summarised as follows:
 - Increased separation and obscured windows in the east-facing habitable rooms in the revised (reduced) Block A to prevent overlooking.
 - An indicative design for the pub site to include a retail unit, 4 residential car spaces, bicycle and bin storage at ground level; communal open space at podium (1st floor) level; and 2 no. triple-aspect 2-bed (4-person) apartments per floor (i.e. 10 units).
 - The indicative masterplan illustrates that a high-quality mixed-use development is entirely feasible.

Policy Objective MFC1 'Multifunctional centres'

- The existing and proposed uses will be complementary and would support the neighbourhood centre.
- Public realm upgrades will also improve attractiveness and accessibility.
- The proposed works will interface with existing uses that will stay open for the duration of the works as outlined in the Construction Management Plan.

Policy Objective MFC3 'Placemaking in our Towns and Villages'

- The proposal would be a significant improvement on the existing urban context and will add an important architectural feature to the area. The scale has been designed in response to its function as a Neighbourhood Centre and its relationship with Sandyford Business District.
- Public realm upgrades will also improve attractiveness, permeability, and accessibility, thereby creating a high-quality public realm and sense of place.

Policy Objective RET7 'Neighbourhood centres'

- The existing and proposed uses will be complementary and would support the neighbourhood centre.
- The mix of housing would complement the predominant type in the area as outlined in the BTR Justification Report.
- The Masterplan suggestion for the pub site is entirely appropriate, including undercroft parking, ground floor commercial, and residential access core.
- There is precedent for Mixed Use schemes with residential above ground floor commercial and undercroft/basement parking in the DLRCC area (Frascati Centre, Blackrock) and wider Dublin (Phibsborough District Centre).
- A detailed assessment by 3DDB has been provided with regard to overshadowing.
- Servicing and access arrangements have been clearly demonstrated.

Condition revising the scheme

- Should the Board consider it appropriate, the applicant would accept modification through the omission of units at key locations (reduced to 121 units).

- The revisions would further improve the relationship between the scheme and potential future development of the pub site and the DLRCC lands.
- 3DDB have revised their Sunlight and Daylight Assessment to support the revised design (Appendix 3). The results of this assessment show that:
 - The notional scheme for the 'pub site' would achieve the guidelines for daylight and sunlight to an amenity space.
 - The reduced scheme assesses the impacted/revised units with favourable results.
 - The scenario for the site to the east is typical of an urban environment and should be easily overcome during the design process.

Refusal Reason 2 – Construction Related Impacts

- Some disruption is likely in any urban construction project, but this can be managed to ensure that business continues.
- Punch Consulting Engineers have provided detail (Appendix 4) on the potential nature of construction impacts and mitigations / monitoring measures, which can be summarised as follows:

Noise – Proposals to comply with 'BS 5228-1:2009 Noise Control on Construction and Open Sites' and the DLR '*Good Practice Guide for Construction and Demolition Environmental Management*'. Additional measures can be included for the rock-breaking such as the sawing of rock, use of dampers, increased barriers.

Air – A dust minimisation plan and monitoring of dust levels.

Retail/services – Commitment to ensure that the construction activities do not disrupt the day-to-day operation of uses within/adjacent to the site.

- As outlined in the FI response, it is expected that temporary noise impacts (including basement excavation) will have a neutral impact on nearby receptors when mitigation measures are in place, including limits on noise, vibration, and hours of operation.
- An Outline CEMP was provided as further information which references key DLRCC guidance.

- Dust minimisation measures have also been outlined in section 2 of the Resource and Demolition Management Plan.
- Section 7 of the Outline CEMP covers 'air quality management'. It outlines that impacts associated with construction traffic will not be significant but includes measures for dust minimisation and monitoring. The appeal includes additional commentary on these measures.
- Section 8 of the Outline CEMP covers 'noise and vibration management'. It outlines a high-level strategy which is in accordance with DLRCC guidance. It would appear that the DLRCC EHO assessment did not take into account the inputs prepared by Traynor Environmental specialist noise consultants.
- Punch Consulting Engineers have provided additional details on rock extraction methodology and the implications of the basement extraction and note that such construction is not unusual in the DLR area. This is a matter that would often be dealt with by condition.
- The Outline CEMP sets out a detailed construction and phasing strategy with access and parking arrangements to ensure that the commercial units remain open for the duration of the works.
- In contradiction of the reason for refusal itself, the Senior Planner stated '*I do not consider that these matters amount to a reason for refusal in and of themselves*'. In any event, the issue has been further addressed in the appeal and accompanying documents.

7.1.2. In addition to the planning authority's reasons for refusal, the appeal addresses issues arising in third-party submissions and the DLRCC Planning Report. Many of these raise common concerns and, therefore, the responses are not repeated hereunder. The response can be summarised under the following headings.

Car Parking and transport

- The parking ratio of 0.41 will reduce traffic and support a modal shift towards the high-quality public transport services and the proposed cycle facilities.
- The application meets the assessment criteria for a lower parking ratio as outlined in s. 12.4.5.2 of the Development Plan.

- The parking ratio for a BTR development at this intermediate suburban location is consistent with para 4.23 and SPPR 8(iii) of the 2020 Apartment Guidelines.
- The application includes a Mobility Management Plan and TTA which support the parking ratio and the provision of alternative sustainable transport modes.
- The DLRCC Transportation Planning Report acknowledges that the TTA does not predict any unacceptable queue lengths at the Blackthorn Drive / Cedar Road / Moreen Avenue Junction.

Height, Visual Impact, and Overlooking

- The revised visual impact assessment submitted with the further information response outlines a reduced visual prominence and a strong streetscape presence.
- The DLRCC Senior Planner's addendum concluded that the height is in not in contravention of the CDP Building Height Strategy.
- The design has been carefully considered to avoid significant impact on the residential amenity of properties given the significant separation distances.

Construction Impacts

- As previously outlined, proposals are included to ensure that the commercial units remain open for the duration of the works.
- The application/appeal includes an Outline CMP, Outline CEMP, RDWMP, and Planning Drainage Report which outline measures to address waste management, staff welfare, pest control, dust, noise, ground water, rock extraction, and drainage/flooding.

Wedgewood Residents Association

- The proposal will retain and support the existing neighbourhood centre with an appropriate mix of uses.
- Traffic impacts have been assessed in detail.
- Separation distances have been carefully designed to avoid overlooking within the development and for surrounding properties.

- The reduced height has reduced the overall mass and scale of the proposal and is in accordance with the CDP Building Height Strategy.
- BTR is 'open for consideration' within the NC zone and the nature and mix of the proposed units has been justified in the application documentation.
- The EIA Screening Report has addressed potential cumulative impacts in detail.
- There is no evidence of negative impact on property values and there are significant separation distances from houses. The enhanced neighbourhood centre will have a positive impact on the area.

Balally Shopping Centre Pharmacy

- The proposed communal space exceeds CDP standards and has been designed to be used and overlooked by all apartments.
- It is not possible to provide significant public open space but there is good provision of public open space in the area. It is proposed that a 'payment in lieu' will facilitate the upgrade of these spaces and this has been accepted by DLRCC.

Cash and Carry Kitchens

- The proposal will support the existing neighbourhood centre and will ensure that access will remain open to units during construction.

Sandyford Inns Limited

- Access to the existing pub will be maintained during construction.
- The DLRCC Planner's Report considered the impact on the existing pub to be acceptable.

Other third-party concerns

- The scheme included a maximum of 56 no. 2-bed units, which does not require the inclusion of a childcare facility in accordance with the Apartments Guidelines.
- The proposed community space would provide support to nearby community facilities and does not preclude public access.
- The Community and Social Audit outlines that the local infrastructure is sufficient to cater for future population.

- The nature and mix of the proposed units have been justified in the application documentation and there would not be an excessive concentration of BTR development in the area.
- The development will be constructed to the highest possible standard as outlined in the Building Lifecycle Report.
- Appendix 5 of the appeal includes a Residential Operational Management Plan.

Other items arising in DLRCC Planning Report

- The further information response proposes to appropriately upgrade the grass verge to Blackthorn Drive with cycle path and footpath facilities.
- External storage space has been suitably provided for the proposed apartments. It compares with other schemes of similar scale.

7.1.3. Section 9 of the appeal outlines the consistency of the proposed development with the 'Draft Sustainable Residential Developments in Urban Areas: Guidelines for Planning Authorities' (*sic*). This section was included in anticipation of the adoption of the Guidelines in October 2023. It would appear that this is an erroneous reference to the 'Draft Sustainable and Compact Settlement Guidelines' (2023) and the Board should note that these guidelines have not been adopted at the time of writing. Given that the guidelines are still at 'draft stage' and have not been adopted as Ministerial guidelines under section 28 of the Planning and Development Act 2000, as amended, I do not advise that the Board should consider the content of the draft guidelines in the consideration of this appeal.

7.2. **Observations**

The Board has received a total of 70 no. third-party observations in this case. The observations support the DLRCC decision and submit that the revised proposal submitted with the appeal should also be refused. The observations raise many common issues which can be collectively summarised under the following headings.

Principle

- The BTR nature and mix of units are more suitable to transient residents and is not suitable to a suburban location where it would adversely impact on the community.

- There should be a greater proportion of 2 and 3-bed properties.

Height, scale, density, and design

- The location is not suitable for the scale and density of the proposal, and this has not been satisfactorily addressed in any of the revised scheme versions. None of the proposals would satisfactorily integrate with existing and future development and the proposal will detract from the visual amenity and character of the area.
- The proposal would represent serious overdevelopment of the site with no appropriate transition to adjoining areas.
- The proposal does not provide quality design and public realm in accordance with objective MFC3.
- The lack of public open space will significantly disenfranchise existing/future residents and a contribution in lieu (towards Fern Hill at a significant distance) should not apply in this case.
- The proposed height is contrary to BHS3 of the CDP Building Height Strategy and SPPR 3 of the Building Height Guidelines.
- The proposal is incompatible with the format and demographic of existing residents in this well-established community.
- The visual assessments do not adequately or accurately illustrate the impact of the development on the surrounding area.
- Comparisons to Sandyford Business District, Phibsborough Shopping Centre, and the Frascati Centre at Blackrock are inaccurate and misleading.

Impact on the existing commercial units

- The centre provides essential services (particularly the pharmacy), and the construction phase will cause significant disturbance over the construction phase of 2 to 2.5 years (including disruption for the less abled and elderly community).
- The proposal would be contrary to Development Plan objective Ret7, MFC1, and MFC3, and would be a significant threat to the vitality and viability of the centre during construction.

- The sunlight and daylight analysis undertaken as further information indicates that there would be a major adverse impact on the pub site.
- The appeal fails to address concerns about piecemeal development.
- The application does not propose to improve or modernise the existing units.
- The appeal contains little information on construction mitigation measures and the ability of existing structures to physically support the proposed development.
- The applicant's images do not accurately illustrate the value and vitality of the existing shopping centre.
- Similar proposals have resulted in vacant commercial units at ground floor level.

Residential amenity (existing properties)

- The proposal will be seriously injurious to the visual and residential amenity of adjoining residential areas, including the Wedgewood area to the north and Moreen/Blackthorn to the south.
- The development of neighbourhood centres should protect existing residential amenity in accordance with objectives Ret7 and MFC1.
- The proposal will result in overlooking, loss of natural light, overbearing, and light pollution for surrounding properties.
- The proposal would generate increased litter and dog fouling.
- The nature of Block B would attract anti-social behaviour and loitering.
- There are concerns that excessive rents would lead to vacancy and associated anti-social problems and crime.
- The proposal will depreciate property values.

Residential amenity (proposed apartments)

- The poor quality of the development is reflected in the number of apartments that fail the sunlight analysis.
- No communal open space is proposed at ground level and the proposed design and layout of space will lead to significant anti-social behaviour.

Parking and traffic

- The parking approach will result in overspill parking to surrounding residential areas and will force existing residents to drive to the nearest other shopping centre in Dundrum and Sandyford Business Park.
- The area is already subject to significant parking overspill and through-traffic associated with the schools, the Luas, Sandyford Business District, the shops, private transport company, the church and pastoral centre.
- Overspill parking will create a traffic hazard and inhibit the safe use of bicycles.
- The low rate of parking will add pressure on public transport services which cannot be accommodated based on current / future capacity, particularly given the scale of other planned developments in the wider area. The Luas is at capacity and the local bus service is poor.
- Construction phase parking impacts have not been addressed and will cause traffic hazard for school traffic.
- Parking proposals are contrary to Policy Objective T19, section 12.4.5 and Table 12.5 of the CDP.
- The development would lead to congestion of the shopping centre entrance (junction with Moreen/Blackthorn estates) and would impede emergency access.
- Sightline details have not demonstrated adequate traffic safety.
- Alternative access should be provided via Dunmartin Link Road.
- Cycling facilities are inadequate and there will be a reliance on car transport.
- Condition no. 8 of the permission for the church (PA/1831/81) requires that the shopping centre parking is available for church users, which would be materially contravened by any permission. The submission made on behalf of the church inaccurately reflects the shared parking arrangements.
- An independent panel is needed to verify local traffic volumes. There will be an adverse impact on the local network and the M50 motorway.

- The traffic surveys are inadequate and the TRICS data underestimates the actual trip rates. Despite applying the TRICS data for the traffic assessment, the applicant does not apply the data to the public transport capacity assessment.
- The applicant's parking survey is not adequately detailed.
- The application overestimates the attractiveness and value of car-share spaces (i.e. 15 private cars per one car-share).

Construction impacts

- Concerns are raised about air (dust, fumes), vermin, noise, dirt, traffic congestion/hazard, loss of parking, damage to buildings/roads/services, auditing/monitoring, use of sub-standard materials, and health/safety monitoring.
- Air pollution will impact on the health of local residents.
- Subterranean works will have to be carved out of granite and could take 7 years.
- Blasting of granite may be required and would result in significant noise/vibration impacts which may structural implications for surrounding properties.
- There are concerns that the development may be left unfinished.
- Any permission should limit construction traffic/parking and working hours.

Social / Community Infrastructure

- Together with other planned developments, there will be an adverse impact on the capacity of local services such as education, childcare, healthcare, and parks/playgrounds.
- The development will adversely affect the operation of existing community facilities such as the schools, church, shops, and community hall. They will suffer from noise and air pollution, overlooking, lack of parking, and traffic hazard.
- One of the blocks faces the school yard and raises child safety concerns.
- There are no proposals to include childcare facilities.
- It has not been demonstrated that the proposed community facility will benefit the local community.

Other Issues

- There are concerns that the development will exacerbate problems with the existing sewage system beneath the shopping centre and may contaminate or put pressure on the existing water supply, drainage, and sewage system.
- The inclusion of a new proposal as part of the appeal raises concerns about transparency, public participation, and fairness. It may not have been adequately assessed by the Council and it is essential that the Board does so.
- Wedgewood is resident on a granite plate.
- It would be preferable to see other local ghost estates completed first.
- The development will impact on the capacity of local services and utilities.
- The 7-year duration of the permission sought is questioned and it is suggested that a 2-year limit should apply to any permission.
- The possibility of future changes to any permission is questioned.
- The church submission does not have a mandate to welcome additional accommodation in the area.
- There has been no mention of a developer bond strategy in the event of financial difficulties.
- There has been a lack of consultation with local residents.
- The legality of using the images of people/property is questioned.
- Proposals for the existing trees to the east are questioned as they have a preservation order.
- An independent panel is needed to verify ground samples and ensure that there has been no contamination of the environment and water table.
- It is questioned whether the site has been tested for radon due to the granite.
- Concerns that the demolition of existing buildings will result in contaminates.
- Concerns have been raised about external fire escape, fire safety measures, and the ability of fire services to deal with the proposed building height.

- Concerns about an excess of radio wave transmitting devices at close range to the existing residences and school.
- The development will significantly impact on the environment in terms of noise, air, biodiversity, and visual amenity.
- It may cause loss or disturbance of habitats/species in adjoining open spaces, which may have ecological value. The area is home to many species of birds and foxes.

7.3. **Prescribed Bodies**

None.

7.4. **Planning Authority Response**

The response refers the Board to the Planner's Report and contends that the appeal does not justify a change of attitude to the proposed development.

8.0 **Assessment**

8.1. **Introduction**

- 8.1.1. I have considered all of the documentation and drawings on file, the planning authority reports, the submissions from prescribed bodies and third-party submissions, the statutory Development Plan, as well as relevant national policy, regional policy and section 28 guidelines.

The 'Apartments Guidelines' and BTR development

- 8.1.2. I acknowledge that the Section 28 Guidelines 'Design Standards for New Apartments' (July 2023) omit Specific Planning Policy Requirements (SPPRs) 7 and 8 as previously existed in the 2020 version of the Guidelines. The effect of the omissions is that BTR is no longer a distinct class of development for planning purposes, and that planning standards for BTR development are required to be the same as those for all other generally permissible apartment types. Section 5.0 of the Guidelines continues to recognise BTR development as a valid form of rental accommodation and sets out typical characteristics, but with no allowable divergence from the minimum standards for apartments generally, which are set out in Sections 3.0 and Section 4.0 of the Guidelines. This ensures that apartment developments,

irrespective of the intended end user, will be designed to the same minimum standards.

- 8.1.3. However, the 2023 Guidelines also include transitional arrangements which outline that in cases where a request for a LRD meeting had been submitted to a local authority for a proposal that includes specified BTR development in accordance with s.32B of the Planning and Development Act on or before 21 December 2022, even if the LRD meeting has yet to take place, the opinion has yet to issue, or a planning application has yet to be made but is made within 6 months of receipt of the opinion as required by s.32A of the Act, the development will be assessed by the planning authority and where applicable, on appeal to the Board, in accordance with the Guidelines issued prior to the BTR update i.e. the version of the Apartment Guidelines that includes SPPRs 7 and 8 will remain applicable. I am satisfied that the current appeal case complies with these conditions and that, accordingly, the 2020 version of the Guidelines should apply, including SPPR 7 and SPPR 8.

Scheme Versions

- 8.1.4. I have previously outlined that this case involves several versions of the proposed scheme. The 'original application' (165 units) was revised by the 'further information response' which involved a reduced scheme of 129 units. Accordingly, my assessment will be based on the revised proposal for 129 units i.e. it being the scheme on which the DLRCC decision was based. It is also noted that the appeal includes an amended design option (121 units), which is not an uncommon practice in the appeal process. The amended proposal involves a reduction in height/scale of the proposed development, with the aim being to address concerns about the relationship within the site and with the surrounding area/lands. I do not consider that a reduced proposal such as this would give rise to material considerations for third parties, and parties that were active in the planning application have had the opportunity to comment on the amended proposal. Accordingly, I am satisfied that adequate opportunity has been afforded for comment on the amended design and I have no objection to its consideration as part of the appeal if necessary.

Main Planning Issues

- 8.1.5. Having regard to the foregoing, I consider that the main planning issues arising from this LRD appeal can be addressed under the following headings:

- Principle of Development
- Building Height and Quantum of Development
- Traffic and Transport
- Development Potential of the Neighbourhood Centre
- The Standard of Residential Development Proposed
- Impacts on Surrounding Properties
- Daylight and Sunlight
- Social/Community Infrastructure & Public Open Space
- Construction Impacts
- Design, Layout, Visual Amenity and Character
- Ecology and Biodiversity
- Other Matters.

8.2. Principle of Development

8.2.1. The site is zoned as 'NC Neighbourhood Centre', the objective for which is to *'protect, provide for and-or improve mixed-use neighbourhood centre facilities'*. In accordance with Table 13.1.2 of the Development Plan, 'Residential – Build to Rent' use is 'open to consideration' in this zone subject to retaining an appropriate mix of uses. The proposal also incorporates a community facility which is 'permitted in principle' in the 'NC' zone. In principle, the proposal is to retain a significant commercial presence (2,399m²) at ground floor level, including a wide range of retail and commercial service units. Consistent with the planning authority's approach, I am satisfied that this would retain a suitable mix of uses together with the proposed BTR residential development and separate community facility.

8.2.2. Uses shown as 'Open for Consideration' in the Development Plan are uses which may be permitted where the Planning Authority is satisfied that the proposed development would be compatible with the overall policies and objectives for the zone, would not have undesirable effects, and would otherwise be consistent with the proper planning and sustainable development of the area.

- 8.2.3. With regard to Development Plan policy on BTR development, I note that section 4.3.2 facilitates BTR accommodation at locations within a 10-minute walking time of high frequency public transport routes, subject to avoiding a proliferation of BTR accommodation in any one area. The application has outlined that the site is less than a 1km walking distance from the Kilmacud Luas stop, while the Apartments Guidelines estimate that a 10-minute walk covers a distance of c. 800-1000m. Therefore, I am satisfied that the site is within a 10-minute walking time of the Luas stop. Furthermore, I note that the Luas stop operates at a frequency of 4 minutes during peak hours, which complies with the description of 'high frequency' services as outlined in the Apartments Guidelines.
- 8.2.4. On the question of the proliferation of BTR developments, the application includes an assessment of permitted BTR developments within the 10-15-minute walkband. It outlines that there are no other BTR schemes within the 10-minute walkband, while there are 2 such schemes within the wider 15-minute walkband. These are two developments (ABP Refs 311722-21 & 305940-19) within Sandyford Business Park comprising a total of 754 units. At the time of writing, I note there are also three current BTR proposals in the 15-minute walkband at Sandyford (i.e. ABP Refs. 314523 (334 units), 313338 (207 units) and 313209 (101 units)). However, I consider that these BTR developments are significantly distanced from the appeal site, and the immediate surrounding area generally consists of standard tenure housing. Accordingly, I am satisfied that the proposed development would not result in a proliferation of BTR developments and would be acceptable in accordance with Policy PHP28 of the CDP.
- 8.2.5. In conclusion, I am satisfied that the proposed development would be consistent with the 'NC' zoning objective for the site and the locational guidance and objectives for BTR development as outlined in section 4.3.2 and PHP28 of the CDP. Of course, the zoning issue is qualified by the need to demonstrate compatibility with the overall policies and objectives for the zone, to not have undesirable effects, and to otherwise be consistent with the proper planning and sustainable development of the area. These issues will be assessed further throughout this report. However, consistent with the planning authority approach, I would have no objection to the principle of BTR development at this location.

8.3. Building Height and Quantum of Development

8.3.1. The proposal for which DLRCC decided to refuse permission has a height of 6-7 storeys (over basement). It contains 129 units and has a net density of 154 units per hectare. I acknowledge that the proposed height and density is significantly greater than the established character of development to the north, south, and west of the site. However, reflecting the transitional nature of the area, it is consistent with the increased height and density of development in the neighbouring Sandyford Business Park area. I acknowledge that the third-party submissions outline a strong preference for the redevelopment of the site to be more consistent with immediately surrounding development rather than Sandyford Business Park.

Building Height and Density Policy

- 8.3.2. In terms of national policy and guidance, I note that the 2009 Guidelines on 'Sustainable Residential Development in Urban Areas' recommend that increased densities should be promoted in 'public transport corridors'. This includes locations within 500 metres walking distance of a bus stop, or within 1km of a light rail stop/rail station. It also states that the capacity of public transport (e.g. no. of train services during peak hours) should be taken into consideration. In general, minimum net densities of 50 dwellings per hectare should be applied and specified in LAPs, with the highest densities being located at rail stations / bus stops.
- 8.3.3. Following on from the above, Chapter 3 of the *Building Height Guidelines* outlines a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility. It outlines broad principles for the consideration of proposals which exceed prevailing building heights, including the extent to which proposals positively assist in securing National Planning Framework objectives of focusing development in key urban centres, and the extent to which the Development Plan/LAP comply with Chapter 2 of the Guidelines and the NPF. SPPR 3 outlines that, subject to compliance with the criteria outlined in section 3.2 of the Guidelines, the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.

- 8.3.4. Section 2.4 of the Apartments Guidelines states that 'Intermediate Urban Locations' are generally suitable for smaller-scale higher density development. Such areas are stated to include (not exhaustively):
- Sites within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m), of principal town or suburban centres or employment locations.
 - Sites within walking distance (i.e. between 10-15 minutes or 1,000-1,500m) of high capacity urban public transport stops (such as DART, commuter rail or Luas) or within reasonable walking distance (i.e. between 5-10 minutes or up to 1,000m) of high frequency (i.e. min 10 minute peak hour frequency) urban bus services or where such services can be provided.
 - Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) of reasonably frequent (min 15 minute peak hour frequency) urban bus services.
- 8.3.5. In terms of local policy, the Development Plan (including Policy PHP18) generally supports proposals to optimise density on suitable sites, subject to suitable design. It does not prescribe a maximum density standard for the area/site but supports minimum densities of 50 units per hectare in central/accessible locations and 35 units per hectare throughout the county.
- 8.3.6. Appendix 5 contains the Building Height Strategy (BHS) for the County. Policy Objective BHS 1 supports increased height / taller buildings in suitable areas well served by public transport links (i.e., 1000m / 10-min walk of LUAS stop), subject to further assessment including table 5.1 of the strategy. Policy Objective BHS 3 promotes general height of 3-4 storeys in residual suburban areas, while allowing the consideration for increased height/taller buildings subject to further assessment including table 5.1 of the strategy.

Area Classification

- 8.3.7. In assessing the height and quantum of development proposed it is important to first establish the nature/classification of this area in the context of national/local policy. The DLRCC Planning Reports outline that this is a suburban location, although it should be noted that they accept the accessibility and suitability of the site in terms of proximity to public transport and compliance with Policy PHP28. The planning authority applied building height policy BHS 3 (i.e. for residual suburban areas) and

the criteria outlined in Table 5.1 of BHS. It ultimately concluded that, notwithstanding problematic heights in certain locations insofar as they impact on the current/future amenities of adjacent sites, the proposed height is not in contravention of the BHS. Furthermore, the planning authority did not highlight any specific contravention of density standards.

- 8.3.8. Having regard to the aforementioned policy provisions, it is clear that national and local policy/guidelines encourage increased height/density in public transport corridors. In this regard, I have already outlined my satisfaction that the site is within 1km/10-minute walking distance of the Kilmacud Luas stop which offers high frequency rail services. This is consistent with the definition of a 'public transport corridor' as per the Sustainable Residential Development Guidelines. The Guidelines also outline the need to consider public transport capacity. I note that significant third-party concerns have been raised in this regard and the matter will be addressed in detail in section 8.4 of this report.
- 8.3.9. Given the site location within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m) of Sandyford Business Park, which is a significant employment location, and within walking distance (i.e. between 10-15 minutes or 1,000-1,500m) of the Kilmacud Luas stop, I am satisfied that the site is classified as an 'intermediate urban location' in accordance with section 2.4 of the Apartments Guidelines. I note that the Guidelines cite the Luas as being an example of a 'high capacity urban public transport stop' but the issue of capacity will be discussed further in section 8.4 of this report.
- 8.3.10. At local policy level, Policy BHS 1 would also classify the site (i.e. within 1000 metre/10-minute walk band of a LUAS stop) as being '*well served by public transport links*' where increased heights and taller buildings will be considered subject to ensuring a balance between the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity and the established character of the area. Policy BHS1 does not place any specific limit on building height and any such proposals must be assessed in accordance with the performance-based criteria set out in table 5.1 of the BHS. Therefore, I do not consider that this is a 'residual suburban area' (covered by BHS 3), which refers to areas not covered by other guidance/policy set out in the plan.

- 8.3.11. Having regard to the foregoing, I am satisfied that, subject to further assessment of the proposal, including public transport capacity in the area, the site would be within an 'intermediate urban location' as per the Apartments Guidelines, a 'public transport corridor' as per the Sustainable Residential Development Guidelines, and an area 'well served by transport links' as per BHS1 of the Development Plan. Increased building height and densities (minimum 45-50+ uph) are considered suitable within such locations in accordance with local/national policy, including the Building Height Guidelines which outline a presumption in favour of buildings of increased height and density in areas with good public transport accessibility.
- 8.3.12. In particular, I am satisfied that national guidance or CDP policy does not place any specific maximum limit of building height or density for this site. Of course, the proposed height and density requires further assessment of its suitability, with particular regard to design and layout and its impact on the surrounding environment, infrastructural capacity, and neighbouring properties. These issues will be addressed in the following sections of my report, based on the standards which apply to accessible intermediate urban locations.

8.4. Traffic and Transport

Public Transport

- 8.4.1. As previously outlined in section 8.3 of this report, I am satisfied with the suitable proximity and frequency of public transport services in accordance with the criteria outlined in the Sustainable Residential Development Guidelines and the Apartments Guidelines. However, I have also outlined the need to consider policy provisions relating to the capacity of such services. In this regard, the application is accompanied by a Public Transport Capacity Assessment (PTCA).
- 8.4.2. Regarding bus services, the PTCA identifies 6 no. bus stops within a 500m walking distance of the site, including the Moreen Avenue stops adjoining Blackthorn Drive to the immediate south of the site. However, consistent with the third-party concerns, I would accept that the routes serving these stops are not high frequency services (all routes except no. 11 (10-20 mins frequency) run at a frequency of 30 mins+ at peak times). As previously outlined, the Kilmacud Luas line is within 1km/10-minute walk of the site and runs at frequencies of 4 mins at peak times.

- 8.4.3. The PTCA carried out an occupancy survey of the 6 no. bus stops and the Luas stop for the peak hours on Wednesday 16th November 2022. It estimates that the local bus routes have a total daily capacity of 12,200 persons. The records for the 6 no. stops during both the AM peak hour (08:00- 09:00) and PM peak hour (18:00 - 19:00) was 7 no. unique buses (at each peak hour) with approximately 75% spare capacity (equivalent to approximately 472 no. available seats at each peak hour).
- 8.4.4. The PTCA outlines that the Luas Green Line typically has 16 no. services (each way) per hour, resulting in a typical hourly capacity of 6,528 persons. For the peak AM period (8:00-9:00) it recorded a spare capacity of 5,916 passengers or 43%. For the peak PM period (17:00-18:00) it recorded a spare capacity of 6,426 passengers or 55%.
- 8.4.5. The PTCA estimates that the proposed development would have a population of 434 persons based on the original proposal for 165 units. I calculate that this would reduce to 338 persons based on the revised proposal for 129 no. units, and I will apply proportionately reduced estimates throughout this section of my report.
- 8.4.6. Using TRICS data, the PTCA estimates that the development would generate 30 no. additional AM trips and 24 no. PM trips (reducing to c. 23.4 and 19 respectively for the 129-unit proposal). Census 2016 data is also considered, which demonstrates that 68% of the local population commute regularly. When applied to the 129-unit proposal, this would result in c. 230 commuters, 21% of whom (48 persons) would avail of public transport (rising to 35% or 80 persons if active travel targets are met). However, having regard to the nature of the proposed development and the low level of car-parking proposed, the PTCA assumes that 50% of the 230 commuters (i.e. 115 persons) would use public transport at peak hours. The modal split taken from the 2016 Census data shows that 88% of public transport users in the local area regularly use the Luas for commuting, compared to 12% that use buses, resulting in a peak hour addition of 101 no. Luas commuters and 14 no. bus commuters.
- 8.4.7. In comparing demand and capacity, I note that the additional 14 no. bus commuters would represent only 3% of the available spare capacity (i.e. 473 spaces) during both AM and PM peak hours. And with regard to the Luas capacity, I note that the 101 no. commuters would take up a maximum 9% of spare capacity during the AM peak southbound service. The impact on other Luas service capacities would be

considerably less, including just 2.5% for the AM peak northbound service, 3% for the PM peak southbound service, and 3.3% for the PM peak northbound service.

- 8.4.8. I note that significant concerns have been raised by third parties about the capacity of the Luas and bus services, albeit concerns which are not evidently based on a documented contemporary assessment of such services. I acknowledge that public transport capacity can be a difficult standard to definitively quantify, particularly given the relative ease at which demand can fluctuate and service levels can be changed. However, I would highlight that section 5.8 of the Sustainable Residential Development Guidelines suggests that capacity could be considered in the relatively simple context of the number of services during peak hours, and the Apartments Guidelines effectively confirm that the Luas service represents a 'high capacity urban public transport stop'.
- 8.4.9. I am satisfied that the application has considered the number of services during peak hours. And while I would acknowledge that the bus services are lacking in terms of frequency, this is adequately compensated by the proximity and frequency of the Luas service. The application has also gone further to include a detailed survey of current and predicted capacity for the Luas and bus services. I am satisfied with the methodology of this assessment and that it demonstrates that the proposed development would have only a minor impact on the significant spare capacity that currently exists in Luas and bus services.
- 8.4.10. The third-party submissions have also raised concerns about the cumulative impact with other developments and the associated 'knock-on' impacts on the capacity of the wider public transport services, particularly the Luas. Given the minor impact of the development on the existing Luas service capacity (a worst-case scenario of 9%), I do not consider that the proposed development has the potential for significant cumulative impacts.
- 8.4.11. Furthermore, I consider the question of cumulative public transport capacity to be a strategic issue which requires ongoing examination at a wider level than the current application. Periodic pressures on public transport services are common and the National Transport Authority (NTA) is continually working on the capacity of these services to meet changing demands. This is reflected in the GDA Transport Strategy which confirms the intent of the NTA to continually monitor the demand for services

as part of the roll-out of the new service network and as part of the periodic review of the Strategy, and to enhance or amend the network as appropriate. This includes Measure LRT9 which intends to deliver significant additional capacity on the Luas Green Line through the provision of additional fleet and necessary infrastructure to meet forecast passenger demand. I am satisfied that public transport services closer to the city centre significantly improve in terms of the range of modes, routes, frequency, and capacity, and that any wider capacity issues would be more suitably addressed as part of the NTA monitoring/review process. It should be noted that the NTA were notified of this application but did not make any comment.

- 8.4.12. In conclusion regarding public transport, I would acknowledge that there are deficiencies in the frequency (if not capacity) of bus services, but I am satisfied that the proposed development would be adequately serviced in terms of the proximity, frequency, and capacity of the existing Luas services and their links to other modes of public transport. In particular, I am satisfied that the application has demonstrated sufficient reserve capacity using an acceptable methodology. I would also accept that the nature of public transport planning involves ongoing monitoring and can readily adapt to changing demands. I consider that the proposed development will benefit significantly from the planned increased capacity of the Luas Green Line and, albeit to a lesser degree, through improved bus services associated with the Bus Connects project. Accordingly, I am satisfied that the proposed development would be suitably served by public transport to support the proposed height and density as previously discussed in section 8.3 of this report.

Traffic and road capacity

- 8.4.13. The application includes a Traffic and Transport Assessment (TTA) which outlines that traffic surveys were carried out on 5 junctions on Tuesday 25th and Saturday 30th April. While some third-party submissions have questioned the timing of these surveys, I consider that they would provide a suitable range of weekday/weekend information and have been carried out under typical circumstances outside school holiday periods (e.g. Easter 2022). No Covid-19 restrictions were in place at the time, and I am satisfied that it represents a reasonable analysis of 'post-Covid' conditions. The 5 junctions are named as follows:

J1 - Blackthorn Drive/Sandyford Road Signalised Junction.

J2 - Blackthorn Drive/Cedar Road/Moreen Avenue Priority Junction.

J3 - Cedar Road/Site Entrance.

J4 - Maples Road/Site Entrance.

J5 - Drummartin Link Rd/ Blackthorn drive Signalised Junction.

8.4.14. To estimate the potential level of vehicle trips that could be generated by the proposed development, reference has been made to the TRICS database. In response to third-party concerns about the use of TRICS data, I acknowledge that it is primarily UK-based but I would accept that there is no evident difference to Irish data and that it provides a reasonable indication of traffic generation from the development, which is also similar to the rates used in other permitted developments in the area. The TTA is based on the originally proposed 165 units and I propose to continue applying this scheme as a conservative worst-case scenario given that car-parking spaces have remained the same in the revised schemes. It estimates that the development would generate 27 no. AM Peak trips and 28 no. PM Peak trips. However, it notes that slightly higher rates were used in a permitted neighbouring development (P.A. Reg. Ref. D18A/0785) and applies these as a worst-case scenario, resulting in 32 no. AM trips and 34 PM trips. The impact of other developments within the 'masterplan' (i.e. the pub site and DLRCC site to the east) were also considered to generate an additional 15 trips at both AM and PM peaks.

8.4.15. Section 6 of the TTA deals with trip assignment and distribution for both the proposed development and the larger masterplan development. Traffic is assumed to be apportioned in accordance with the directional flow of the weekday surveyed traffic. It is also assumed that 80% of the traffic will exit and enter via the Maples Road access to the north of the site in order to access the basement car park, and 20% will exit and enter via the Cedar Road access to the west. I consider these to be reasonable assumptions.

8.4.16. The TTA uses growth levels recommended by the TII (Project Appraisal Guidelines, October 2021) to forecast future baseline traffic growth for the opening year (2026) and design year (2041). These growth factors were added to the 2022 survey figures. I note that third-party concerns highlight the cumulative traffic impact of other permitted developments in the area. However, consistent with the TTA approach, I

am satisfied that this is satisfactorily accounted for through the application of the TII future growth factors.

8.4.17. The 5 junctions were assessed for the proportion of predicted generated development traffic against the surveyed background traffic. The TII sets thresholds for the requirement of junction assessments. This includes cases where traffic to and from the development exceeds 10% of the traffic flow on the adjoining road, or 5% of the traffic flow on the adjoining road where congestion exists, or the location is sensitive. The 10% threshold was applied to the 'internal' site access junctions 3 & 4, while the 5% threshold was applied to the 'external' junctions which may be considered congested or sensitive locations. The maximum predicted impacts for each junction are summarised in the following table.

Table 3 – Junction Impact Assessments

Junction	Name	Maximum Impact	Modelling Required
1	Blackthorn Drive/Sandyford Road Signalised Junction	0.8% (Saturday AM Peak).	No. Does not exceed 5% threshold.
2	Blackthorn Drive/Cedar Road/Moreen Avenue Priority Junction	2.59% (Saturday AM Peak).	No. Does not exceed 5% threshold.
3	Cedar Rd Entrance	10.2% (Saturday AM Peak). All other periods <10%	Yes. Marginally exceeds 10% threshold.
4	Maples Rd Entrance	29.6% (Saturday AM Peak). All other periods >10%	Yes. Exceeds 10% threshold.
5	Drummartin Link Rd/Blackthorn drive Signalised Junction	0.69% (Saturday AM Peak).	No. Does not exceed 5% threshold.

8.4.18. Despite the fact that only junctions 3 & 4 were found to require further junction analysis, the TTA included junction 2 following discussions with DLRCC. I am satisfied that it has been demonstrated that the minimal impacts on other junctions do not warrant further examination.

8.4.19. Junctions 9 PICADY software was used for the priority junction analysis. Under this analysis, the ratio of flow to capacity (RFC) is an indicator of the likely performance of a junction under design year loading. Due to site variation, there may be a standard error of prediction of the entry capacity by the formulae of + or - 15% for any site. Thus, queuing should not occur in the various turning movements in the

chosen design year peak hour in 5 out of 6 peak hour periods or sites if a maximum RFC of about 85% (0.85) is used. Once the RFC is at 1.0 the Junctions 9 modelling software produces results regarding queues and delays that is unrepresentative of the actual or likely effects. The output of the analysis is summarised in the following table.

Table 4 – Junction modelling

Junction	Maximum Impact with Proposed Development	
	RFC	Queue (PCU)
2	0.71 for the PM 2041 Design Year	2.3 for the PM 2041 Design Year
3	0.38 for the PM 2041 Design Year	0.7 for the PM 2041 Design Year
4	0.10 for the PM 2041 Design Year	0.1 for the AM & PM peaks for 2026, 2031, and 2041

8.4.20. Having regard to the above, the TTA concludes that the junctions would operate well within the design threshold with the full development in operation during both the AM and PM peak hours and that there is ample capacity to receive the additional traffic generated by the proposed development.

8.4.21. I note that the third-party submissions have raised significant concern about the impact of traffic congestion. Concerns have particularly focused on Junction no. 2 (Blackthorn Drive/Cedar Road/Moreen Avenue) but also raise concerns about the wider road network including the M50 Motorway. The submissions have questioned the veracity of the traffic surveys and contend that the TTA has underestimated the additional traffic likely to be generated by the proposed development at this car-dependent location.

8.4.22. As previously outlined, I am satisfied that the traffic surveys have been adequately timed and completed to capture baseline traffic levels, and that the cumulative impact of other developments has been adequately considered through the application of TII traffic growth factors.

8.4.23. Regarding the predicted traffic associated with the proposed development, I acknowledge that there is still a high reliance on private car transport in this and other suburban areas. However, the current GDA Transport Strategy moves away

from the traditional approach to transport planning which was based on analysing historic trends and using those to forecast what is likely to happen in the future – a business as usual or “predict and provide” methodology which has been key to the creation of car-dependent societies and economies. The strategy promotes an alternative process of deciding, on a policy basis, what the most desirable future might be, and then providing the infrastructure and services to deliver that scenario – “Decide and Provide”. I consider that the applicant’s approach (including the lower car-parking ratio as will be further discussed) is consistent with GDA Transport Strategy approach. It does not aim to accommodate existing travel patterns but rather aims to assist in a modal shift away from over-reliance on private car transport. I am satisfied that this is a suitable and reasonable approach towards the prediction of traffic generation.

- 8.4.24. In conclusion, I consider that the TTA has acceptably demonstrated that the proposed development would not significantly or unacceptably contribute to traffic congestion, including Junction no. 2 at the entrance off Blackthorn Drive. I am satisfied that the TTA has suitably considered the relevant junctions in the local road network and that the capacity of the wider road network is a strategic issue which is outside the reasonable scope of this application. Specifically in relation to the M50 motorway, I note that the TII had no observations to make on the application. Furthermore, I am satisfied that the proposed development has been suitably designed to minimise traffic generation and that the area will benefit from future sustainable transport projects and policies which will reduce traffic growth.

Parking

- 8.4.25. I note that the third-party submissions raise significant concerns about a lack of adequate car-parking and the likelihood of overspill parking. They highlight that the adjoining areas are already subject to excessive parking associated with surrounding development/facilities such as the Luas.
- 8.4.26. For car parking, the proposed development includes a total of 104 spaces. The spaces have been allocated on the basis of 53 residential spaces (41 at basement level and 12 surface spaces) and 51 surface-level spaces for the existing commercial units. The site straddles both parking zones 2 and 3 as outlined in the Development Plan and the parking requirements for each zone are compared to the

proposed development (revised scheme of 129 units) in the table below. For the variety of existing commercial units, the 'retail conv > 100sqm' standard has been used. However, it should be noted that the nature and size of most units would attract a lower parking requirement, and in some cases no requirement.

Table 5 – Car Parking Standards

Unit Type	No. of Units / floorspace	Zone 2 Requirement	Zone 3 Requirement	Proposed Development
1-bed Apt	86	Min. 1 space per unit (86 spaces)	Min. 1 space per unit (86 spaces)	
2-bed Apt	43	Min. 1 space per unit (43 spaces)	Min. 1 space per unit (43 spaces)	
Visitor (residential)		0	1 in 10 (13 spaces)	
Total Residential		129	142	
Retail	2,190m ²	Max. 1 space per 40m ² (54 spaces)	Max. 1 space per 30m ² (73 spaces)	
Community Facility	165m ²	Max. 1 space per 100m ² (1 space)	Max. 1 space per 50m ² (2 spaces)	
Bar / Restaurant	555m ²	Max. 1 space per 50m ² (11 spaces)	Max. 1 space per 30m ² (18 spaces)	
Total Non-Residential		66	93	

8.4.27. As per the above table, the minimum residential parking requirements would range from 129 (as per Zone 2) to 142 (as per Zone 3), the only difference being that the Zone 3 requirements include visitor parking (c. 13 spaces). However, in light of the transitional location of the site between zone 2 and 3; its accessible location in relation to public transport as previously outlined; and the limited likelihood of significant visitor demand associated with smaller units in BTR development; I consider it appropriate to apply the Zone 2 standards in this case. It should be noted

that the DLRCC Transportation section also applied the Zone 2 standard, and this approach was ultimately supported in the Senior Planner's addendum report.

8.4.28. I acknowledge that the proposed spaces (53) still fall significantly short of the CDP Zone 2 standard of 129 spaces. However, the CDP outlines that reduced provision may be acceptable dependant on criteria outlined in section 12.4.5.2 of the CDP. In response to those criteria, I would state the following:

- As previously outlined in this report, I am satisfied with the proximity to public transport services and level of service and interchange available.
- As outlined later in this report, I am satisfied that the site is adequately served by pedestrian/cycle connections and that the permeability of the proposed development would contribute to same.
- Reduced car-parking would promote modal shift and safeguard investment in sustainable public transport.
- The scheme includes 8 no. car club spaces. Notwithstanding the third-party concerns about an overreliance on the stated value of such spaces (i.e. 1 space per 15 cars), I am satisfied that the proposed spaces would make a significant contribution towards a reduced reliance on the private car.
- I note the existing availability of on-site parking but that it will be significantly reduced to cater for the needs of the commercial units. Given the significant reduction involved, I would not propose to rely on the potential for dual use.
- Section 12.4.5.6 of the CDP accepts that BTR schemes may avail of lower car parking standards based on the nature of the use.
- The existing on-site commercial units provide a good range of services which reduces the need for car travel/parking. As discussed later in section 5.9 of this report, there is also a wide range of social/community facilities within walking distance.
- As outlined later in this section of my report, I am satisfied that there would be no unacceptable traffic safety/amenity impacts.
- As previously outlined, there would be no unacceptable impacts on the capacity of the road network.

- The proposed development is assessed from an urban design perspective in section 8.11 of this report.
- The application includes a Mobility Management Plan which suitably aims to reduce dependency on the private car.
- There are no on-street parking controls in the immediate vicinity of the site. I acknowledge the significant third-party concerns about on-street parking generated by the Luas, Sandyford Business Park, and other services etc. However, I would advise that consideration should be limited to any potential overspill parking associated with the proposed development rather than any existing problems associated with other developments/services.

8.4.29. Having regard to the above, and consistent with the planning authority approach, I am satisfied that the proposed development satisfactorily addresses the criteria to warrant a deviation from the parking standards specified in the Development Plan.

8.4.30. In addition to the above, Chapter 4 of the Apartments Guidelines addresses car-parking requirements. For intermediate urban/suburban locations served by public transport and particularly for schemes with more than 45 dwellings per hectare, it states that planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard. And specifically in relation to BTR development, SPPR 8(iii) outlines that a default of minimal or significantly reduced car parking provision shall apply based on central locations and/or proximity to public transport. Therefore, having regard to the BTR nature of the development, together with its density (>45 uph) and accessible intermediate urban location, I have no objection in principle to significantly reduced parking in this instance.

8.4.31. In cases where reduced parking is accepted, the Apartment Guidelines states that it is necessary to comply with certain criteria, many of which have already been covered by the criteria in section 12.4.5.2 of the CDP. In relation to the other criteria, I would state the following:

- The scheme includes 63 no. surface spaces and a large circulation network which could adequately cater for drop-off spaces (subject to agreement of details).

- It includes 4 no. spaces to cater for the mobility impaired, which is consistent with Development Plan requirements for 4% of total spaces.
- The existing loading bay and a large set-down space will be retained at the northeast corner of the site. This could cater for the main servicing requirements associated with the supermarket and the existing pub/restaurant.
- I am satisfied that the underground car parking facilities can be well lit and adequately ventilated.

8.4.32. The Apartment Guidelines also state that reduced car-parking proposals should include facilities for cycle parking and storage. In this regard the table below outlines a comparison between the requirements of the Development Plan Table 12.23, the Apartments Guidelines, and the proposed cycle provision. Again, a standard of 1 space per 100m² is applied to all commercial units given that it applies to retail (food), retail (comparison), retail (shopping centres and stores), betting shop, banks, bar/lounge, and restaurant.

Table 6 – Cycle Parking Standards

Unit Type	Development Plan		Apartment Guidelines		Proposed	
	Long term	Short stay	Long term	Short stay	Long term	Short stay
Apartment	129 (1 per unit)	25 (1 per 5 units)	172 (1 per bedroom)	64 (1 per 2 apts)	170	72
Commercial (including pub) 2,745m²	Not known (1 per 5 staff)	27 (1 per 100m ²)	N/A	N/A		
Sub Total	129	52	172	64		
Total	181		236		242	

8.4.33. As per the above table, I am satisfied that the total proposed spaces (242) significantly exceed the minimum quantum of cycle spaces required as per the Development Plan (181). I acknowledge that long-term commercial requirements have not been accounted for due to lack of clarity on staff numbers, but I am satisfied that the excess long-term spaces (41) would comfortably cater for staff needs. I note that overall requirements would not be met if the Apartments Guidelines standards are used but I am satisfied that the Development Plan standards are more appropriate to this context, particularly given the accessibility of public transport. In addition to the quantum of spaces, I am satisfied that the further

information response adequately addressed concerns in relation to the design, layout, and range of the proposed cycle facilities. Therefore, consistent with the planning authority's conclusion, I am satisfied that the quantum and quality of cycle parking facilities is acceptable in accordance with Development Plan standards and that this would facilitate reduced car-parking standards.

- 8.4.34. In relation to non-residential car-parking proposals, I note that the 141 no. spaces currently serving the commercial units would be significantly reduced to 51 no. spaces. However, it should be noted that the existing parking (141 spaces) significantly exceeds the maximum allowable under current Development Plan standards (i.e. 65 spaces as per Table 5 above). In my opinion, this is illustrative of an unsustainable over-reliance on car transport and an inefficient use of this accessible brownfield site. There was ample on-site parking available on the day of my site visit, which, notwithstanding the third-party concerns about the lack of detail, would support the stated results of the applicant's parking survey (i.e. max. of 81 cars recorded Mon-Sat, max. of 110 no. cars during Sunday mass at the adjoining church).
- 8.4.35. The proposal for 51 spaces would represent a significant 78% of the maximum allowable spaces (i.e. 65 spaces). However, it should be noted that a conservative approach has been applied using a standard of 1 space per 40m², whereas many existing units are less <100m² and would not attract any parking requirements. And given the localised nature of the commercial offering, whereby the Neighbourhood Centre would largely serve the surrounding residential area which is easily accessible by walking/cycling, together with consideration of the criteria for reduced parking as previously outlined regarding section 12.4.5.2 of the CDP, I am satisfied that the proposed extent of commercial parking is acceptable in accordance with Development Plan policy.
- 8.4.36. I acknowledge the strong views of surrounding residents regarding an existing parking overspill problem, as well as their concerns about an underestimation of the parking demands associated with the development. However, there were no evident parking overspill problems on the day of my site visit, and, in any case, I consider that any existing parking problems are outside the scope of the current application. Having regard to the foregoing assessment, I consider that adequate parking proposals have been included and would not contribute to an overspill to adjoining

areas. As previously outlined, I acknowledge an over-reliance on car transport in this and other suburban areas, as is evidenced by the excess parking that currently exists on site. However, I would again highlight the need for a “Decide and Provide” approach in accordance with the GDA Transport Strategy and I am satisfied that the proposed parking approach is acceptable in this context.

8.4.37. I note the third-party concerns about church parking demands and the view that parking must be reserved on the appeal site in accordance with condition no. 8 of the church permission (PA Ref. 1831/81). However, I would note that the church site has been subject to significant alterations in the intervening years, including the addition of the pastoral centre and the provision of additional parking space (P.A. Reg. Ref. D10A/0582, which does not include any such parking stipulation). The site now includes 17 no. parking spaces which, as per CDP standards (1 per 20 seats), would cater for a significant congregation of 340 persons. And given the close proximity and accessibility of the surrounding residential catchment, I am satisfied that any additional demands could be appropriately met through other more sustainable transport modes. In any case, I would state that any agreement regarding the use of the appeal site for church parking would be a civil matter for resolution between the relevant parties, and I do not consider that the Board need explore the matter further having regard to the provisions of section 34(13) of the Planning and Development Act 2000, as amended, which outlines that “a person shall not be entitled solely by reason of a permission or approval under this section to carry out a development”.

8.4.38. In conclusion, I consider that the scheme includes an acceptable level of car-parking having regard to the location of the site and the availability of public transport and other local infrastructure and services. The scheme includes a suitable range of measures to address the reduced rate of car-parking provision, including satisfactory proposals for cycle parking. I am satisfied that this approach will promote a modal shift towards sustainable transport modes and will not result in an overspill of parking in the surrounding area.

Traffic Safety & Accessibility

8.4.39. Some third-party submissions have highlighted concerns about vehicular movements and associated impacts on road-user safety, particularly for pedestrians and cyclists. A lot of these concerns are associated with overspill parking which I have previously

addressed in this report. However, they also highlight concerns about the availability of adequate sightlines and hazardous vehicular movements.

8.4.40. The application is accompanied by a Quality Audit Report, which includes audits of Road Safety, Accessibility, Walkability, Non-motorised users, and cycle facilities. It identifies a range of potential issues relating to structural columns, road furniture, connectivity, accessibility, gradients, tactile paving, landscaping, vertical clearance, swept path analysis, visibility, EV parking spaces, junction control, pedestrian desire lines, edge protection, and signs / road markings. I note that the Road Safety Audit (RSA) has been carried out in accordance with TII guidance GE-STY-01024 (Dec 2017) for Road Safety Audit. It includes a 'feedback form' which either accepts the recommended measures or incorporates alternative measures to address the issue.

8.4.41. Having reviewed the documentation and drawings submitted with the application, I am satisfied that the potential safety and accessibility issues have been satisfactorily identified and addressed. Subject to the agreement of further design details by condition, I am satisfied that the proposed development would be suitably accessible and would not compromise public safety by reason of a traffic hazard.

8.4.42. I note that the further information request raised concerns about the interface of the development along Blackthorn Drive, particularly in relation to footpaths, cycleways, grass verge, and the bus stop. However, consistent with the planning authority view, I am satisfied that the further information has adequately addressed this matter subject to the agreement of details by condition. And while third-party submissions have contended that the surrounding cycling infrastructure is inadequate to support the low level of parking proposed, I am satisfied that these proposals will contribute to existing and planned cycle improvements for the area and will suitably facilitate a reduced reliance on private car transport.

Conclusion

8.4.43. In conclusion, I am satisfied that the proposed development would be adequately serviced by public transport in terms of the proximity, frequency, and capacity of services, as well as their links to other modes of public transport and planned improvements for sustainable travel in the area. This is consistent with the view of the planning authority. I do not consider that the level of traffic generated by the proposed development would unacceptably impact on the capacity of the road

network and I am satisfied that adequate levels of car/cycle parking and other mobility management measures have been incorporated into the development. Furthermore, I do not consider that the traffic movements would interfere with the safety of traffic and other vulnerable users. Accordingly, I have no objections in relation to traffic and transport.

8.5. Development Potential of the Neighbourhood Centre

8.5.1. The planning authority decision raises concerns that the proposal would represent a piecemeal approach that would compromise the successful redevelopment of the overall neighbourhood centre lands. These concerns relate to the existing pub site (surrounded by the appeal site) and the adjoining DLRCC site to the east. I note that the application included a suggested masterplan to include the two sites. This was updated in the further information response and further detail has been provided in the appeal submission.

The pub site

8.5.2. In principle, the planning authority outlines that the proposals for the site would be a reasonable approach which would consolidate the perimeter block and would not unduly impact on the development potential of the pub site. I would concur with this view. However, after further assessment, the planning authority concludes that the proposed development would have unacceptable effects on the pub site in relation to the potential for ground floor uses, access/car-parking, and daylight/sunlight.

8.5.3. The appeal submission shows proposals for a retail unit at ground floor level, together with a residential access core, bike/bin stores, and car/cycle parking spaces. It suggests that the upper floors (5 no.) would accommodate a total of 10 no. 2-bed apartments.

8.5.4. I note that the ground floor retail unit could be substantial in size (180m²) and could provide dual-aspect frontage to the public realm to the north and west. I note that the existing access and parking arrangements for the pub site are shared with the overall shopping centre without any discernible separation. Subject to agreement between relevant parties, it is possible that this arrangement could continue in the event of the redevelopment of the pub site. The suggested extent of retail floorspace would only generate a requirement for c. 4 no. parking spaces and I do not consider

that this would be significant in the context of the overall proposal for 51 spaces and my assessment as previously outlined.

- 8.5.5. It has been demonstrated that 10 upper floor apartments and associated communal open space could be accommodated in accordance the Apartments Guidelines standards. The main north-south facing elevations would benefit from significant separation distances while any secondary east-west facing windows could be suitably designed to avoid any significant overlooking. It is suggested that the apartments could be served by 4 no. car-parking spaces. This would be consistent with the parking ratio for the proposed development (i.e. 0.41 spaces per unit) which I have already considered acceptable. However, I would concur with the planning authority concerns that the inclusion of the undercroft parking and storage area at the street level of the perimeter would be sub-optimal and would not positively contribute to the public realm and street-level activity.
- 8.5.6. Ultimately, the masterplan illustrates only a suggested approach, and any redevelopment proposal would be subject to detailed design and assessment. Having regard to the foregoing, I consider that the masterplan has demonstrated reasonable potential for the redevelopment of the pub site. However, I would acknowledge that it presents significant challenges at ground level, including issues relating to access, parking, servicing, and inactive frontage. In my opinion, this is an inevitable result of the absence of definite and co-ordinated proposals for the entire site, which could more appropriately share access, parking, and other services. The impacts of these deficiencies will be further considered in the context of the overall design and layout of the proposed scheme. Potential impacts relating to daylight and sunlight are also discussed later in section 8.8 of this report.
- 8.5.7. I note that the planning authority received third-party submissions on behalf of the owners of the pub site. The submissions highlight legal concerns about impacts on property ownership, access, and services/utilities. It contends that the application is unlawful and refers to ongoing legal proceedings on the matter.
- 8.5.8. In terms of legal interest, I am satisfied that the applicant has provided sufficient evidence of legal interest for the purposes of the planning application and decision. Any further consents that may have to be obtained are essentially a subsequent matter and are outside the scope of the planning appeal. As outlined in Section 5.13

of the Development Management Guidelines for Planning Authorities (DoEHLG, 2007), the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land. These are matters to be resolved between the relevant parties, having regard to the provisions of s.34(13) of the Planning and Development Act 2000 (as amended), which outlines that a person shall not be entitled solely by reason of a grant of permission to carry out any development.

The DLRCC site

- 8.5.9. Notwithstanding the concerns raised in the DLRCC Architect's report, the Senior Planner's addendum ultimately concluded that the layout of the scheme would not place an undue burden on the development potential of the site, and that the east-facing fenestration and perimeter block layout would offer an appropriate starting point for the design of a scheme on the adjoining site. However, it did contend that aspects of the building height on the eastern portion of the site, particularly the podium above the supermarket, should be revisited with regard to impacts on the development of the site. However, the specific nature of the impacts is not cited.
- 8.5.10. The indicative masterplan submitted with the further information response illustrates the relationship between the proposed development and a suggested 8-storey development on the DLRCC site. Block B (6-storeys) would have a separation distance of c. 17 metres, while the podium level (c. 3 storeys) would have a separation distance of c. 15 metres. Block C would not directly oppose future residential units based on the appropriately suggested inclusion of a south-facing open space on the DLRCC site.
- 8.5.11. With regard to separation distances, the Development Plan outlines that a minimum clearance distance of circa 22 metres, in general, is required between opposing windows in apartments up to three storeys, while taller blocks may require a greater separation distance having regard to the layout, size, and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable. In all instances where the minimum separation distances are not met, the applicant shall submit a daylight availability analysis for the proposed development.

- 8.5.12. Consistent with the NPF preference for performance-based standards and a range of tolerance (NPO13), the Apartments Guidelines advise against blanket restrictions on building separation distance. The Guidelines highlight a need for greater flexibility in order to achieve significantly increased apartment development in Ireland's cities and points to separate guidance to planning authorities as outlined in the Building Height Guidelines. The Sustainable Residential Development Guidelines (s. 7.4) also advise that such rules regarding separation distances should be applied flexibly and that shorter separation distances can be achieved through appropriate design.
- 8.5.13. I acknowledge that the suggested arrangement would provide separation distances of less than 22 metres. However, it should be noted that the supermarket/podium element and Block B would not include any significant additional fenestration that would lead to any overlooking concerns for the adjoining site. Similarly, I do not consider that the eastern façade would be of an excessive height or scale such that would give rise to excessive overbearing impacts on the adjoining site. And consistent with the flexibility allowable under local policy and national guidance, I consider it appropriate to facilitate reduced separation distances on an accessible mixed-use neighbourhood centre site such as this.
- 8.5.14. I note concerns raised in the DLRCC Architect's report regarding boundary treatment and the lack of co-ordination of public realm between the two sites. I would acknowledge that improvements would be required in this regard, particularly given that the ground level of the eastern façade lacks any active frontage. However, I am satisfied that this matter could be satisfactorily addressed and would not warrant a refusal of permission in itself.
- 8.5.15. It would appear that any planning authority concerns about building height would be limited to daylight/sunlight impacts. These matters will be addressed further in section 8.8 of this report. Otherwise, I am satisfied that the proposed development would not unreasonably restrict the potential to achieve an appropriate residential development on the DLRCC site.

8.6. The Standard of Residential Development Proposed

- 8.6.1. Section 12.3.3 of the Development Plan outlines quantitative standards for all residential development. Section 12.3.5 outlines standards for Apartments while section 12.3.6 specifically addresses BTR development. The applicable standards cover *inter alia* unit mix, unit sizes and dimensions, open space, dual aspect ratios, storage and other supporting facilities/services, as well as access, privacy and security considerations. The standards are generally consistent with the Apartments Guidelines standards and Specific Planning Policy Requirements (SPPRs).
- 8.6.2. The planning authority has outlined general satisfaction that that the proposed development would comply with the relevant standards/guidelines, and I do not propose to revisit these matters in full. However, the planning authority and third-party submissions do raise concerns about certain residential standards and these matters will be addressed in the following paragraphs.

Housing Mix

- 8.6.3. Similar to their concerns about the BTR nature of the development, third-party concerns have also been raised about the proposed mix of units. It is contended that the units would not be in keeping with the existing demographic and that larger units would be more suitable to community needs.
- 8.6.4. The development (129 no. units) proposes a mix of apartments including 5 no. studios (4%), 81 no. 1-bed units (63%), and 43 no. 2-bed units (33%). Table 12.1 of the Development Plan sets out apartment mix requirements, including those which apply to a 'new residential community' and an 'existing built up area'. I do not consider that the subject site is within a 'new residential community' as per Figure 2.9 of the CDP and, accordingly, the standards for 'existing built up areas' would apply (if Table 12.1 was applicable). This would include up to 80% studio, one and two-bed units, with no more than 30% of the overall development as a combination of one-bed and studios and no more than 20% of the overall development as studios. A minimum of 20% 3+ bedroom units would also apply.
- 8.6.5. The proposed development would not comply with the requirements of Table 12.1. However, notwithstanding that section 12.3.3 of the CDP (as originally adopted) aimed to apply the apartment mix requirements of Table 12.1 to BTR developments, I note that this requirement has been removed as a result of a Ministerial Direction

(28th September 2022). Accordingly, the CDP does not include a specific mix requirement for BTR developments.

8.6.6. In terms of national policy and guidance, the NPF acknowledges that apartments will need to become a more prevalent form of housing in Ireland's cities, noting that one, two and three person households comprise 80 percent of all households in Dublin City. The Apartments Guidelines also highlight the need for greater flexibility on apartment mix, including SPPR 8 (i) which states that no restrictions shall apply on dwelling mix for proposals that qualify as specific BTR development. I am satisfied that the proposed development has been described and proposed to qualify as BTR development in accordance with the requirements of SPPR 7(a) of the Apartments Guidelines.

8.6.7. While no restrictions on unit mix apply in accordance with the foregoing, the application is accompanied by a 'Unit Mix Justification Report'. The report reviews a range of Census and other data for the 10-minute walking catchment of the site. In summary, the report findings highlight the following:

- A high proportion of owner-occupied units (51.7%).
- A high proportion of 3+ bedroom units (87.2%).
- A predominantly younger age profile which is suited to BTR development.
- A significant shortfall in the availability of rental accommodation.
- A high proportion of 1-2 person households (58%).
- The absence of a proliferation of BTR development.
- A level of employment and proximity/accessibility to employment opportunities.

8.6.8. I am satisfied that the applicant has accurately characterised the predominant nature of larger housing unit types in the area. And having regard to the need to provide a suitable balance of housing needs, together with the accessible location of the site in relation to public transport, employment, and other services/facilities, I am satisfied that the proposed development would improve the diversity, range, and tenure of housing supply in the area. Therefore, consistent with the planning authority view, I have no objection to the proposed housing mix.

Resident Amenities and Facilities

- 8.6.9. Section 5.5 of the *Apartments Guidelines* states that the provision of dedicated amenities and facilities specifically for residents is usually a characteristic element of BTR development. SPPR 7 (b) of the Guidelines outlines that BTR developments must be accompanied by detailed proposals for supporting communal and recreational amenities, to be categorised as ‘resident support facilities’ and ‘resident services and amenities’.
- 8.6.10. The proposed scheme includes resident amenities at first floor level in Block A and Block B. This includes an administration room (11.7m²), a fitness centre (117.4m²), and two separate multi-functional spaces (c. 243m²) to facilitate residents lounge, workspaces, meeting room, and gaming/cinema room. The proposed development will also include dedicated residential support services including concierge & management office, waste management, and parcel storage, details of which are outlined in the Operational Management Plan submitted with the appeal. The revised further information response includes a total of c. 400m² of amenity space to serve 129 units, resulting in a ratio of c. 3.1m² per apartment.
- 8.6.11. Neither the CDP nor the Apartments Guidelines specify a particular extent of such facilities to be provided and I note that the application includes an analysis of such facilities prepared by Cushman & Wakefield. The analysis compares the proposed amenities to four ‘market leading BTR schemes in Dublin’ and demonstrates that the proposals compare favourably (the other schemes provide ratios of 2.6, 0.81, 3.87, and 2.8 sq.m. per apartment). I have also reviewed the standards previously permitted by the Board in the nearest BTR developments at Sandyford. Under ABP Ref. 305940 and ABP Ref. 311722, I note that lower ratios of 1.9m² and 2.4m² per unit were permitted respectively. Having regard to the above, I am satisfied that the proposed development includes a satisfactory quantum of internal residential amenity space.
- 8.6.12. I note that the DLRCC’s Planner’s Report outlines a need to incorporate a laundry service and maintenance/repair rooms by condition of any permission. However, while the CDP and the Apartments Guidelines refer to such facilities by way of example, there is no specific requirement for their inclusion. The apartments Guidelines outline that the provision of amenities will vary, and the developer will be

required to provide an evidence basis that the proposed facilities are appropriate to the intended rental market. The application has included an analysis which supports the nature and extent of the proposed facilities. And having regard to the site location within a neighbourhood centre (which already includes a laundrette) and close to a wide range of other services, I am satisfied that the nature and extent of resident amenities and services is acceptable.

External storage space

- 8.6.13. The Development Plan outlines that apartment schemes should provide external storage for bulky items outside individual units (i.e. at ground or basement level), in addition to the minimum apartment storage requirements. It does not specify a particular quantum of space to be provided. The Apartments Guidelines include similar general guidance and outline that such space may be used to satisfy up to half of the minimum storage requirement for individual apartment units. And in relation to BTR development, both the Development Plan (s. 12.3.6.) and the Apartments Guidelines (SPPR 8(ii)) facilitate flexibility in provision of in-unit storage on the basis of the provision of alternative, communal facilities.
- 8.6.14. Despite the flexibility allowable in respect of storage for individual units, the proposed scheme meets the minimum requirements for each unit in accordance with Appendix 1 of the Apartments Guidelines. In addition to this, the further information response includes proposals for communal storage space (38m²) within/adjoining the other communal space at first floor level of Block A. Accordingly, I consider that the combined quantum of individual and communal bulk storage is satisfactory.
- 8.6.15. The planning authority would not appear to have significant concerns about the location or quantity of the proposed space, but rather that it was included at the expense of the overall communal multi-function space. However, given that I have previously outlined my satisfaction with the extent of communal resident amenity space proposed (c.400m²), I am satisfied that the proposed external storage space is acceptable and would not unacceptably detract from other resident amenities.

Communal Open Space

- 8.6.16. The Development Plan standards for the quantum of communal open space are consistent with those outlined in Appendix 1 of the Apartments Guidelines. Based on those standards, the proposed development (129 units) requires 720m² of communal

open space. The proposed development includes a total of 1,643m², the vast majority of which is provided at 3rd floor (podium) level. Smaller spaces would be provided at first floor levels of Blocks A & B. The proposal for communal space is therefore more than double the minimum requirement.

- 8.6.17. In terms of the nature and location of the space, the Development Plan states that an element of roof garden may be acceptable, but the full quantum of communal open space should not take the form of being solely roof gardens. Section 12.8.5.4 states that their use shall be considered on a case-by-case basis and will not normally be acceptable on a site where there is scope to provide communal open space at grade, as roof gardens do not provide the same standard of amenity particularly to young children. Consideration must also be given to the overall design, layout, and location of the roof garden, including its height. For larger apartment schemes in excess of 50 units, no more than 30% of the communal open space shall be provided by way of a roof garden. The Apartments Guidelines also state that roof gardens may be provided subject to suitable accessibility and climatic/safety factors.
- 8.6.18. Having regard to the above, I consider that local policy and national guidance clearly outlines a preference for ground/grade level communal space. And while the planning authority has concluded that the podium/roof level open space is acceptable given the limited options for the site, I consider that these limitations are a direct result of the proposal to retain the existing buildings and perimeter parking on site.
- 8.6.19. I note that a small communal space (275m²) would serve Block A at 1st floor level adjoining the internal resident amenity spaces. I would be concerned about the quality of this space given that it is substantially enclosed to the east, south, and west, and I note that suitable levels of sunlight to this space have not been demonstrated in the applicant's sunlight/daylight assessment. The 1st floor space serving Block B is also limited in size (c.100m²) and would be significantly enclosed to the north and south.
- 8.6.20. The main podium/roof space at 3rd floor level is significant in size (c. 1,400m²), providing ample opportunity for a variety of spaces, play areas, and landscaping. It is directly accessible from Block A and would appear to be accessible via bridged links to the open access corridor on the northern façade of Block C. However, this main

space would not be appropriately accessible to all users in Block B as it requires stair access from the 1st floor to the 3rd floor.

- 8.6.21. In conclusion, I acknowledge that the proposed quantum of communal space significantly exceeds the minimum policy requirements. However, I have concerns in relation to the absence of any ground level communal space, the enclosed nature of the smaller spaces, and the restricted accessibility between the main podium space and Block B. The question of the availability of adequate levels of sunlight is addressed in section 8.8 of this report.

Other Issues

- 8.6.22. Third-party concerns have been raised about external fire escape, fire safety measures, and the ability of fire services to deal with the proposed building height. I would highlight that fire safety standards are outlined in the Building Regulations 2006 (Technical Guidance Document B) and compliance with TGD B will be assessed under a separate legal code. Therefore, I consider that the issue of compliance with Building Regulations need not concern the Board for the purposes of this appeal.
- 8.6.23. I would have concerns about the interface between some of the lower-level apartments and existing development. In Block C, the 1st and 2nd floor apartments would be accessed via an open corridor. This access, together with the windows in the adjoining units, would have a north facing aspect which would directly and closely face the southern façade/roof void above the supermarket building. I consider that this form of access and outlook would seriously detract from the residential amenity value of these apartments. Similarly, the lower-level units at the western end of Block B would overlook the rear servicing areas associated with the existing pub/restaurant and I consider this to be a substandard arrangement.

Conclusion

- 8.6.24. I have considered the planning authority's assessment of the proposed development and the outstanding issues raised in the context of this appeal. Having regard to my assessment as outlined in the foregoing paragraphs of this section, I am not satisfied that the proposed development would provide a suitable standard of residential amenity for prospective residents having regard to deficiencies in relation to the

quality and accessibility of communal open space, as well as the substandard interface between some lower-level apartments and the existing commercial units.

8.7. Impacts on Surrounding Properties

- 8.7.1. The third-party submissions raise significant concerns about the impact of the development on surrounding properties, particularly the existing commercial units, community facilities, and surrounding dwellings. Many of these concerns relate to traffic disturbance, construction impacts, and daylight/sunlight impacts, and these matters are addressed elsewhere in this report. This section considers the potential overlooking, overbearing, and anti-social impacts of the proposed development.
- 8.7.2. Although primarily stated in the context of new apartment blocks, section 12.3.5.2 of the Development Plan outlines that developments should provide for acceptable separation distances. It states that a minimum clearance distance of circa 22 metres, in general, is required between opposing windows in apartments up to three storeys, while taller blocks may require a greater separation distance having regard to the layout, size, and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable. In all instances where the minimum separation distances are not met, the applicant shall submit a daylight availability analysis for the proposed development.
- 8.7.3. Consistent with the NPF preference for performance-based standards and a range of tolerance (NPO13), the Apartments Guidelines advise against blanket restrictions on building separation distance. The Guidelines highlight a need for greater flexibility in order to achieve significantly increased apartment development in Ireland's cities and points to separate guidance to planning authorities as outlined in the Building Height Guidelines. The Sustainable Residential Development Guidelines (s. 7.4) also advise that such rules regarding separation distances should be applied flexibly and that shorter separation distances can be achieved through appropriate design.
- 8.7.4. The nearest residential properties are to the south of the site at Blackthorn Court. The rear/side of these properties face towards the proposed development, although they are screened by a substantial row of mature trees/hedges. At the closest point, the rear boundaries of these properties would be c. 33 metres from Block C, while the rear windows of the existing houses would be distanced by c. 44 metres. I am satisfied that this is more than sufficient separation to avoid any significant

overlooking concerns. I note that Block C would be up to 7 storeys high as it faces the Blackthorn Court properties to the south. However, given the significant separation distances involved, I do not consider that it would result in any unacceptable overbearing impacts for these properties.

- 8.7.5. To the west of the site is the Queen of Angels Primary School. At its closest, the primary school property would be c. 27 metres from Block A, while the school buildings would be c. 70 metres. I note that several third-party submissions have outlined concerns about the privacy of pupils as a result of overlooking. However, I am satisfied that the proposed separation distance is adequate, and I do not consider that there are any reasonable grounds for child privacy/protection concerns. Block A would be 6-7 storeys at this interface, and I am satisfied that the significant separation distances would prevent any unacceptable overbearing impacts on the school property.
- 8.7.6. To the north of the site is several community facilities including the Church, Pastoral Centre, and Family Resource Centre. These buildings do not include a significant extent of glazing facing towards the proposed development and they benefit from significant separation distances of at least 30 metres. And notwithstanding the building height of Blocks A and B (up to 7 storeys), I am satisfied that the existing community facilities would not be subject to any unacceptable overlooking or overbearing impacts.
- 8.7.7. The third-party submissions also raise concerns that the proposed development would lead to an increase in anti-social behaviour associated with additional population, vacancy, littering, and loitering, and that this would depreciate property values in the area. In general, I do not consider that there can be any reasonable presumption that the nature of the proposed development would lead to such problems or that there would be any adverse impact on property values. However, the design and layout of the scheme and its potential for anti-social impacts will be considered further in section 8.11 of this report.

8.8. Daylight and Sunlight

- 8.8.1. As previously outlined, this case raises concerns about the levels of sunlight and daylight in a range of contexts, i.e. within the proposed development; for existing properties; and for future development. This section of my report assesses these matters.

Policy

- 8.8.2. Section 3.2 of the Building Height Guidelines outlines that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that '*appropriate and reasonable regard*' should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE (BR 209) 'Site Layout Planning for Daylight and Sunlight' (2nd edition, 2011) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution.
- 8.8.3. The Sustainable Urban Housing Design Standards for New Apartments Guidelines (2020) also highlight the importance of provision of acceptable levels of natural light in new apartment developments, which should be weighed up in the context of the overall quality of the design and layout of the scheme and the need to ensure an appropriate scale of urban residential development. It states that planning authorities '*should have regard*' to guidance like the BRE (BR 209, (2011)) or BS (8206-2 (2008)) standards when quantitative performance approaches are undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision. Again, where an applicant cannot fully meet these daylight provisions, this must be clearly identified and a rationale for any alternative,

compensatory design solutions must be set out, which planning authorities should apply their discretion in accepting.

- 8.8.4. The Sustainable Residential Development Guidelines (2009) highlights the importance of daylight, sunlight, and energy efficiency. It states that daylight and shadow projection diagrams should be submitted and the recommendations of “Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice” (B.R.E. 1991) or B.S. 8206 “Lighting for Buildings, Part 2 1992: Code of Practice for Daylighting” should be followed in this regard.
- 8.8.5. The Development Plan also acknowledges the importance of good levels of sunlight and daylight in relation to communal open space (s. 12.8.5.3), house design (s. 12.3), and block separation (s. 12.3.5.1). Section 12.3.4.2 requires a daylight analysis for all proposed developments of 50+ units, which should also consider the impact on existing habitable rooms. It states that development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (BRE Report, 2011) and/or any updated, or subsequent guidance.

Information & Methodology

- 8.8.6. The application is accompanied by ‘Daylight & Sunlight Assessment’ reports prepared by 3D Design Bureau (3DDB). The reports were updated and supplemented at ‘further information’ and ‘appeal’ stage. Unless otherwise stated, this section of my report considers the 3DDB report submitted in the further information response, i.e. the assessment of the revised proposal for 129 no. units.
- 8.8.7. The 3DDB report has been carried out in accordance with the recommendations of Site Layout Planning for Daylight and Sunlight, A guide to good practice (BRE, Third Edition, 2022). It also considers the European Standard for daylight within spaces (EN 17037:2018: Daylight in Buildings (2018)), as well as the subsequent Irish adoption under I.S. EN 17037:2018 (Daylight in Buildings (2018)), and the British Annex to the European Standard (BS EN 17037:2018: Daylight in Buildings (2018)).
- 8.8.8. Although the aforementioned Development Plan policy and national planning guidelines refer to earlier versions of the BRE Guidance, I note the publication of the updated (3rd) edition of the BRE Guide in June 2022. I also note that the updated British Standard (BS EN 17037:2018) replaced the 2008 BS 8206 (in the UK) and that the UK National Annex brings recommended light levels for dwellings more in

line with the former 2008 BS 8206. The British Standard has been adopted in Ireland without a National Annex.

- 8.8.9. Having regard to the above, I acknowledge that the relevant standards and guidance have gone through a transitional period in recent years. However, this has been reflected in the Development Plan which allows for flexibility by stating that development shall be guided by the principles of the BRE Report (2011) and/or any updated, or subsequent guidance. Relevant national guidance (i.e. the Building Height Guidelines and the Apartments Guidelines) also allows for flexibility in methodology by stating that regard should be taken of guidance/standards 'like' the BRE Guide (2011) or BS (8206-2 (2008)). Therefore, I am satisfied that the applicant's assessment is based on updated guidance/standards which are 'like' those referenced in national and local policy. The methodology employed for the assessment of daylight and sunlight is suitably robust and is based on documents that are considered authoritative on the issues of daylight and sunlight. Therefore, I consider it appropriate to apply these standards in my assessment.
- 8.8.10. At the outset, I would also highlight that the standards described in the BRE guide allow for flexibility in terms of their application. Paragraph 1.6 of the guide states that the advice given '*is not mandatory*', '*should not be seen as an instrument of planning policy*', and '*Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design*'. The guide notes that other factors that influence layout include considerations of views, privacy, security, access, enclosure, and microclimate etc.
- 8.8.11. In this assessment, I have considered the report submitted by the applicant and have had regard to the BRE Guide (2022), IS EN 17037:2018, and BS EN17037:2018 (including the UK National Annex). I have carried out a site inspection and had regard to the interface between the proposed development and its surroundings, as well as the submissions from 3rd parties and the reports of the planning authority.

Daylight to existing properties

- 8.8.12. Based on the BRE Guide, loss of daylight to existing dwellings is assessed by calculating Vertical Sky Component (VSC), which is the ratio of the direct sky illuminance falling on the outside of a window, to the simultaneous horizontal illuminance under an unobstructed sky. The BRE Report sets out that a VSC of 27%

should achieve enough sky light, but that electric lighting will be needed for more of the time if VSC is both less than 27% and less than 0.8 times its former value.

- 8.8.13. The applicant's assessment considers 61 no. windows in the residential properties to the south of the site (Blackthorn Court & Blackthorn Green) and 9 no. windows in the primary school to the west. It also includes a hypothetical cumulative assessment of the impacts including the development of the pub site and the DLRCC site to the east. The results outline that all windows would retain a VSC of either >27% or >0.8 times their former value. Therefore, as per BRE guidance, I am satisfied that there would be no unacceptable impacts on these properties.
- 8.8.14. The assessment also considers 10 no. windows in the existing pub building. I note that some of the windows are very small and that the baseline VSC value for 8 of these windows is already below the 27% standard. The assessment predicts major adverse impacts on 7 of those 8 windows. However, the BRE guidelines make reference to the need to consider non-residential buildings which have a '*reasonable expectation of daylight*', citing examples such as '*schools, hospitals, hotels and hostels, small workshops, and some offices*'. I would accept that pubs/restaurants do not typically rely on natural light for their operation. Therefore, consistent with the planning authority opinion, I do not consider that the daylight impacts on the existing pub building would be unacceptable.

Sunlight to existing properties

- 8.8.15. The BRE Guide recommends that loss of sunlight should be checked for main living rooms of dwellings and conservatories if they have a window facing within 90° of due south. If the centre of the window can receive more than one quarter of annual probable sunlight hours (APSH), including at least 5% of APSH in the winter months between 21 September and 21 March (WPSH), then the room should still receive enough sunlight. If the window already receives less than this, a reduction to less than 0.8 times its current value and a reduction of more than 4% of annual probable sunlight hours over the year may lead to the room it serves appearing colder and less cheerful and pleasant.
- 8.8.16. Based on these criteria, the assessment considers both the proposed and cumulative impacts on 2 no. conservatories to the rear of Blackthorn Court. I am satisfied that this adequately covers the relevant windows within reasonable

proximity of the development. For both the APSH and WPSH assessments, it demonstrates that the impacts would be in accordance with BRE guidelines, and I am satisfied that there would be no unacceptable impacts.

Loss of sunlight to existing gardens and open spaces

- 8.8.17. For existing outdoor amenity areas, the BRE guide recommends that at least half of the space should receive at least two hours of sunlight on 21st March. If, as a result of new development, the area which can receive 2 hours of sunshine on the 21st March is reduced to less than 0.8 times its former value, then the loss of sunlight is likely to be noticeable. The applicant's report acknowledges these standards and section 4.2.4 refers to the results of assessments on neighbouring gardens/amenity areas in sections 4.4.3 and 5.2.3 of the report. However, I can find no such analysis in the cited sections.
- 8.8.18. The application does include a shadow study for the 21st of March. This demonstrates that the school's outdoor amenity areas (to the west) would not experience any significant overshadowing after 9 a.m. The open space to the north of the site (adjoining the church) would experience limited shadowing in the late morning. This would be confined to the southern margins of the space where mature trees already cause shadowing. The open space to the east (DLRCC lands) would experience increasing shadow in the afternoon period but the majority of the space would benefit from unobstructed sunlight for most of the day. Having regard to the foregoing, I am that any impacts on the existing open spaces would be acceptable in accordance with BRE guidance.

Daylight to proposed habitable rooms

- 8.8.19. As per the BRE Guide (2022), the applicant's assessment uses the Spatial Daylight Autonomy (SDA) metric to assess daylight within the proposed development. It calculates SDA using the 'illuminance level' method, which requires the use of a detailed daylight calculation method where hourly (or sub-hourly) internal daylight illuminance values for a typical year are computed using hourly (or sub-hourly) sky and sun conditions derived from climate data appropriate to the site. This calculation method determines daylight provision directly from simulated illuminance values on the reference plane. The illuminance value of at least half the required area of the space should equal or exceed the target values. I would accept that this represents a

real-world scenario as it accounts for the quality of daylight based on orientation. The assessment also uses a localised EnergyPlus Weather File to apply the relevant climate information.

- 8.8.20. The BRE Guide provides target SDA values to be received across at least 50% of the working plane for at least half the daylight hours. The target values are: 200 lux for kitchens, 150 lux for living rooms, and 100 lux for bedrooms. Where rooms serve more than one function, the higher SDA target value should be taken. The applicant's assessment primarily uses these BRE criterion. It also includes a supplementary assessment of the I.S. EN 17037 criteria, i.e. at least 50% of the working plane should receive above 300 lux for at least half the daylight hours, with 95% of the working plane receiving above 100 Lux for all rooms.
- 8.8.21. The scheme of 129 no. units includes 288 no. habitable rooms. Under the criteria as set out in the BRE 209, the SDA value in 272 no. habitable rooms meet or exceed their target values in the summer and winter time calculations respectively. This gives a circa compliance rate of c.94% with summer trees & winter trees. A further assessment that does not include deciduous trees has shown a compliance rate of c.96%. In the supplementary assessment using the more rigorous I.S. EN 17037 standards, the number of rooms achieving compliance is 199, giving a reduced compliance rate of c. 63%.
- 8.8.22. The SDA for the proposed habitable rooms has also been assessed in a cumulative state including the conceptual residential blocks on the pub site and the DLRCC site to the east. Under the BRE Guide criteria, the SDA value in 267 no. habitable rooms meet or exceed their target values in the summer and winter time calculations respectively (compliance rate of 93% with summer trees & winter trees). The I.S. EN 17037 results for the cumulative state give a reduced compliance rate of c.61%.
- 8.8.23. I would acknowledge that the I.S. EN 17037 criteria are more onerous and do not account for differing room uses, unlike the BRE Guide criteria. Accordingly, I am satisfied that the BRE Guide standards are more appropriate to apply. In this case, the assessment demonstrates a compliance rate of at least 93% under a range of scenarios, including the conceptual cumulative test. I consider this to be a high rate of compliance given the inherent flexibility of the BRE Guide standards.

8.8.24. As previously outlined, the Apartments Guidelines and Building Height Guidelines provide for alternative, compensatory design solutions and discretion based on context and wider planning objectives. In this regard, I am satisfied that the application has clearly identified where the proposal does not meet the relevant daylight provisions of the BRE Guide. I am satisfied that this would constitute a minor portion of the overall development and that this would not be untypical in this type of development. And as per the Apartments Guidelines and Building Height Guidelines, the application has proposed compensatory measures for the 16 no. units which do not meet the BRE recommendations. All of these units are larger than the minimum size standards as per the Apartments Guidelines and a majority of units would benefit from attractive features such as dual-aspect units, south-facing living spaces, or oversized balconies. I am satisfied that these measures satisfactorily compensate for the limited shortfalls on the recommended daylight standards.

Sunlight to proposed living spaces

8.8.25. The 2022 BRE guide refers to BS EN17037, which recommends minimum, medium and high recommended levels for sunlight exposure. This is measured via the duration received to a point on the inside of a window on a selected date (21st March) and gives a minimum target of 1.5 hours, medium target of 3 hours, and high target of 4 hours. Section 3.1 of the Guide outlines that a dwelling will appear reasonably sunlit if it has at least one main window facing within 90° of due south and a habitable room, preferably a main living room, can receive at least 1.5 hours of sunlight on 21st March. It does not set the percentage of units that need achieve the recommendations but does give an example of a well-designed floor layout where 4 out of 5 (80%) units in an apartment building would achieve the target sunlight.

8.8.26. The applicant's results show that the level of sunlight exposure for 73 no. units is considered 'high', 16 no. 'medium', 4 no. 'minimum', while 36 no. units would be below the 'minimum' recommendation. Accordingly, c. 72% of the proposed units meet the minimum criteria for sunlight exposure as set out in the BRE Guidelines.

8.8.27. As is outlined in the applicant's report, I would acknowledge that the BRE recommendations are intended to be applied flexibly and that sunlight criteria are unlikely to be met for all apartments, particularly where rooms face significantly north of due east or west and where higher density schemes are proposed. However, the

fact that 28% of the units would not meet the minimum sunlight recommendations is significant and, in my opinion, is reflective of the design challenges associated with this scheme.

Sunlight to proposed open spaces

- 8.8.28. The BRE Guide recommends that at least half of the proposed space should receive at least two hours of sunlight on 21st March. The applicant's assessment considers 2 such spaces, i.e. the main rooftop/podium space and the small open space serving Block B. It outlines that 74.5% of the podium space and 67.5% of the Block B space would receive at least two hours of sunlight on 21st March, thereby complying with BRE recommendations.
- 8.8.29. The applicant's assessment does not specifically refer to the other communal open space serving Block A. However, according to the coloured 'sunlight hours' diagram (p. 147 of the report), it is clear that this space would fall significantly short of the BRE recommendations, receiving practically no sunlight. In addition to this, the diagram shows that the central ground level pedestrian route (north-south) through the site would be subject to similarly limited levels of sunlight. I acknowledge that this is not strictly an amenity/open space within the meaning of the BRE Guide, but it is nonetheless indicative of the substandard levels of sunlight available in the main ground-level open space within the proposed development.

Potential Development of Adjoining Sites

- 8.8.30. The appeal includes a detailed daylight and sunlight assessment of a conceptual development for the pub site. The main results of the assessment can be summarised as follows:
- It is feasible to design a scheme where all rooms would comply with the BRE recommendations for SDA and sunlight exposure.
 - Only 33% of the conceptual 1st floor outdoor amenity area would achieve the recommended 2 hours of sunlight, thereby failing to meet the recommended 50%. An analysis of average sun hours throughout the year contends that the space would receive favourable levels of sunlight during the summer months. A revised assessment has also been completed incorporating the amendments to the scheme as suggested in the appeal submission. Under these amendments, it

is outlined that 62.19% of the space would achieve the recommended 2 hours of sunlight, thereby exceeding the recommended 50%.

- Even with the suggested amendments, I note that the communal space serving Block A and the ground level pedestrian route would still be subject to minimal levels of sunlight.

- 8.8.31. The appeal submission also includes a VSC study for the western façade of a conceptual development on the DLRCC lands to the east. The conceptual proposal includes non-residential uses on the ground floor and residential uses on the other upper floors. In terms of the impact of the proposed development (129 no. units), it demonstrates that the 1st floor level would have a VSC of >20% with a significant portion being >25%. And apart from a minor portion of the 2nd floor level, all other upper floor levels would have a VSC of >27% in accordance with BRE guidelines. The study also considers the potential impact of the revised scheme submitted with the appeal, including the reduced heights of Blocks B & C and the podium level. This would result in marginal improvements in VSC values. I note that the lowest VSC values would occur on the right-hand side of the western façade, where there is potential for design solutions through the incorporation of dual-aspect units.
- 8.8.32. In conclusion regarding the adjoining sites, I would highlight that the application and appeal details illustrate only a conceptual approach. Any redevelopment proposal for these sites would be subject to detailed design and assessment. I consider that the applicant has demonstrated reasonable evidence that the sites can be developed with acceptable levels of daylight and sunlight, and I do not consider that a refusal of permission would be warranted on this basis.

Conclusions on Daylight and Sunlight

- 8.8.33. In conclusion, I would again acknowledge that the standards described in the BRE guidelines allow for flexibility in terms of their application. And while the Apartments Guidelines and the Building Height Guidelines state that appropriate and reasonable regard should be had to the quantitative approaches as set out in guides like those referenced in this section of my report, where it has been identified that a proposal does not fully meet the requirements of the daylight provisions and a rationale for alternative, compensatory design solutions has been set out, the Board can apply

discretion having regard to local factors including site constraints and the need to secure wider planning objectives.

- 8.8.34. I have considered the issues raised by the planning authority and 3rd party submissions in carrying out this daylight/sunlight assessment, including concerns about impacts on the pub site, the DLRCC site to the east, surrounding properties, and sunlight levels within the proposed apartments. I am satisfied that the applicant has carried out a competent assessment of impacts on the proposed development and neighbouring properties in accordance with the relevant guidance and methodology.
- 8.8.35. I have considered the potential daylight and sunlight impacts to existing properties, as well as the sunlight impacts to existing gardens/amenity areas. Having regard to the foregoing assessment, I am satisfied that there would be no unacceptable impacts in this regard.
- 8.8.36. I have also considered the development potential of the pub site and the DLRCC lands to the east. Having regard to the conceptual proposals submitted at this stage, I consider that the applicant has demonstrated reasonable evidence that the sites can be developed with acceptable levels of daylight and sunlight, and I do not consider that a refusal of permission would be warranted on this basis.
- 8.8.37. Regarding the performance of the proposed development, I have acknowledged the instances where the relevant recommendations and standards for daylight within the proposed habitable spaces are not fully met. Having regard to the relatively minor scale of non-compliance; the accessible location of the site; and the inclusion of alternative compensatory design solutions; I consider that the daylight standards for the proposed development would not result in any unacceptable impacts.
- 8.8.38. However, I do have concerns about the levels of sunlight within the proposed development. A significant 28% of the total units would not meet the minimum sunlight recommendations and there would be only minimal sunlight levels to some central open spaces, i.e. the 1st floor communal space serving Block A and the central pedestrian route (north-south) through the site. These concerns will be considered in the wider assessment of the proposed development.

8.9. Social/Community Infrastructure & Public Open Space

8.9.1. In this report I have outlined concerns raised by third parties about a lack of adequate social and community facilities in the vicinity of the site, as well as the impact of the proposed development on the operation of existing facilities. Concerns have also been raised about the absence of public open space and childcare facilities within the proposed development. It should be noted that, subject to the payment of a financial contribution towards public open space, the planning authority did not have any significant objections in this regard.

8.9.2. While the impacts of the proposed development on the operation of existing facilities have been addressed in other sections of my report, this section considers the adequacy of such facilities within the proposed development and the impact on the capacity of other facilities in the wider surrounding area (1.5km radius). In this regard, I note that the application includes a 'Community & Social Facilities Audit' (CSFA). The audit outlines an analysis of the area and its demographics and considers the impact of the development on existing facilities in a range of categories. It should be noted that the audit is based on the proposed development including 165 no. units rather than the significantly reduced proposal for 129 no. units.

Community & Social Facilities

8.9.3. The CSFA includes youth services, local authority offices, welfare services, libraries, Garda and fire stations, and community services in this category. It outlines the existence of 7 such facilities within the catchment, including the post office and Balally Family Resource Centre within/adjoining the site, as well as local Community Centres at Sandyford and Furry Hill. In addition to this, I note that the proposed development would include a new facility (165m²) for the wider community use.

Open Space, Sport, & Recreation

8.9.4. The CSFA highlights larger parks within the catchment area such as Blackthorn Park and Airfield Estate. In total, it refers to 23 facilities including a range of parks, sports clubs, and gyms.

8.9.5. There would be no public open space within the proposed development itself. While section 12.8.3.1 of the CDP outlines that public open space is required as a

minimum 15% of the site area, the CDP acknowledges that this standard may not be possible in all instances and that a financial contribution in lieu of any shortfall may be accepted. In the event of a grant of permission in this case, the planning authority has outlined that the payment of a special contribution towards the upgrade of the recently developed Fernhill Park and Gardens (regional park) would be acceptable.

- 8.9.6. The Board should note that the planning authority's suggested solution (i.e. a special contribution) would be governed by section 48(2)(c) of the Planning and Development Act 2000, as amended. This provision allows for special contributions where specific exceptional costs not covered by a development contribution scheme are incurred by a local authority in respect of public infrastructure and facilities which benefit the proposed development. Section 48(12) also outlines that any such condition shall specify the particular works carried out, or proposed to be carried out, by any local authority to which the contribution relates.
- 8.9.7. Further guidance is contained in the Development Management Guidelines for Planning Authorities (DoEHLG, 2007). This states that it is essential that the basis for the calculation of the special contribution should be explained in the planning decision. This means that it will be necessary to identify the nature/scope of works, the expenditure involved and the basis for the calculation, including how it is apportioned to the particular development. Circumstances which might warrant the attachment of a special contribution condition would include where the costs are incurred directly as a result of, or in order to facilitate, the development in question and are properly attributable to it.
- 8.9.8. The requirement for 15% public open space is a general and standard provision of the CDP and the planning authority has not specified/calculated the particular works that a special contribution may fund. I estimate that Fernhill Park is located c. 2.5km from the appeal site and is not, therefore, within reasonable walking distance. It is a regional park which is intended to serve a wider catchment area, and I do not consider that it could be reasonably argued that costs for the park are incurred directly as a result of, or in order to facilitate, the development in question. Having regard to the legislation and guidance on special contributions, I do not consider that the basis for a special contribution (under s.48 (2)(c)) would be warranted on the basis that it would be neither 'specific' nor 'exceptional'. And, as outlined in the

following paragraph, such costs are already covered under the 'normal' development contribution scheme.

- 8.9.9. The DLRCC Development Contribution Scheme 2023-2028 is the operating scheme in this case. Section 6 of the scheme outlines that contributions in lieu of Public Open Space would be charged at a rate of €7.5m per hectare on a *pro rata* basis. Having regard to the foregoing and in the event that permission is granted, I consider that the shortfall in public open space in this case (i.e. 0.1255ha (15% of the net site area)) could only be charged under the normal section 48 Development Contribution Scheme.
- 8.9.10. However, I do not consider that a contribution in lieu is suitable in all cases, particularly not when zero public open space is proposed (as opposed to a 'shortfall' in the full requirement). And similar to the matter of communal open space, I consider that the absence of any public open space in this case is a direct result of the proposal to retain the existing buildings and perimeter parking on site. I consider that this seriously detracts from the functionality and attractiveness of the scheme, as will be discussed further in section 8.11 of this report.

Education

- 8.9.11. The CSFA outlines that there are 7 primary schools (including the school directly west of the site) within the 1.5km radius, which cater for 2,459 pupils. There are 4 post-primary schools catering for 2,682 pupils. Based on a maximum capacity of the development of 432.5 persons and Department of Education methodology for calculating school demand, the CSFA estimates that the school-going population to be accommodated would be 52 no. primary pupils and 37 no. secondary pupils. I note that this would represent an increase on the existing enrolments of just 2% and 1.4% respectively, which I do not consider to be significant and would be even lower as a result of reduction to 129 no. apartments. I would also acknowledge the BTR nature of the development and the absence of 3-bed+ units, and I accept that this would be likely to generate a lower demand for school places. Furthermore, I would accept that Department of Education forecasts outline that primary school enrolments will continue to decline up to 2033, while post-primary enrolments will decline after 2024.

8.9.12. Ultimately, I consider that the statutory plan-making process is the preferred instrument to assess and identify school requirements. Under the 'Agreed Actions' of the 'Provision of Schools and the Planning System, A Code of Practice for Planning Authorities, the Department of Education and Science, and the Department of the Environment, Heritage and Local Government (2008), planning authorities should identify suitable lands, policies and objectives for school requirements under statutory plans in consultation with the Department of Education. The CDP identifies two such sites within 1.5km of the application site and it is reasonable to expect that these sites will be subject to ongoing planning to cater for future demand as part of the 'Large Scale School Building Programme'.

8.9.13. In terms of the Development Management process, I acknowledge that the Code of Practice highlights the potential requirement for major housing proposals to be accompanied by school capacity assessments. I am satisfied that this has been complied with in the current application, albeit that the nature and scale of this BTR development would not be likely to create a major or unacceptable increase in school demand.

Childcare

8.9.14. Appendix 3 of the CSFA outlines an assessment of childcare facilities. It outlines that there are 19 no. childcare facilities in the study area providing a range of services from full day to sessional for a range of age profiles with a cumulative capacity for 943 no. children. It bases childcare requirements on the 56 no. 2-bed units only, as advised in the Apartments Guidelines. Using the Guidelines on Childcare Facilities recommendation of 20 spaces for every 75 dwellings, it calculates a requirement for 15 no. childcare spaces. This would represent an increase of just 1.6% on the existing capacity, which I do not consider to be significant and would be even lower as a result of the further information response involving just 43 no. 2-bed apartments. I would also acknowledge the BTR nature of the development, and I accept that this would be likely to generate a lower proportion of childcare needs.

Other Facilities

8.9.15. The CSFA outlines a wide range of other existing facilities within certain categories, as summarised in the following table.

Table 7 – Other Social/Community Facilities

Category	No. of facilities	Range of Facilities
Healthcare	16	Health centres, pharmacies, GP's, dentists, Beacon Hospital, and Balally Medical Centre.
Religious	5	Churches catering for various faiths.
Cultural	2	National Sport & Science Centre, Airfield Gardens and Estate.
Retail	10	From local services to larger centres including Dundrum Town Centre and Beacon South Quarter.

Conclusion

8.9.16. In conclusion, I have acknowledged the third-party concerns and I accept the importance of balancing social and community infrastructure needs with new residential development. Having regard to the nature and scale of the proposed development and the extent of existing and planned social and community facilities in the area, I am generally satisfied that the proposed development would not create an excessive or unacceptable demand for social and community facilities. However, I do consider that the quality of the scheme suffers from the absence of any public open space or suitable compensatory provisions in the vicinity of the site.

8.10. Construction Impacts

8.10.1. I have outlined the concerns raised by third parties and the planning authority in relation to the construction phase impacts on surrounding properties, services, and infrastructure. In particular, I note that the decision to refuse permission cited concerns about noise and air pollution associated with the basement excavation/construction and the impacts on the existing retail and services within/adjoining the site. The application and appeal proposals aim to address the construction stage impacts, including an Outline Construction Management Plan (CMP), an Outline Construction Environmental Management Plan (CEMP), and a Resource & Demolition Waste Management Plan (RDWMP) which includes a Traffic Management Plan. The proposals can be summarised under the following headings.

Noise/Vibration

8.10.2. I note that the Traynor Environmental Ltd. response to the further information request considers the impacts on surrounding noise sensitive locations (NSLs). It predicts indicative noise levels with mitigation measures in place and concludes that levels would not exceed the TII limit of 75 dB LAeq during all construction phases.

8.10.3. The appeal submission identifies site clearance and excavation works as the most significant noise/vibration generating activities. The following mitigation measures are proposed in accordance with BS 52218-1:2009: Noise Control on Construction and Open Sites and the DLR Good Practice Guide for Construction and Demolition Environmental Management.

- Construction plant with low noise/vibration.
- Barriers will be erected around noisy plant etc.
- 2.4m acoustic hoarding around the works areas (potentially increased to 3m).
- Noisy/vibratory plant will be distanced from sensitive receptors.
- Levels will be monitored and reported at sensitive periods/locations.
- High emissions will be limited to certain hours of the day.
- Access roads will be kept even to limit emissions from lorries.
- A saw attachment could be used instead of a rock breaker, thereby reducing the time needed for rock breaking.
- Use of dampers for rock breaking equipment.
- Communication strategy with the local authority and local residents/stakeholders, including a site representative and a complaints procedure.

Air

8.10.4. A dust minimisation plan will be formulated, and monitoring stations will be set up in accordance with the Bergerhoff method and EPA Guidelines. The following measures are proposed:

- Water spraying attachments fixed to all rock breaking equipment.
- Roads will be regularly cleaned and watered.
- Vehicle loads will be suitably covered.
- A wheel wash facility will be established.

- Stockpiled materials shall be watered and designed to minimise wind exposure.
- Dust will be monitored, and procedures will be established to deal with problems.

Traffic Management

8.10.5. The RDWMP details an Outline Construction Traffic Management Plan (CTMP). The main provisions of the plan can be summarised as follows:

- Access/exit will be via Cedar Road, Blackthorn Drive, Dunmartin Link Road, M50.
- The contract will be required to agree plans with DLRCC; communicate plans to all staff/sub-contractors; schedule and monitor traffic; minimise movements during park hours; provide on-site parking; and appoint a Traffic Management Co-ordinator.
- Control and monitoring of compliance with traffic restrictions.
- Schedule and control vehicle access along Cedar Road.
- Prohibit any parking or loading/unloading on local access routes.
- Carry out monthly traffic co-ordination meetings.
- Maintain access for emergency vehicles.
- Avoid any damage to roads, surfaces, structures and other assets.

Preservation of retail/services

8.10.6. The application outlines a commitment to working with the local community and businesses to minimise disruption and maintain access to the existing retail units and services in accordance with the broader objectives for the neighbourhood centre. The applicant acknowledges the importance of the local church and school and contends that the mitigation measures (including a community liaison officer) demonstrate commitment to ensuring that the construction activities do not disrupt the existing uses within and adjacent to the site. In this regard, I note that the Outline CMP sets out a detailed construction and phasing strategy with access and parking arrangements to ensure that the commercial units remain open for the duration of the works.

Other Issues

8.10.7. In addition to the issues addressed by the applicant as outlined above, the third-party submissions raise several other construction-related concerns. In response to these matters, I would state the following:

- Questions about the potential use of sub-standard materials; the structural stability of the proposed development; or compliance with health and safety requirements; are not a matter to be adjudicated in the planning process.
- There is no reasonable evidence to suggest that the proposed development would result in structural damage to any adjoining properties or assets. Basement construction is a common and successful element of urban development subject to suitable methodology. It would be the developer's responsibility to prevent any damage and any such event would be a civil matter for resolution between the relevant parties.
- The RDWMP outlines pest control proposals to include the potential for vermin infestation. I am satisfied that these proposals are suitable and in accordance with standard construction procedures.
- Regarding the potential for contamination, I consider that the RDWMP suitably addresses the potential for hazardous waste/soil and spillage of contaminants, while the CEMP and the Hydrological and Hydrogeological Risk Assessment (HHRA) include suitable measures to protect water quality.
- I note the concerns about the duration of the proposed 7-year permission. However, it should be noted that this should not affect the duration of the actual works which are reasonably predicted to last 24-30 months.
- There is no indication that there would be any blasting of the underlying granite and this matter could be clarified through a condition of any permission.
- There is no reasonable evidence to conclude that the proposed development may be left unfinished.
- I am satisfied that any permission would include suitable conditions to regulate the hours of working and traffic movements associated with the works.

Assessment and Conclusion

- 8.10.8. The construction stage of any urban project inevitably results in some level of disturbance and disruption for surrounding properties/users as a result of traffic and parking, noise & vibration, excavation, and dust & dirt impacts. These are common and accepted impacts which are clearly temporary in nature. In this case, I would accept that the impacts are particularly challenging given the proposal to retain the existing commercial units, the close proximity of the adjoining pub site, and the presence of community facilities and residential properties in the surrounding area.
- 8.10.9. I note that significant concerns have been raised about the basement construction and the excavation of underlying granite. However, it should be noted that this is the case for a wide surrounding area, including the Sandyford Business Park where basement excavation has been common. Accordingly, I do not consider that there should be any objection to the principle of basement construction in this case.
- 8.10.10. Regarding the protection of the existing neighbourhood centre, it is my opinion that, as a starting point, the redevelopment of this site should be encouraged in the interests of the proper planning and sustainable development of the area. And in principle, I consider that the inclusion of underground parking and higher-density residential development would be appropriate. I would accept that this would result in significant temporary disruption for the existing commercial units on site and their customers. However, if the site is to be redeveloped as is appropriate, I would suggest that such disruption is inevitable but acceptable in the long-term.
- 8.10.11. As previously outlined, the application includes outline proposals for a Construction Management Plan, a Construction Environmental Management Plan, a Resource and Demolition Waste Management Plan, and a Construction Traffic Management Plan. I would accept that such proposals are only preliminary and can only reasonably be finalised pending the appointment of a contractor and agreement of construction methodologies. This is an established and accepted procedural approach. Therefore, for the purposes of this planning consent stage, I am satisfied that the application appropriately addresses the relevant matters and outlines a satisfactory approach to mitigate any unacceptable construction impacts on surrounding properties/users. In the event of a grant of permission, I consider it acceptable that the that final details of same would be agreed by condition with the

planning authority. It should be noted that the technical reports of the planning authority did not object to the agreement of such details by condition.

8.11. Design, Layout, Visual Amenity and Character

- 8.11.1. I note that third-party submissions have outlined particular concerns in relation to the height and density of the development. As previously outlined in section 8.3 of this report, the planning authority highlighted problematic heights in certain locations insofar as they impact on the current/future amenities of adjacent sites, but ultimately concluded that the proposed height is not in contravention of the Building Height Strategy (BHS). And while the planning authority applied Policy BHS 3 (i.e. for residual suburban areas), I have concluded that Policy BHS 1 applies (i.e. for sites within 1000 metre/10-minute walk band of a LUAS stop). In any case, both BHS 1 and BHS 3 allow for the consideration of *'increased height and/or taller buildings'* subject to compliance with the criteria outlined in Table 5.1 of the BHS.
- 8.11.2. The Development Plan BHS has been prepared having regard to the provisions of the national Building Height Guidelines and the performance criteria outlined in Table 5.1 satisfactorily incorporates the criteria associated with SPPR 3 and section 3.1 of the Guidelines. Accordingly, I am satisfied that questions relating to building height, visual amenity and character will be suitably addressed with reference to the BHS (Table 5.1) criteria as outlined in the following table.

Table 8 – Assessment of BHS (Table 5.1) Criteria

At County Level	
Criterion	Assessment
NPF Objectives	Following on from sections 8.2 and 8.3 of this report, I consider that the principle of the proposal on a brownfield site, within close proximity to a significant employment location (Sandyford Business Park), would assist in securing objectives regarding key urban centres, brownfield development, and compact growth.
Public Transport	As outlined in sections 8.3 and 8.4 of this report, I am satisfied that the site is well served by public transport with high capacity, frequent service, and good links to other modes of public transport.

<p>Character and Public Realm</p>	<p>The further information response included an updated Landscape (Townscape) Visual Assessment (LTVA) and Verified Views which consider the impact (summer and winter) of the original proposal (7-8 storeys), the further information proposal (6-7 storeys), and the cumulative impacts of the other potential masterplan developments. Unless otherwise stated, my assessment considers the further information proposal. The LTVA considers the Verified Views from 10 points in the surrounding area.</p> <p>Views 1, 2, and 10 are close views from the north of the site. Although the upper levels would be visible, the proposal would largely be screened by existing trees (particularly in the summer) and other development.</p> <p>Views 6, 7, and 8 are close views from the south and west of the site. View 6 shows that the proposal would form a significant presence from Moreen Avenue, albeit one which is significantly improved compared to the original application. Views 7 & 8 would again benefit from substantial screening, while View 8 also shows that the proposed height and scale would integrate with Sandyford Business Park to the east.</p> <p>The remaining views (3, 4, 5, & 9) are taken from more distant locations. View 3 shows that the proposal would form a significant presence in the context of the mountains in the background, albeit one which is comparable to existing development in Sandyford. View 4 demonstrates the consistency of the proposal with existing development in Sandyford. View 5 illustrates the significant height and scale of the development to the rear of Blackthorn Court, as well as its consistency with development in Sandyford. In View 9, the proposal would be substantially screened by existing trees and development.</p> <p>In conclusion, I consider that this case effectively questions the suitability of the proposed development in the differing contexts of the lower height/density of the established residential area and the increased height/density of the emerging Sandyford area. I acknowledge that the proposed development would be of a significantly different character to the mature residential area.</p>
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	<p>However, having regard to the significant separation distances involved; the designation of the site as a neighbourhood centre; and the consistency of the proposal with the emerging character of the Sandyford area; I am satisfied that the proposed height and scale would provide a suitable landmark focus for the neighbourhood centre and would provide an appropriate transition between the mature residential area and the modern development at Sandyford.</p> <p>Regarding the other requirements of Table 5.1, I note that the application was accompanied by an Architectural Design Statement, and that the applicant's TTA, Quality Audit, and associated drawings address the requirements of DMURS.</p>
Views and Prospects	<p>Table 8.1 of the Development Plan outlines the views and prospects to be preserved. The proposed development would not interfere with any of these. There are instances where the development would break the skyline and/or form a significant presence in the context of another feature (e.g. the mountains in the background of View 3). However, I consider that these instances would be limited and would not unacceptably detract from landscape/townscape character.</p>
Infrastructural Capacity	<p>As per sections 8.4 and 8.9 of this report, I am satisfied with the capacity of transport infrastructure and social/community infrastructure respectively. The planning authority has not raised any objections with regard to drainage and water services and I note that Irish Water correspondence has confirmed the feasibility of the proposal in respect of water supply and wastewater disposal.</p>
At District/Neighbourhood/Street Level	
Response to natural and built environment and contribution to neighbourhood / streetscape	<p>Table 5.1 of the BHS outlines the need to demonstrate compliance with the 12 criteria set out in the Urban Design Manual of the Sustainable Residential Development Guidelines, as well as DMURS.</p> <p><u>Context:</u> As previously outlined, having regard to the zoning of the site and the evolving nature of the area, I consider that the proposed development provides a suitable transition in its varying context. The increased height and density would be suitably distanced from neighbouring users. The form and architecture have been informed</p>

by the emerging character of modern development. In the wider townscape/landscape, I consider that the proposal would form a landmark feature which would positively contribute to the character and identity of the neighbourhood. However, as will be discussed, there are significant concerns about the suitability of the development at neighbourhood/street level and its integration with existing development.

Connections: The scheme includes a range of pedestrian/cycle connections within and around the site. However, I would have serious concerns about the attractiveness of the main route through the site given that it is narrow, enclosed, partially covered, and largely overshadowed, while the site perimeter remains largely dominated by vehicular access/parking. I acknowledge that the development would be within a mixed-use centre and would benefit from close connections to these services. Provision has been made to facilitate existing bus services to the south of the site. And while those services are limited in frequency, the site is in close proximity to the Luas service and the proposed density would support efficient public transport. The site is also close to employment locations and other social/community services.

Inclusivity: As outlined in sections 8.2 and 8.6 of this report, the proposed development would provide a mix of units that would add diversity to the existing housing stock. However, there would be no communal space at ground level and the main podium space would not be easily accessible from Block B. No public open space has been included, which seriously detracts from the accessibility and attractiveness of the scheme for the wider neighbourhood. The proposed development would be largely surrounded by parking/vehicular access, which creates barriers and fails to provide a positive aspect to passers-by.

Variety: In principle, I am satisfied that the proposal would retain a suitable mix of uses on the site and would integrate with other uses in the surrounding area. However, having regard to the absence of public open space and the substandard quality of linkages around and through the site, together with the absence of public open

	<p>space, I do not consider that the proposal would improve the attractiveness of the existing uses on site.</p> <p><u>Efficiency</u>: The proposed higher density would be a more efficient use of this underutilised site in an accessible intermediate urban location. The proposal incorporates SuDS drainage principles, and the Operational Waste Management Plan outlines suitable recycling proposals. The communal areas would be landscaped for amenity/biodiversity purposes and to protect from elements such as wind. However, as outlined in section 8.8 of this report, I have concerns about the low levels of sunlight available to apartments and the ground level pedestrian routes within the development.</p> <p><u>Distinctiveness</u>: The proposals would be significantly different to the mature housing in the area and would provide a recognisable landmark feature in the wider landscape. However, at the more localised neighbourhood/street level, I do not consider that it would be a positive addition (see below for further details). The retention of the existing buildings presents a significant challenge to the quality of the design/layout and the site does not benefit from significant ecological features. The proposed scheme would be quite enclosed, with limited views into and out of the site. And while the retention of the existing units aims to reinforce the role of the existing centre, I do not consider that there is a discernible focal point of suitable quality within the scheme.</p> <p><u>Layout</u>: As previously outlined, I am not satisfied with the quality of the connections around and within the site. The retained building line for the existing units will remain significantly setback from the surrounding roads/streets and will be surrounded by the proposed parking and internal access routes. Furthermore, the southern aspect of the development (at street level) will be significantly compromised by Block C and the associated under-croft, which would fail to positively contribute to the streetscape. Block A and the proposed communal building/basement entrance would similarly obscure the northern aspect of the commercial units and there is only limited active frontage to the east or west sides of the scheme.</p>
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	<p>Accordingly, the proposed scheme would not create appropriate active frontage at the street level perimeter. It would be dominated by the surrounding vehicular access/parking arrangements and the internal elements of the layout would be excessively enclosed without any public or communal amenity areas.</p> <p><u>Public Realm</u>: Significant portions of the scheme would be covered, including the under-croft of Block C; part of the north-south route between Block A and the supermarket; and the east-west route under Block A. These areas would not be suitably overlooked by the proposed apartments. The routes through the site are quite restricted and poorly aligned, which does not provide for suitable visibility and security. As previously outlined, I have concerns about the absence of any communal or public amenity space at ground level and I do not consider that the roads and parking areas have been suitably designed as an element of the public realm.</p> <p><u>Adaptability</u>: I note that the apartments would be fully accessible, and all exceed the minimum size standards as per the Apartments Guidelines. They would be energy-efficient and designed in compliance with Technical Guidance Document L - Conservation of Fuel and Energy – Dwellings (2022) in response to the challenges anticipated from a changing climate. A Building Lifecycle Report has been prepared and includes an assessment of long-term running and maintenance costs. And as demonstrated in the appeal submission, I am satisfied that the layout could be easily adapted to provide for a different mix of unit types.</p> <p><u>Privacy & Amenity</u>: As previously outlined, I am satisfied that the apartments would be provided with suitable standards of private amenity space, dual aspect, acoustic insulation, privacy, and storage. However, I have outstanding concerns about a lack of accessibility between Block B and the main communal space; a lack of ground level communal/public open space; the substandard outlook for some apartments at the lower levels of Blocks B & C; and the low level of sunlight afforded to the apartments and ground level open spaces.</p>
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	<p><u>Parking</u>: I would have no objections to the proposed arrangements in respect of convenience and security. However, I consider that the surface parking arrangements effectively form an inappropriate barrier around the site perimeter which significantly detracts from the accessibility, vitality, legibility, and attractiveness of the scheme.</p> <p><u>Detailed Design</u>: In the wider design context, I would have no objection to the height, scale, form, and materials proposed. However, As outlined above, I have serious concerns about the street-level design and layout of the development, including a lack in quantity and quality of open spaces, a lack of active street frontage, and a substandard environment for prospective residents/users.</p>
Building Form	While I would have concerns in relation to the excessive form and bulk of the original design proposal (particularly Block A), I am satisfied that the further information response introduced lower heights and a greater variety of building height, form, massing, and articulation, which combine to avoid a monolithic appearance.
Materials	The elevations mainly include either a light grey or buff coloured brick. Further variety is provided in the form of opaque glazing, metal cladding, and a planted wall to the east façade of the existing shopping centre. A Building Lifecycle Report has been prepared outlining the durability and details of materials to be used. I am satisfied that the quality of the proposed materials would be acceptable.
Public spaces, thoroughfares, and water frontage.	As previously outlined regarding the substandard design and layout of the proposal at street level, I do not consider that it would enhance the urban design context for public spaces or key thoroughfares around or within the site. There is no water frontage within or adjoining the site.
Legibility	As outlined in response to the Urban Design Manual criteria above, I do not consider that the proposal would create an acceptable interface at street level, or that it would create a suitable standard of public realm. Accordingly, it would not make a positive contribution to the improvement of legibility through the site.

Mix of Uses / Buildings	As outlined in response to the Urban Design Manual criteria above, I am satisfied with the proposed mix of uses and building/dwelling typologies.
Enclosure	As outlined in response to the Urban Design Manual criteria above, there is no public/communal amenity space at ground level and the main route/street through the site suffers from excessive enclosure and inadequate sunlight levels.
Urban Grain	As outlined in response to the Urban Design Manual criteria above, the substandard street/ground level design lacks any communal/amenity space and the main routes through the site are inadequately designed. There would be a lack of active frontage and the public realm would not be attractive or secure. This would not provide a suitable environment for human contact at the most important level of the scheme.
Character and Identity	As outlined in response to the Urban Design Manual criteria above, I would acknowledge the contribution at the wider townscape/landscape level, but I do not consider that there would be a positive contribution at the more localised neighbourhood/street level.
Neighbouring Properties	In general, I am satisfied that there would be no unacceptable impacts on surrounding properties. At ground level, there are challenges regarding the integration of the development with the existing pub site and the DLRCC lands to the east, and clarification would be required on these relationships.
At Site/Building Scale	
Daylight, ventilation, views, and sunlight	As outlined in section 8.8 of this report, I have no objection in relation to daylight impacts, but I consider that the levels of sunlight to apartments, the communal space serving Block A, and the ground level pedestrian routes is substandard. I would have no objections regarding ventilation or the dual aspect arrangements/views within the apartments.
BRE Guidance on Daylight and Sunlight	See above.

Overlooking, overbearing, overshadowing	As outlined in sections 8.5, 8.7, and 8.8 of this report, I do not consider that there would be any such unacceptable effects on adjoining properties.
Built Heritage	There are no ACAs or Protected Structures in the vicinity of the site and the proposal would have no significant impacts in this regard.
Carbon Emissions	The application includes a Sustainability Report / Energy Statement. A DEAP analysis of the residential units and a Thermal Dynamic Simulation Model of the other communal areas has been carried out. These demonstrate compliance with the domestic Building Regulations Part L and that the targeted Building Energy Ratings (BERs) of A3 (or better) will be achieved.
County Specific Criteria	
Coastal Character	The proposed development will not impact on the character of the coastline or its architectural heritage.
Mountain Landscape	I have acknowledged the localised impact on View 3, but I do not consider that the impact would seriously detract from the landscape.
Specific Requirements	The application contains sufficient information for the purposes of this appeal and pre-planning requirements have been addressed.
Microclimatic Impacts	In addition to the sunlight/daylight assessment, a Wind Impact Assessment / Pedestrian Comfort Analysis has been completed. It demonstrates that the wind environment will be suitable for the intended use of each area/building and would not introduce any critical impact on surrounding buildings/areas.
Flight Lines	Consistent with the applicant's Ecological Impact Assessment, I would accept that the site is not located within a sensitive area in terms of bird flight paths. The buildings are of limited height compared to migratory flight paths and the facades are varied to minimise collision risk. Bat activity is low in the area and the heterogeneous composition of the building facades will not present a significant bat collision risk. Building lighting would be minimised to ensure that there would be no significant increase or ecological impacts.

Telecommunication Channels	The application includes a Telecommunications Impact Assessment Report. Contrary to some third-party concerns, there is no evidence of a concentration of radio wave transmitting devices in the area. I am satisfied with the report findings that the proposed development would not impact on any existing channels.
Safe air navigation	I would accept that the site is not located within any public safety or noise zones and that the proposed development would not impact on the safe navigation of aircraft.
Environmental Assessments	As addressed elsewhere in this report, the application includes an AA Screening Report, an EIA Screening Report, and an Ecological Impact Assessment. A Statement in accordance with Article 103(1A) of the Planning Regulations has also been prepared to outline how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account.
Additional criteria for larger redevelopment sites with taller buildings	
Place Making	Consistent with the planning authority's view, I do not consider that this would represent a 'larger' site. However, I have previously outlined my concerns about an inadequate contribution to 'place making' and a substandard level of sunlight to apartments and some open spaces.
BRE standards for daylight and sunlight	

8.11.3. Having regard to Table 8 above, I would have no objection in principle to the height and scale of the development and its impacts on the wider townscape/landscape character. However, I would have serious concerns about the quantity and quality of open space within the site, the lack of suitable frontage/interface around the site perimeter, and the substandard environment that would be created at ground/street level. The proposals would fail to comply with the criteria outlined in Table 5.1 of the Development Plan BHS, would not provide a suitable level of amenity for prospective residents and other users, and would not adequately contribute to place making or the character of the neighbourhood centre.

8.11.4. I note that section 12.6.1 of the Development Plan also outlines criteria for the assessment of development proposals in Neighbourhood Centres. However, I am satisfied that the relevant criteria have been suitably covered with reference to Table 5.1 of the BHS. In conclusion, the proposed development would not create a high-quality public realm and sense of place. And while the retention of existing units would, in principle, retain a suitable mix of uses, I am not satisfied that the viability and vitality of the centre would be adequately protected as a result of the substandard design and layout of the scheme. Accordingly, I would support the planning authority view that the proposal would be contrary to Development Plan Policy Objectives MFC1, MFC3, and RET7.

8.11.5. I acknowledge that some of my concerns have not been specifically cited in the planning authority's reasons for refusal. However, consistent with refusal reason no. 1, my concerns stem primarily from a failure to appropriately integrate with existing development within and adjoining the site. I consider that this has substantially contributed to the substandard layout and design and non-compliance with Development Plan Policy Objectives MFC1, MFC3, and RET7, and I am satisfied that the first-party appeal has *inter alia* attempted to address these matters. Accordingly, it is my view that my concerns would be generally consistent with refusal reason no. 1 and would not constitute new issues in the context of this appeal.

8.12. **Ecology & Biodiversity**

8.12.1. The third-party submissions raise some concerns about the disturbance of vegetation/trees and open space and the potential for adverse impacts on the ecological value of the area. Contrary to submissions received, I can confirm that no trees within or adjoining the site are subject to a Development Plan objective for protection or preservation.

8.12.2. While designated Natura 2000 sites are considered separately in the applicant's AA Screening Report (and section 9 of this report), the Ecological Impact Assessment (EclA) considers other designated sites within 15km of the site. However, I would concur with its conclusion that there no significant links to the appeal site. In terms of habitat classification, the site itself consists primarily of 'Buildings and artificial

surfaces' with limited areas of 'spoil and bare ground', 'amenity grassland', 'scattered trees and parkland', and linear hedgerows/treelines.

- 8.12.3. Desk studies and field surveys have been carried out to establish baseline conditions for species at the site. This included a Potential Bat Roost Survey and commuting/foraging suitability survey carried out during daytime on 12th September 2022. A bat activity survey was also carried out that night. All trees on-site were considered to have 'negligible' bat roost potential. The buildings on site did offer 'low' potential roosting habitat for opportunistic bats, but no emergence was recorded during the activity survey. The trees and hedgerow habitat on-site were considered to offer 'negligible-low' foraging and commuting suitability to bats given the urban nature of the site and the relatively low degree of connectivity with the surrounding landscape. Otherwise, the survey of local flora and fauna is generally evaluated as being of 'local importance (lower value).'
- 8.12.4. At construction stage, the EclA confirms that all on-site trees/hedgerows (i.e. excluding row of trees on adjoining land to the east) will be removed and replaced with additional native planting. The EclA deems this to be a neutral and permanent impact at local scale. The risk of invasive flora spread (Cotoneaster and Sycamore) within the site is deemed to be a potential negative, long-term, slight impact at a local scale.
- 8.12.5. The potential construction impacts on birds (noise, dust, light) are deemed to be negative, short-term, slight impacts at a local scale. The risk of injury/mortality from vegetation clearance is considered to have a potential negative, short-term, moderate impact on locally occurring birds.
- 8.12.6. Although no activity was detected in the bat surveys, the increased lighting at construction stage is deemed to have potential negative, short-term, slight impacts on any locally occurring species. Works to the existing buildings is also deemed to have potential to have negative, short-term, slight impact on roosting/resting bats, as well as negative, permanent, slight local impact through the loss of potential bat habitats.
- 8.12.7. At operational stage, the EclA acknowledges the potential links to designated sites within Dublin Bay via wastewater emissions but concludes that the potential effects would be neutral and permanent given that historical data does not suggest any

significant effects as a result of nutrient over-enrichment. As previously outlined in section 8.11 of this report, the EclA does not predict any significant operational effects on birds or bats as a result of collision or lighting.

8.12.8. The EclA outlines a range of mitigation / monitoring measures for the construction and operational stages which can be summarised as below:

Construction Stage

- Standard measures for the reduction of noise impacts.
- Standard measures for the reduction of dust impacts.
- Measures to prevent light spill impacts, particularly for bats.
- Timing of works to prevent/manage impacts on breeding birds. An Ecological Clerk of Works (ECoW) will be present for vegetation and tree clearance activities if clearance during the nesting bird season is unavoidable. Where works commence atop the existing buildings during the breeding bird season, an ECoW will be present to confirm absence of nests on the roof.
- An updated pre-construction bat survey will be carried out and works will be carried out with vigilance for the potential presence of roosting bats.
- Best practice site hygiene and biosecurity measures will be in place to avoid the spread of invasive species.
- Landscaping will incorporate a suitable mix of native plants and will also provide vegetated corridors along the boundaries that will provide cover for any commuting/foraging mammals, birds and bats.

Operational Stage

- 5 no. artificial nest boxes (for passerine species) will be suitably erected and maintained within the boundary treeline habitats.
- 3-5 bat boxes will be suitably erected to mitigate the loss of potential roosting opportunities and to promote roosting of potential foraging bats. The boxes will be inspected within one year of erection and the bat box scheme will be registered with Bat Conservation Ireland. This should be undertaken for a minimum of 2 years. A full summer bat survey will be carried out post-works.

- 8.12.9. The EclA considers other permitted developments and the plans and policies that apply to the area. It does not identify the potential for any significant cumulative/in-combination impacts with the proposed development. Once the mitigation and monitoring measures are implemented, the EclA does not predict any significant negative impact on any valued habitats, designated sites or individual or group of species. It concludes that there would be an overall positive impact to the biodiversity of the site as a result of the proposed landscaping plan.
- 8.12.10. I consider that the EclA has appropriately evaluated the ecological/biodiversity value of the site and surrounding area. I would agree that the site and the surrounding area is generally of lower value local importance, and I am satisfied that there is no potential for significant effects on the more important designated sites in the wider surrounding area. Suitable mitigation and monitoring measures have been included to address the potential for significant effects on higher value species such as birds and bats.
- 8.12.11. In relation to bats, I note that there is no evidence of loss of roosting habitat but there is potential for such loss in the buildings and trees. The Bat Mitigation Guidelines acknowledge that because of the nomadic nature of tree-dwelling bats the success rate in terms of bats surveys is likely to be very low. Therefore, given the low level of bat population in this area, detection would remain challenging and could not in any event be relied up on to presume that no roosting occurred/would occur. For this reason, the potential for roosting has been acknowledged and mitigation is proposed to ensure their protection if they were found to be present. Therefore, I am satisfied that the approach taken is satisfactory in accordance with the Bat Mitigation Guidelines, i.e. to acknowledge that it is possible for bats to be roosting in the buildings and trees, and to appropriately mitigate at pre-construction stage, as well as during and post construction/operation stages.
- 8.12.12. At construction stage, I acknowledge that there would be short-term reduced foraging/commuting opportunities and increased disturbance for bats that may be currently using the site. However, given the lack of evidence of bat activity, the availability of other habitat in the area, and the proposals for improved replacement planting on site, I do not consider that the impacts would be significant in terms of the potential impact on the bat population in the area.

8.12.13. Having regard to the foregoing, I am satisfied that the application has adequately assessed the potential ecological impacts of the proposed development, including the potential impacts on species included in Annex IV of the Habitats Directive. The potential impacts have been adequately identified and suitable mitigation measures have been included. Accordingly, I am satisfied that the proposed development would suitably protect ecology and biodiversity and would not result in any unacceptable impacts.

8.13. **Other Matters**

Drainage, water services, and other utilities

8.13.1. The third-party submissions have raised concerns about the capacity of existing water services and the potential for damage of existing infrastructure on/adjoining the appeal site. However, the planning authority has not raised any objections with regard to drainage and water services and I note that Irish Water correspondence has confirmed the feasibility of the proposal in respect of water supply and wastewater disposal. There is no evidence to suggest that the proposed development would damage any existing infrastructure, and any such incident would be a matter for resolution between the applicant/developer and the infrastructure providers. Any permission would be subject to suitable agreements regarding connections to infrastructure and compliance with provider standards, and I am satisfied that this would satisfactorily address the matter.

8.13.2. Given the limited scale of the development, I am satisfied that the impact on the capacity of other utilities (electricity etc.) will be minimal. The connection applications to the relevant utility operators will facilitate the protection of capacity where necessary, as is normal in the case of new developments.

Unfinished Development

8.13.3. Third-party submissions highlight the presence of other unfinished developments in the area and contend that they should be completed in advance of the proposed development. Concerns are also raised that the proposed development may not be finished and that there are inadequate proposals to deal with the event of financial difficulties.

8.13.4. I do not consider that there is a high proportion of vacant/unfinished residential development in the area or that there is a reasonable basis to refuse the proposed

development pending the completion of all unfinished developments. There is no evidence to suggest that the proposed development would not be satisfactorily completed. And in the event of a grant of permission, suitable conditions could be attached to require a developer bond strategy.

Public Consultation

- 8.13.5. The observers contend that there has been a lack of consultation with local residents. However, there is no requirement for the applicant to directly engage with local residents other than as required by legislation. There is no evidence that the application has not complied with the statutory requirements for public participation, and I do not consider that this matter need concern the Board for the purposes of this decision.

Radon

- 8.13.6. It has been questioned whether the site has been tested for radon due to the underlying presence of granite. I note that the Building Regulations (Technical Guidance Document – C) require the installation of radon preventive measures to minimise the level of radon in new homes in High Radon Areas. However, according to the EPA ‘Radon Risk Map of Ireland’ and ‘Radon Map For Use With Technical Guidance Document C’, the site is not located within a ‘High Radon Area’. In any case, this matter is covered by a separate legal code and need not concern the Board for the purposes of this decision.

9.0 Appropriate Assessment Screening

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

9.1. Background to the application

- 9.1.1. As part of the application, an Appropriate Assessment Screening Report was compiled by Enviroguide Consulting (updated in the further information response). In summary, the report concludes that on the basis of the best scientific knowledge available, that the possibility of any significant effects on any European Sites,

whether arising from the project itself or in combination with other plans and projects, can be excluded.

9.1.2. Having reviewed the documents, drawings and submissions included in the application file, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European Sites.

9.1.3. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development would have any possible interaction that would be likely to have significant effects on a European Site(s).

9.2. **Description of the development**

9.2.1. A detailed description of the development is outlined in section 2 of this report. In summary, it includes the retention of the existing commercial units at ground floor and the construction of 129 no. BTR apartments. The development includes internal residential amenity space, a separate communal facility, and external communal amenity space at roof/podium level. It also proposes 104 no. car parking spaces, 41 of which would be provided within a new basement level.

9.2.2. A new surface water sewer network will be provided. Incidental surface water collected in the basement will be pumped to the foul sewer network at ground level. All other surface water will be entirely separated from the foul water sewer network. The surface water system has been designed in accordance with relevant guidance including the Development Plan, CIRIA SuDS Manual 2015 C753 – The SuDS Manual, Greater Dublin Strategic Drainage Study (GSDSDS), and Greater Dublin Regional Code of Practice for Drainage Works. SuDS measures will restrict the discharge to 4.7 l/s through the attenuation of water in permeable paving, attenuation tank, and green/blue roofs. Discharge will be via the ground level surface water drainage within the site to the existing sewers on Cedar Road to the north by gravity. Run-off from the impermeable car park areas will outfall via a Class 1 Bypass Separator (petrol interceptor).

9.2.3. The proposed foul water sewers are designed in accordance with the DOE's "Recommendations for Site Development Works for Housing Areas". The foul loading has been calculated in accordance with "Code of Practice for Wastewater

Infrastructure” published by Irish Water. It is proposed that the foul sewer will discharge by gravity to the sewer on the southern perimeter along Blackthorn Drive. All foul water drainage shall be designed in accordance with Irish Water’s Wastewater Code of Practice and Standard Details. It is proposed to connect to the watermain that currently exists within the site boundary. All watermain proposals shall be designed in accordance with Irish Water’s Waste Code of Practice and Standard Details.

9.2.4. The site has a stated gross area of 0.9678 hectares and is located within the suburban area of Balally. It consists primarily of ‘Buildings and artificial surfaces’ with limited areas of ‘spoil and bare ground’, ‘amenity grassland’, ‘scattered trees and parkland’, and linear hedgerows/treelines. There are no waterbodies within or adjoining the site.

9.3. Submissions and Observations

9.3.1. The content of submissions and observations received during the application and appeal process has been in section 7.2 of this report. While the submissions raise some general concerns about the impact on the ecology/biodiversity of the site and adjoining lands, they do not raise specific issues in relation to European Sites or Appropriate Assessment.

9.4. European Sites

9.4.1. The applicant’s AA Screening Report initially considers a Zone of Influence (Zoi) based on a 15km radius and the potential pathways between the appeal site and European Sites. The initial assessment can be summarised in the following table.

Table 9 – Initial Assessment of European Sites and Zone of Influence

European Site (Code)	Distance (km)	Presence of Impact Pathway	Assessed Further
South Dublin Bay SAC (000210)	4.1	Indirect hydrological pathway via surface water discharges to the Brewery Stream during both the Construction and Operational stages and via foul water discharges from Ringsend WwTP.	Yes
South Dublin Bay and River Tolka Estuary SPA (004024)	4	The significant intervening distance is sufficient to exclude the possibility of other	

		significant effects. The Site does not provide significant ex-situ habitat for the Qualifying Interests (QI)/ Special Conservation Interest (SCI) species in the SPA.	
Wicklow Mountains SAC (002122)	5.6	No hydrological connections and the intervening distance is sufficient to exclude the possibility of other significant effects.	No
Knocksink Wood SAC (000725)	7.2		
Ballyman Glen SAC (000713)	8.5		
Rockabill to Dalkey Island SAC (003000)	8.8		
North Dublin Bay SAC (000206)	9	Indirect hydrological pathway via foul water discharges from Ringsend WwTP. There is a significant marine buffer from the Brewery Stream discharge. The significant intervening distance is sufficient to exclude the possibility of other significant effects. The Site does not provide significant ex-situ habitat for the QI/SCI species in the SPA.	Yes
North Bull Island SPA (004006)	9		
Glenasmole Valley SAC (001209)	9.6	No hydrological connections and the intervening distance is sufficient to exclude the possibility of other significant effects.	No
Bray Head SAC (000714)	12.6		
Howth Head SAC (000202)	13.3		
Baldoyle Bay SAC (000199)	14.6		
Wicklow Mountains SPA (004040)	6	No hydrological connections and the intervening distance is sufficient to exclude the possibility of other significant effects.	No
Dalkey Islands SPA (004172)	8.5	The Site does not provide significant ex-situ habitat for the QI/SCI species in these SPAs.	

Baldoyle Bay SPA (004016)	14.7		
Howth Head Coast SPA (004113)	14.8		

- 9.4.2. Consistent with the applicant's report, I agree that there are potential hydrological links with European Sites within the inner Dublin Bay area (i.e. South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, and North Bull Island SPA) as a result of surface water and foul water pathways. I would also agree that the outer Dublin Bay sites (i.e. Rockabill to Dalkey Island SAC, Howth Head SAC/SPA, and Dalkey Islands SPA) are more significantly distanced and would be protected by a significantly greater hydrological buffer. Therefore, I do not consider that there would be hydrological pathways that would have any potential for significant effects on these and other European Sites within the outer Dublin Bay area (including the more distant Bray and Baldoyle sites).
- 9.4.3. Regarding the identified SPA sites, I note that there is a minimum separation distance of 4km from the appeal site, much of which is separated by significant urban development. On this basis, I do not consider that the proposed development has the potential for disturbance of qualifying species, by reason of noise, vibration, dust, human activity, or otherwise. Furthermore, based on the site habitat and the site surveys completed, I would agree that the site is not a significant ex-situ foraging or roosting site, and no significant effects are likely for the species of qualifying interest from any of the SPAs.
- 9.4.4. The remaining European Sites are within the Dublin/Wicklow Mountains area and are located at least 5.6km from the appeal site. There are no hydrological links to these sites, and I am satisfied that the proposed development does not have the potential to impact on any of the QIs for these European Sites.
- 9.4.5. Having regard to the foregoing, my screening assessment will focus on the impact of the proposal on the conservation objectives of the European Sites and their qualifying interests as summarised in the table below. I am satisfied that no other European Sites fall within the possible zone of influence.

Table 10 – European Sites for Further Assessment

European Site	Conservation Objectives – To maintain/restore the favourable conservation condition of the following Qualifying Interests (QI's)	Attributes
South Dublin Bay SAC	Mudflats and sandflats not covered by seawater at low tide.	Habitat area, community extent, community structure, community distribution.
South Dublin Bay and River Tolka Estuary SPA	Light-bellied Brent Goose, Oystercatcher, Ringed Plover, Grey Plover (proposed for removal), Knot, Sanderling, Dunlin, Bar-tailed Godwit, Redshank, Black-headed Gull.	Population trend, distribution.
	Roseate Tern, Arctic Tern.	Passage population, Distribution, Prey biomass available, Barriers to connectivity, Disturbance at roosting site.
	Common Tern	Breeding population abundance, Productivity rate, Passage population, Distribution, Prey biomass available, Barriers to connectivity, Disturbance.
	Wetlands	Habitat Area
North Bull Island SPA	Light-bellied Brent Goose, Shelduck, Teal, Pintail, Shoveler, Oystercatcher, Golden Plover, Grey Plover, Knot, Sanderling, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, Curlew, Redshank, Turnstone, Black-headed Gull.	Population trend, distribution.

	Wetlands.	Habitat Area
North Dublin Bay SAC	Mudflats and sandflats not covered by seawater at low tide.	Habitat Area, Community extent, community structure, community distribution.
	Annual vegetation of drift lines, Salicornia and other annuals colonising mud and sand, Atlantic salt meadows, Mediterranean salt meadows, Embryonic shifting dunes, Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes), Fixed coastal dunes with herbaceous vegetation (grey dunes), Humid dune slacks.	Habitat Area, Habitat distribution, physical structure, vegetation structure, vegetation composition.
	Petalwort	Distribution of populations, population size, Area of suitable habitat, hydrological conditions, vegetation structure.

9.5. Potential effects on European Sites

- 9.5.1. The application site is not located within or adjoining any of the relevant European Sites. The nearest relevant site is c. 4km away and is significantly separated by existing development. No empirical evidence of any protected species such as otter or roosting bats (protected under Article 12 (Annex IV) of the Habitats Directive) was recorded on site. Furthermore, the subject site does not contain any suitable ex-situ habitat for any qualifying interests. Accordingly, I am satisfied that there is no potential for significant habitat loss/alteration or for habitat/species fragmentation.
- 9.5.2. Given the existing suburban context for the site and given that all relevant European Sites are distanced at least 4 km from the appeal site, I am satisfied that no disturbance impacts would occur during the construction or operational stage. In this regard I have considered all potential disturbance effects, including heightened

noise/lighting levels and the obstruction of flight paths / bird strike, as well as the potential for significant in-combination or cumulative effects in this regard.

- 9.5.3. In accordance with section 9.4 (above), I am satisfied that the potential effects on the relevant European Sites are limited to the hydrological connections associated with surface water and wastewater emissions.

Surface Water

- 9.5.4. I acknowledge that emissions to surface water arising during the site clearance and construction stage could contain pollutants (silt, dust, hydrocarbons and other substances). The basement excavation also includes the potential for impacts on groundwater and drainage infrastructure. Such contaminated water has the potential to discharge to the surface water drainage system or watercourses, and from there, eventually, to the marine environment via watercourses/drainage outfall.
- 9.5.5. However, the application (including the RDWMP, HHRA, and CEMP) already includes a comprehensive range of construction management measures which aim to protect the water quality from any such emissions. This includes the absence of any uncontrolled discharge to groundwater; further investigation of potentially contaminated soils, water, etc; installation of infrastructure as per IW requirements; and minimising impacts of groundwater mounding at the upgradient side of the structures and potential buoyancy issues. I am satisfied that this comprehensive range of measures will satisfactorily address the potential for contamination of local water quality.
- 9.5.6. At operational stage, I acknowledge the potential for the surface water outfall to contain pollutant discharge to the marine environment and the nearest European Sites (South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA). However, the surface water drainage system has been suitably designed in accordance with GSDSDS standards. Surface water outflows from the development will be suitably restricted and the system includes a combination of interception and SuDS measures to reduce pollutants and improve water quality. Accordingly, I am satisfied that the operational stage would have no significant surface water impacts on surrounding watercourses, either in terms of the quantity or quality of discharge.
- 9.5.7. Even in the unlikely event of a construction/operational stage surface water pollution event occurring, it would likely be short-term in duration and contained at the scale of

the site. Given the significant distance between the appeal site and the downstream European Sites in Dublin Bay, there would be significant dilution capacity in the existing drainage system. Upon reaching the Bay, any pollutants would be even further diluted and dissipated by the receiving waters where there is known potential to rapidly mix and assimilate pollutants.

- 9.5.8. Having regard to the foregoing, I am satisfied that there is no possibility of significant effects on European sites within Dublin Bay from surface water effects and hydrological links associated with the development.

Wastewater

- 9.5.9. I note the Irish Water statement on file which confirms that wastewater connection is feasible without need for infrastructure upgrade. The Irish Water Wastewater Treatment Capacity Register (June 2023) also confirms that there is available capacity in the Ringsend WWTP. The development will result in an increased P.E. loading to the Ringsend WWTP, but I note that permitted upgrade works are expected to bring the capacity of the plant to 2.1 million PE in the second half of 2023 and to 2.4 million PE by 2025, while meeting the required Water Framework Directive standards. The peak wastewater outflow associated with the proposed development (7.9 l/s) would not be significant when equated as a percentage (i.e. <0.1%) of the current licensed discharge at Ringsend WWTP.

- 9.5.10. Evidence also suggests that in the current situation, some nutrient enrichment is benefiting wintering birds for which the SPAs have been designated in Dublin Bay. The coastal waters in Dublin Bay are classed as 'unpolluted' by the EPA and enriched water entering Dublin Bay has been shown to rapidly mix and become diluted such that the plume is often indistinguishable from the rest of bay water.

- 9.5.11. Having regard to the foregoing, I am satisfied that no significant impacts to the European Sites can arise from additional loading on the Ringsend WWTP as a result of the proposed development.

9.6. In combination or Cumulative Effects

- 9.6.1. The applicant's AA Screening Report has considered cumulative / in-combination impacts, including other permitted developments in the vicinity of the site, relevant plans and policies, and the potential cumulative impact on Ringsend WWTP. It

concludes that no projects or plans would act in-combination with the proposed development to cause any likely significant effects on any European sites.

9.6.2. I acknowledge that there would be a cumulative effect with other developments as a result of increased wastewater loading on the Ringsend WWTP. However, based on the upgrade of the Ringsend Wastewater Treatment Plant; the incorporation of similar design parameters and good practice in other developments; and together with the previously discussed absence of evidence of adverse impacts on Dublin Bay as a result of nutrient over-enrichment; I am satisfied that there would be no potential for significant cumulative / in-combination effects on the relevant European Sites within Dublin Bay as a result of wastewater loading.

9.6.3. There would also be a cumulative effect in relation to surface water discharge. However, all other developments will be required to incorporate appropriate construction management measures and to incorporate GDSDS requirements to suitably manage the quantity and quality of surface water discharge. Accordingly, I am satisfied that there would be no potential for significant cumulative / in-combination effects on the relevant European Sites within Dublin Bay as a result of surface water.

9.6.4. The Dun Laoghaire-Rathdown Development Plan 2022–2028 and the Development Plans for other areas in the Greater Dublin Area include a range of objectives intended to protect and enhance the natural environment, including those relating to European Sites, wastewater management, and surface water management. These objectives have themselves been subject to Appropriate Assessments, which have concluded that their implementation would not adversely affect the integrity of European sites.

9.7. **Mitigation Measures**

9.7.1. I confirm that no measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise. I am satisfied that the construction stage management measures and the operational stage surface water and foul water management measures should be considered standard best practice measures and/or measures which have not been designed or intended to avoid or reduce any harmful effects of the project on a

European Site. Therefore, these measures can be considered in the AA Screening determination.

9.8. AA Screening Determination

9.8.1. The proposed development was considered in light of the requirements of section 177U of the Planning and Development Act 2000 (as amended). Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project, individually, or in combination with other plans or projects, would not be likely to give rise to significant effects on South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), or any European Sites, in view of the sites' conservation objectives, and Appropriate Assessment (Stage 2), including the submission of Natura Impact Statement is not, therefore, required.

9.8.2. This determination is based on the following:

- The nature and scale of the proposed development and the location of the site on serviced lands;
- The distance of the proposed development from European Sites and the limited potential for pathways;
- The incorporation of best-practice construction management, surface water management, and operational design measures;
- The dilution capacity within the existing drainage network and the receiving water environment in Dublin Bay;
- The existing and planned capacity of the Ringsend WWTP in the short-term to facilitate future development in compliance with the provisions of the Water Framework Directive.

10.0 Recommendation

Having regard to the foregoing, I recommend that permission be refused for the proposed development for the reasons and considerations set out hereunder.

11.0 Recommended Draft Board Order

Planning and Development Acts 2000 to 2022

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: LRD23A/0214

Appeal by Westleton Ltd., c/o John Spain Associates, 39 Fitzwilliam Place, Dublin 2; against the decision made on the 16th day of August 2023, by Dún Laoghaire-Rathdown County Council to refuse permission for the proposed development.

Proposed Development:

The development will consist of the construction of an 2-8 storey over basement with existing retail/commercial units to be retained at ground floor level 'build to rent' residential scheme of 165 No. dwellings on a site 0.9678 ha. in size which includes the existing shopping centre.

The development contains 7 No. studio, 102 No. 1 bed, 8 No. 2 bed 3 person and 48 No. 2 bed 4 person apartments. The breakdown of each block will contain the following apartments:

- Block A: comprises 113 No. units (7 No. studio, 74 No. 1 bed, 8 No. 2 bed 3 person, 24 No. 2 bed 4 person) in an 8 storey block;
- Block B: comprises 16 No. units (5 No. 1 bed, 11 No. 2 bed 4 person) in an 8 storey block;
- Block C: comprises 36 No. units (23 No. 1 bed, 13 No. 2 bed 4 person) in a 7 storey block; and
- Internal communal amenity space for residents is provided on the first floor (435 sqm).

The proposed development will also provide for communal amenity space of 1,643 sqm. Provision of private open space in the form of balconies or terraces is provided to all individual apartments. A community facility is also proposed 165 sqm in size.

The proposed development will provide 312 no. bicycle parking spaces of which, 224 no. are long term spaces provided in secure bicycle stores, 84 no. are short term space for visitors - mainly distributed at surface level and 4 no. spaces are provided for the community facility. A total of 104 no. car parking spaces are provided 41 No. car parking spaces are intended to serve the residential units and are located at basement level while 63 no car parking spaces are provided at surface level, 12 no. surface car parking spaces will be for residential use and 51 spaces will serve existing retail located at surface level.

It is proposed to access the proposed development via the existing entrances on Cedar Road and Maples Road to the north and west of the site. The development will also provide for all associated ancillary site development infrastructure including site clearance / minor demolition works, removal of external stairs, excavation and resurfacing of car parking, removal of overhangs, the construction of foundations, public realm improvements, switch room, water tank rooms, storage room, meter room, sprinkler tank room, comms room, bin storage, bicycle stores, green roofs, hard and soft landscaping, attenuation area and all associated works and infrastructure to facilitate the development including connections to foul and water supply and surface run off.

Decision

Refuse permission for the above proposed development based on the reasons and considerations set out below.

Reasons and Considerations

The Dún Laoghaire-Rathdown Development Plan 2022-2028 supports the development of Neighbourhood Centres as multifunctional focal points which provide a variety of uses (Policy Objectives MFC1 and RET7) and create a high-quality public realm and sense of place (Policy Objective MFC3). Policy Objective PHP42 also encourages high quality design in all new development.

Having regard to:

- a) The setback location of the retained commercial units, which would be significantly overhung and/or obscured by the proposed development;
- b) The domination of the site perimeter by car parking and vehicular access arrangements;
- c) The lack of active street frontage around the site perimeter and along the main pedestrian routes through the site;
- d) The substandard quality of the pedestrian routes through the site, which would be excessively enclosed, poorly aligned, and overshadowed, resulting in deficient levels of amenity and security;
- e) The absence of any public open space on site and the proposed location of all communal open space at roof/podium level, where the main space would not be appropriately accessible to all residents and the smaller spaces would be significantly enclosed and/or overshadowed;
- f) The substandard level of amenity for some apartments by reason of inadequate sunlight levels and the substandard outlook/access arrangements for some apartments at the lower levels of Blocks B and C; and
- g) The lack of adequate proposals to demonstrate how the proposed development would successfully integrate with existing and future development on adjoining lands;

the Board considered that the proposed development would not positively contribute to the public realm or place-making at the scale of the neighbourhood/street, would not provide coordinated development that would support the viability and vitality of the neighbourhood centre, and would not provide a suitable level of amenity for the prospective residents and other users of the neighbourhood centre. Therefore, the proposed development would be contrary to the aforementioned Development Plan Policy Objectives and would be contrary to the proper planning and sustainable development of the area.

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

Stephen Ward
Senior Planning Inspector
29th November 2023

Appendix 1: Environmental Impact Assessment Screening Determination Form

A. CASE DETAILS		
An Bord Pleanála Case Reference		ABP 317996-23
Development Summary		Construction of a 2-8 storey over basement with existing retail/commercial units to be retained at ground floor level 'build to rent' residential scheme of 165 No. dwellings and all associated site works. Subsequently reduced to 2-6/7 storey development with 129 no. units.
	Yes/ No/ N/A	Comment (if relevant)
1. Has an AA screening report or NIS been submitted?	Yes	An AA Screening Report has been submitted with the application.
2. Is an IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	
3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA.	Yes	Habitats Directive (92/43/EEC) – See AA Screening Report and EcIA. Water Framework Directive (2000/60/EC) - See AA Screening Report, EcIA, Resource Demolition Waste Management Plan (RDWMP), Engineering Planning Report (EPR), and Hydrological and Hydrogeological Risk Assessment (HHRA). SEA Directive (2001/42/EC) – SEA has been carried out for the DLRCC Development Plan 2022-2028 and the DLRCC Biodiversity Action Plan 2021-2025. Directives 2002/49/EC & 2000/14/EC – See Environmental Noise Survey and RDWMP Directive 2008/50/EC – See Traffic and Transportation Assessment (TTA) and RDWMP.

		<p>Directive 2008/50/EC – See Site-Specific Flood Risk Assessment (SSFRA) and EPR.</p> <p>Birds Directive (79/409/EEC), Bern and Bonn Convention & Ramsar Convention - See AA Screening Report and HHRA.</p> <p>Directives (EU) 2018/850 & 2008/98/EC – See Operational Waste Management Plan (OWMP) and RDWMP.</p> <p>Directive 2012/27/EU, (EU) 2018/2001, & Regulation (EU) 2018/842 – See Sustainability Report/Energy Statement.</p>
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B. EXAMINATION	Response: Yes/ No/ Uncertain	Where relevant, briefly describe the characteristics of impacts (i.e. the nature and extent) and any Mitigation Measures proposed to avoid or prevent a significant effect (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)			
<p>1.1 Is the project significantly different in character or scale to the existing surroundings or environment?</p>	<p>Yes</p>	<p>I have acknowledged that the scale and character is significantly different to the existing buildings on site and the immediately surrounding development. However, there is increasing evidence of similar higher-density development in the wider surrounding area, particularly Sandyford.</p> <p>I have considered the character and scale of the development in section 8.11 of this report. And while I have serious concerns regarding impacts at the localised neighbourhood/street scale, I do not consider that there would be significant impacts on the wider landscape / environment.</p>	<p>No</p>

<p>1.2 Will construction, operation, decommissioning, or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</p>	<p>Yes</p>	<p>The project works will cause physical changes to the topography and land use, including the basement excavation and the residential development over the existing commercial units. The proposed land uses would be consistent with the NC zoning for the site.</p> <p>Despite the concerns of the planning authority, I am satisfied that the works can be appropriately managed in accordance with a Construction Management Plan (CMP) and a RDWMP. Together with the proposals outlined in the Engineering Planning Report and the mitigation measures included in the EclA, CEMP, and HHRA, I am satisfied that there will be no significant effects on waterbodies.</p>	<p>No</p>
<p>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/ minerals, or energy, especially resources which are non-renewable or in short supply?</p>	<p>Yes</p>	<p>The redevelopment of the site would provide a more suitable and efficient use of land which would be consistent with the planned use of the area.</p> <p>The basement excavation would involve the removal of soil and bedrock. However, the volume would not be significant and waste (construction and operational) will be disposed/re-used in accordance with applicable waste legislation and guidance.</p> <p>The predicted water demand would be consistent with normal residential development. Irish Water have confirmed that there are no objections, and it is not proposed to extract groundwater. Foul water and surface water proposals have also been suitably designed.</p> <p>The materials/minerals would be typical of urban development and would be suitably designed for energy efficiency as outlined in the Building Life Cycle Report and the Sustainability Report/Energy Statement.</p> <p>Biodiversity resources have been considered in the EclA and the AA Screening Report and I am satisfied (as outlined in</p>	<p>No</p>

		sections 8.12 and 9 of this report) that there would be no significant effects on relevant habitats or species.	
1.4 Will the project involve the use, storage, transport, handling, or production of substance which would be harmful to human health or the environment?	Yes	Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and, as outlined in section 8.10 of this report, the implementation of the CMP, CEMP, and RDWMP will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated. Conventional waste produced will be managed through the implementation of the OWMP.	No
1.5 Will the project produce solid waste, release pollutants or any hazardous/ toxic/ noxious substances?	Yes	<p>Construction waste is estimated to amount to 8,808.7 tonnes, the vast majority of which (8,100) consists of inert material (soil and stone). The RDWMP includes proposals for minimisation, reuse, and recycling of waste, with the soil/stone being used as fill material in other sites. Mitigation measures have been included for potentially hazardous construction wastes, and waste will be disposed of in accordance with relevant guidance and legislation.</p> <p>As outlined in section 8.10 of this report, construction noise and dust emissions are likely. Such impacts would be local and temporary in nature and satisfactory mitigation proposals would address the potential impacts.</p> <p>Operational phase of project does not produce or release any pollutant or hazardous material. Conventional waste will be managed through the OWMP. Other significant operational emissions are not anticipated.</p>	No
1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface	Yes	Project involves underground excavation works with the construction of a basement level, and the removal/ diversion of subsurface water services infrastructure, and installation of new	No

<p>waters, groundwater, coastal waters or the sea?</p>		<p>services infrastructure. However, it uses standard construction methods, materials and equipment, and the process will be managed (through the implementation of the CEMP, CMP, RDWMP, and HHRA) to satisfactorily address potential risks in relation to contamination of land/ groundwater.</p> <p>The project includes surface water management systems, designed, and constructed in accordance with GSDS. Surface water will be attenuated prior to discharge to the wider drainage network. Wastewater will be discharged to the public system. The potential indirect hydrological and hydrogeological effects have been assessed in sections 8.10 and 9 of my report and risks of contamination are not deemed to be significant.</p>	
<p>1.7 Will the project cause noise and vibration or release of light, heat, energy, or electromagnetic radiation?</p>	<p>Yes</p>	<p>Potential for construction activity to give rise to noise, dust, light, and vibration emissions. Such emissions will be localised, short term in nature and their impacts will be suitably addressed as outlined in section 8.10 of this report.</p> <p>Operational phase of project will cause noise and light impacts which would be consistent with the established uses in the area and would not result in significant effects.</p> <p>As per sections 8.12 and 9 of my report, it has also been demonstrated that the noise, air, lighting or other potential disturbance impacts would not significantly impact on any habitats or species of biodiversity interest (including Habitats Directive Annex IV species such as bats and otters).</p>	<p>No</p>
<p>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p>Yes</p>	<p>Potential for construction activity to give rise to air and water contamination. However, such emissions will be localised, short term in nature and their impacts will be suitably addressed by mitigation measures as per section 8.10 of this report.</p>	<p>No</p>

		<p>The area is served by public water mains and therefore water contamination is not expected to impact on human health.</p> <p>The operational phase will not result in significant effects for human health.</p>	
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No	<p>No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. There is no significant flood risk as outlined in the applicant's Flood Risk Assessment. The site is not located within close proximity to any Seveso / COMAH sites.</p>	No
1.10 Will the project affect the social environment (population, employment)	Yes	<p>Project increases localised temporary employment activity at the site during construction stage. The construction stage impacts on the local population are short term and impacts arising will be temporary, localised, and addressed by the proposed mitigation measures.</p> <p>The development will result in increased population in the area. This would not be significant given the existing and planned residential uses in the area and the proximity of the site to a wide range of supporting uses and facilities.</p>	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	No	<p>The application has included an indicative masterplan for adjoining lands and has considered cumulative effects. The lands are zoned for mixed uses, the development of which has been foreseen by the Dún Laoghaire County Development Plan 2022-2028, which has undergone an SEA. Other developments in the wider area are not considered to give rise to significant cumulative effects.</p>	No

2. Location of proposed development			
<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ul style="list-style-type: none"> a) European site (SAC/ SPA/ pSAC/ pSPA) b) NHA/ pNHA c) Designated Nature Reserve d) Designated refuge for flora or fauna e) Place, site or feature of ecological interest, the preservation/ conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan 	No	<p>Project not located in, on, or adjoining any European site, any designated or proposed Natural Heritage Area, or any other listed area of ecological interest or protection.</p> <p>The EclA and AA Screening Report has considered the proximity and potential connections to designated/ecological sites in the wider surrounding area. Consistent with findings and section 8.12 and 9 of my report, I am satisfied that there would be no significant effects on same.</p>	No
<p>2.2 Could any protected, important, or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?</p>	Yes	<p>The potential for impacts has been considered in sections 8.12 and 9 of my report. The EclA has appropriately surveyed and classified the habitat and flora on the site and surrounding area. I would concur that any loss of habitat would be of limited value and that adequate mitigation measures have been included.</p> <p>The potential loss of bat roosting features (trees and buildings) has been acknowledged and appropriate mitigation measures have been included. Furthermore, the lack of bat activity on site indicates that impacts would not be significant in terms of commuting/foraging habitat or flight lines.</p> <p>The site is not significant for wintering bird species and suitable mitigation measures have been included to protect common bird species.</p> <p>The AA screening exercise (section 9 of my report) has satisfactorily established that the development would not be likely to have significant effects on any European Sites.</p>	No

2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	No	As outlined in section 8.11 of this report, I am satisfied that the proposed development would not significantly impact on any landscape, historic, or cultural features. I am satisfied with the applicant's Archaeological Assessment which concludes that no further investigations would be required.	No
2.4 Are there any areas on/ around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/ coastal, fisheries, minerals?	No	No such resources on or close to the site.	No
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	No	As previously outlined, the site is not at significant risk of flooding. The potential hydrological and hydrogeological connections have been acknowledged and assessed, and there is no potential for significant effects in terms of volume or water quality.	No
2.6 Is the location susceptible to subsidence, landslides or erosion?	No	No evidence identified of these risks.	No
2.7 Are there any key transport routes (eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	No	The site is served by a local urban road network, public transport services, as well as a range of pedestrian/cycle links. I have considered these services in section 8.4 of my report, and I do not consider that there would be any significant congestion effects at construction or operational stage. The development would be suitably designed and managed to promote sustainable transport modes and would not result in significant environmental problems such as excessive transport emissions etc.	No
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools	Yes	The proposed development would be adequately distanced/screened from the school, church, and other	No

etc) which could be significantly affected by the project?		community facilities surrounding the site. Suitable construction mitigation measures would also be included to address any impacts on these facilities. I am satisfied that there would not be excessive pressure placed on social/community facilities (including schools) in the wider area (see section 8.9 of my report). In sections 8.7, 8.8, and 8.10 of my report, I have outlined that the proposal would not result in any significant effects on surrounding properties.	
3. Any other factors that should be considered which could lead to environmental impacts			
3.1 Cumulative Effects: Could this project together with existing and/ or approved development result in cumulative effects during the construction/ operation phase?	No	The applicant's EIA Screening Report and other assessments submitted with the application appropriately consider the nature and extent of existing, permitted, and planned development in the vicinity of the site. The majority of existing/planned development is of a similar residential nature and includes the potential for cumulative effects at construction stage (e.g. traffic, noise, dust) and operational stage (e.g. traffic, water services). However, I consider that these effects are consistent with the existing and planned use of the area and that they would be suitably mitigated by design measures and conditions to avoid significant effects.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No transboundary considerations arise.	No
3.3 Are there any other relevant considerations?	No	No	No

C.CONCLUSION

No real likelihood of significant effects on the environment.

Yes

EIAR Not Required.

D. MAIN REASONS AND CONSIDERATIONS

Having regard to:

- (a) The nature and scale of the proposed development, which is below the thresholds in respect of Class 10(b)(i), Class 10(b)(iv), and Class 13(a) of the Planning and Development Regulations 2001, as amended,
- (b) The location of the site on lands that are zoned as ‘Neighbourhood Centre’ for mixed uses, including residential, under the provisions of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 and the results of the strategic environmental assessment of this Plan undertaken in accordance with the SEA Directive (2001/42/EC),
- (c) The mixed-use nature of the site and its location within a wider established residential area served by public infrastructure, and the existing pattern of development in the vicinity,
- (d) The location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations,

- (e) 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),
- (f) The criteria set out in Schedule 7 and 7A of the Planning and Development Regulations 2001, as amended,
- (g) the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive, and
- (h) the features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Outline Construction Management Plan, the Resource & Demolition Waste Management Plan, the Operational Waste Management Plan, the Engineering Planning Report, the Ecological Impact Assessment, the Hydrological and Hydrogeological Risk Assessment, and the Environmental Noise Survey,

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

Inspector _____

Stephen Ward

Senior Planning Inspector

Date: _____