



An  
Bord  
Pleanála

## Inspector's Report

### ABP-320827-24

#### Development

Large-scale residential development: Construction of a two-storey apartment building comprising 10 residential units with associated alterations to the strategic housing development permitted under ABP Reference ABP-301522-18, as amended under ABP References ABP-304212-19, ABP-305172-19, ABP-308563-20, ABP-310422-21 and Reg. Ref.: LRD23A/0126, together with all associated site works.

#### Location

Site at Clay Farm House (a protected structure), Kilgobbin Road, Dublin 18, and at Clay Farm (Phase 2), Ballyogan Road, Dublin 18

#### Planning Authority

Dún Laoghaire Rathdown County Council

#### Planning Authority Reg. Ref.

LRD24A/0451/WEB

#### Applicant(s)

Viscount Securities Unlimited

#### Type of Application

Largescale Residential

**Planning Authority Decision**

Refuse Permission

**Type of Appeal**

First Party vs Decision

**Appellant(s)**

Viscount Securities Unlimited

**Observer(s)**

None

**Date of Site Inspection**

13<sup>th</sup> December 2024

**Inspector**

Phillippa Joyce

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## 1.0 Site Location and Description

- 1.1. The appeal site is located on lands at Clay Farm House, Kilgobbin Road and at Clay Farm, Ballyogan Road in Dublin 18. The site is part of a wider landholding under the control of the applicant (blue line boundary, as per Site Location Map: Dwg No. 0358K-OMP-SX-00-DR-A-1001), which corresponds with the residential developments, Clay Farm Phase 1 (Larkfield) and Clay Farm Phase 2.
- 1.2. The site, an inverted 'L' configuration, is indicated as measuring c.0.13ha. The site is within the curtilage of the protected structure, Clay Farm House, an 18<sup>th</sup> century detached residence with outbuildings framing a courtyard to the rear of the house (south/ southwest), and gardens to the front and sides (north/ east). Specifically, the site comprises the eastern garden area, is infill in nature, level in topography, in grass with trees, hedges, and various boundaries.
- 1.3. The site is located at the northwestern corner of Clay Farm Phase 2 (parent permission, ABP-301522-18). The Clay Farm residential scheme is at an advanced stage of construction and occupation. Within the development boundary of the site and that of the parent permission, is a linear portion of land along the site's eastern boundary.
- 1.4. To the north of the site is Woodlawn, a two-storey detached residential property (shared boundary comprises mature hedge and treeline), to the west is the remaining front garden area of Clay Farm House, to the south is the house's courtyard area (boundary comprises the original stonewall and the gable of an outbuilding), and to the east is Clay Farm View (boundary comprises the remnants of a stonewall and earthen bank, with temporary metal fencing). This street is at an advanced stage of construction, with four semi-detached 2 storey dwellings sited on the western side of street, opposite the site.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a two-storey apartment building (10 no. 2 bedroom units), 10 on-street car parking spaces, bin, cycle (22 spaces) and external stores, foul and surface water drainage, communal open space, landscaping, boundary treatment, lighting and all associated site works.

- 2.2. The proposal includes alterations to the parent permission involving the omission of a permitted swale and grassed verge along the site's eastern boundary (as per Existing Permitted Site Layout Plan: Dwg No. 0358K-OMP-SX-00-DR-A-1002) and their replacement with part of the proposed apartment building (part of the front elevation wall and associated floorspace), car parking, bin, cycle and external stores, and new landscaping (as per Block A Lower Ground Floor: Dwg No. 0358K-OMP-BA-00-DR-A-1000).
- 2.3. The proposal will be accessed via the main entrance and access road serving the adjacent Clay Farm Phase 2, Clay Farm Way, which extends south from Ballyogan Road. The proposal will also connect to and be serviced by infrastructure (water services, utilities) in the adjacent Clay Farm Phase 2.
- 2.4. The application includes a range of architectural, engineering, and landscaping drawings, and is accompanied by several reports (full list in the applicant's Cover Letter, pg. 5).
- 2.5. For the Board's clarity, I highlight that the first party appeal includes a revised design and an alternative design of the proposed development for the Board's consideration. Firstly, the revised design indicates revisions to the elevations and balconies of the proposed development and secondly, the alternative design indicates increased setbacks from existing boundaries and buildings, reduced floor areas and principal dimensions, two apartments omitted, and revised elevational design. The designs are described in section 7.0 The Appeal and assessed in section 8.0 Planning Assessment of this report below.

### **3.0 Planning Authority Opinion**

- 3.1. A pre-application meeting for the proposed development, in accordance with section 247 of the Planning and Development Act 2000 as amended (2000 Act), was requested by the applicant with the planning authority on the 19<sup>th</sup> April 2024. In accordance with section 247(7) of the 2000 Act, the planning authority issued a Determination that no further consultation was required on the 30<sup>th</sup> April 2024.
- 3.2. As such, for the Board's clarity, I confirm that the case file does not include a record of a LRD pre-application meeting or Opinion from the planning authority, or Statement of Response from the applicant.

3.3. A copy of the section 247(7) determination is included as an appendix in the applicant's Cover Letter and has been provided by the planning authority (is included in the case file).

## 4.0 Planning Authority Decision

### 4.1. Summary of the Decision

4.1.1. On the 20<sup>th</sup> August 2024, the planning authority issued a Notification of Decision to Refuse Permission for the proposed development for one refusal reason, as follows:

*1. The proposed development, by virtue of its proximity and relationship to Clay Farm House a Protected Structure (RPS No. 2119), its outbuildings, and its curtilage and boundaries, would have a negative visual impact on the setting and character of the protected structure, and a negative impact on adjoining residential amenity. The proposed development would have an overbearing and unsympathetic impact on Clay Farm House and is not considered to adhere to the requirements of Policy Objective HER 8 (which seeks to protect structures included on the Record of Protected Structures from any works that would negatively impact their special character and appearance), and Section 12.11.2.3 of the County Development Plan 2022-2028. The proposed development would set a negative precedent for similar development in the immediate locality and the wider County, and would not be in accordance with the proper planning and sustainable development of the area.*

### 4.2. Planning Authority Reports

4.2.1. Planning Report

- The planning officer's report includes an assessment of the proposed development in respect of the following considerations:
  - Principle of Development
  - Density
  - Residential Amenity
  - Unit Mix

- Residential Standards
  - Public and Communal Open Space
  - Trees and Landscaping
  - Building Height and Visual Impact
  - Heritage and Archaeology
  - Ecological Impacts
  - Access, Car and Bicycle Parking
  - Surface Water Drainage and Flood Risk
  - Part V and Housing
  - Construction Management
  - Building Life Cycle Report
  - Development Contributions
  - EIA/ AA
- The planning officer finds the proposal to be acceptable under all headings except in relation to residential amenity and heritage, which form the basis of the refusal reason for permission (cited above).

#### 4.2.2. Other Technical Reports

Conservation: proposal not acceptable as it is not contextually appropriate and will adversely affect the character and appearance of the protected structure, Clay Farm House.

Parks: no objection subject to condition.

Environment Enforcement: no objection subject to condition.

Environmental Health Officer: no objection subject to condition.

Transportation: no objection subject to condition.

Drainage: further information required.

Public Lighting: further information required.

Housing: no objection subject to condition.

#### 4.3. **Prescribed Bodies**

4.3.1. Submissions received from prescribed bodies as follows:

Uisce Eireann: Confirmation of Feasibility for water and wastewater connections via the Clay Farm Phase 2 development. Standard conditions to apply.

Department of Housing, Local Government, and Heritage (Development Application Unit): comments on the applicant's Archaeological Impact Assessment. No objection subject to condition, including monitoring of site clearance and preparation works.

Transportation Infrastructure Ireland: site is within an area subject of the section 49 Supplementary Development Contribution Scheme -'Extension of LUAS Line B1 - Sandyford to Cherrywood'. If applicable, payment of a levy by condition may be required.

#### 4.4. **Third Party Observations**

4.4.1. The planning authority indicates that one submission was received from a third party observer (adjacent property owners of Woodlawn (D18KC65)), during the assessment of the application and summarises the issues raised in same.

4.4.2. I have reviewed the submission on file, and confirm issues raised relate to the design of the proposal (inappropriate roof profile), adverse impact on Clay Farm House (setting, architectural history, current condition), drainage, boundary security, front entrance arrangement, right of way, and access.

### 5.0 **Planning History**

#### Appeal Site

There is no planning history at the majority of the site.

Planning history relating to the eastern boundary of the site is associated with that of the parent permission, ABP 301522-18, as outlined below.

#### Adjacent Lands to the East: Clay Farm Phase 2

*ABP 301522-18 (SHD application, parent permission)*



Permission granted to the applicant on the 2<sup>nd</sup> August 2018 for 927 no. residential units (355 no. houses and 572 no. apartments), a neighbourhood centre containing a childcare facility and 2 no. retail units, the associated section of the Clay Farm Loop Road from the bridge road link with Phase 1 to the south western site boundary, associated internal roads, pedestrian and cycle paths, open space, and all associated infrastructural works, at a site with an overall area of c.20.5ha.

The parent permission has been subject to the following amendments (determined as not being material alterations):

*PA Ref. LRD 23A/0126* – additional substation and change of house types.

*ABP 310422-21* – additional substation and associated switch room.

*ABP 308563-20* – replacement of 4-bed houses with 3-bed houses.

*ABP 305172-19* – an overall increase in unit numbers from 924 to 933.

*ABP 304212-19* – alterations to the development of 927 residential units, childcare facility and 2 retail units (layout, use, reduction in dwelling units by 3, reduction in basement car parking, increase in surface car parking).

The case documentation indicates the parent permission, as amended, presently comprises a total of 935 dwelling units.

*TA0002 (SHD application)*

Permission refused to the applicant on the 12<sup>th</sup> January 2018 for 927 no. residential units, (365 no. houses and 562 no. apartments) childcare facility and 2 no. retail units, associated section of Clay Farm Loop Road and all associated site works.

One refusal reason cited, relating to inadequate information on stormwater management.

Lands to Northeast (Clay Farm Phase 1 and 1C)

*ABP PL06D.246601, PA Ref. D15A/0247 and ABP 304288-19*

Permissions granted to the applicant in 2016 and 2019 respectively. The case documentation indicates these permissions contain in excess of 400 dwelling units. These permissions have been implemented and correspond with the Larkfield residential area.

#### Lands in the Vicinity of the Site (Northwest and Southwest)

*ABP 320493-24, PA Ref. D24A/0341/WEB*

Planning authority refused permission to Strand Court Limited on the 9<sup>th</sup> July 2024 for 89 dwelling units and all associated site works.

Two refusal reasons are cited: firstly, the proposal contravening the phasing programme in the Ballyogan and Environs Local Area Plan 2019-2025 and its being premature due to existing deficiencies in the road network serving the area (i.e. the required Clay Farm Loop Road is not currently in place), and secondly, access to the proposal is not as required/ specified in the LAP, i.e., via Clay Farm Loop Road (but from Kilgobbin Road).

The first party appeal is undecided at the time of assessment.

*ABP 315923-23, PA Ref. D22A/0945*

Permission refused on appeal to McGarrell Reilly Homes on the 29<sup>th</sup> May 2024 for 19 houses and associated site works.

Two refusal reasons are cited: firstly, the proposal contravening the phasing programme in the Ballyogan and Environs Local Area Plan 2019-2025 and its being premature pending the completion of Clay Farm Loop Road and secondly, the proposed vehicular access route being contrary to the Dún Laoghaire Rathdown County Development Plan 2022-2028 (located on lands zoned Objective F: Open Space).

*ABP 314131-22 (SHD application)*

Permission refused on appeal to McGarrell Reilly Homes on the 12<sup>th</sup> October 2023 for 118 residential units, creche and associated site works.

Two refusal reasons are cited: firstly, the proposal contravening policy on residential unit mix in the Dún Laoghaire Rathdown County Development Plan 2022-2028, and its access arrangements being contrary to the provisions of the Ballyogan and Environs Local Area Plan 2019-2025 (including reference to the Clay Farm Loop Road) and conditions of extant permissions.

## 6.0 Policy Context

### 6.1. National Planning Context

- 6.1.1. The national policy context guiding future growth in the Ballyogan area is determined by the National Planning Framework (NPF), Housing for All, Climate Action Plan, National Biodiversity Plan, and several section 28 Ministerial Guidelines.

National Planning Framework, Project Ireland 2040 (NPF)

- 6.1.2. Several national policy objectives (NPOs) are applicable to the proposed development, consolidation of an infill site/ an extension to a residential scheme within an outer suburban/ urban extension area of Dublin City and Suburbs. For the ease of reference, I direct the Board to the planning authority's report (pgs. 22-23) and the applicant's first party appeal (pg. 8) which cite several objectives in full.

- 6.1.3. Of those objectives referenced, I identify NPO 3a, NPO 4, NPO 13, NPO 33, and NPO 35 which support development in settlements such as Ballyogan as being applicable to the proposed development.

Housing for All, 2021

- 6.1.4. Specifies four pillars by which universal access to quality housing options is to be achieved. Of relevance to the proposed development is the achievement of Pillar 1, increasing new housing supply.

Climate Action Plan, 2024

- 6.1.5. Outlines measures and actions by which the national climate objective of transitioning to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy by 2050 is to be achieved. These include the delivery of

carbon budgets and reduction of emissions across sectors of the economy. Of relevance to the proposed development, is that of the built environment sector. The Board must be consistent with the Plan in its decision making.

#### National Biodiversity Plan 2023-2030

- 6.1.6. Includes five objectives by which the current national biodiversity agenda is to be set and the transformative changes required to ensure nature is valued and protected is delivered. Of relevance to the proposed development, are the targets and actions associated with Objective 2 on achieving the conservation and restoration needs of environmental designations. Section 59B(1) of the Wildlife (Amendment) Act 2000, as amended, requires the Board to have regard to the objectives and targets of the NBAP in the performance of its functions.

#### Section 28 Ministerial Planning Guidelines

- 6.1.7. Several national planning guidelines are applicable to the proposed development (consolidated growth in infill sites, increased residential densities at certain types of locations, achievement of certain standards for apartment development). The relevant guidelines include the following (my abbreviation in brackets):
- Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024, (Compact Settlement Guidelines). Applicable policy for the proposed development includes:
    - Section 3.3: contains Table 3.1 which defines categories of urban areas within Dublin City and suburbs (which the appeal site is located within). ‘City – Urban Extension’ is described as the greenfield lands at the edge of the existing built-up footprint of the City that are zoned for residential development. For such locations, the guidelines state that densities in the range of 40dph-80dph should be applied and that densities up to 150dph are to be open for consideration at ‘accessible’ City – Urban Extension locations.
    - Section 3.4: outlines a two-step density refining process, based firstly on a determination of accessibility (as per definitions in Table 3.8) and secondly on site-specific criteria (impacts on character, historic environment,

protected habitats and species, daylight/ sunlight of residential properties, and water services capacity).

- Table 3.8 defines four categories of locations based on their accessibility to public transport (high-capacity public transport node, accessible, intermediate, peripheral). Highest applicable densities should be applied to residential development on lands within 1km walking distance to an existing high-capacity public transport node (i.e., including the LUAS), starting from the node and decreasing with distance.
- Section 3.4: contains Policy and Objective 3.1 which requires that the recommended density ranges set out in Section 3.3 are applied in the consideration of individual planning applications, and that these density ranges are refined further, where appropriate, using the criteria set out in Section 3.4.
- Section 4.4: contains Policy and Objective 4.1 which requires the implementation of principles, approaches and standards in the Design Manual for Urban Roads and Streets, 2013, including updates (DMURS).
- Section 5.3: includes achievement of housing standards as follows:
  - SPPR 1 – Separation Distances which requires a minimum of 16m between opposing windows serving habitable rooms at the rear or side of apartment units above ground floor level.
  - SPPR 2 – Minimum Private Open Space for apartments remains as per the Apartment Guidelines.
  - Policy and Objective 5.1 which recommends a public open space provision of between 10%-15% of net site area, exceptions to this range are outlined.
  - SPPR 3 – Car Parking specifies the maximum allowable rate of car parking provision based on types of locations (e.g., between 0/ 1 and 1.5 no. spaces per dwelling for city centre to accessible locations).
  - SPPR 4 – Cycle Parking and Storage which requires a general minimum standard of 1 no. cycle storage space per bedroom (plus

visitor spaces), a mix of cycle parking types, and cycle storage facilities in a dedicated facility of permanent construction (within or adjoining the residences).

- Section 5.3.7 – Daylight indicates that a detailed technical assessment is not required in all cases, regard should be had to standards in the BRE 209 2022, a balance is required between poor performance and wider planning gains, and compensatory design solutions are not required.
- Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, 2023 (Apartment Guidelines). Applicable policy for the proposed development includes:
  - Standards and requirements of SPPR 3 (minimum floor areas, and by reference to Appendix 1, minimum storage, private open space areas for 1-3 bedroom units).
  - SPPR 4 (50% to be dual aspect units in intermediate/ suburban areas).
  - SPPR 5 (minimum 2.7m requirement for ground level floor to ceiling height).
  - SPPR 6 (maximum of 12 apartments per floor level per core).
- Architectural Heritage Protection, Guidelines for Planning Authorities, 2011 (Architectural Heritage Guidelines).
  - Section 13.5 contains guidance on development within the curtilage of a protected structure. Key points among which include the following:
    - Inappropriate development will be detrimental to the character of the structure.
    - New construction should not interrupt a formal relationship between a protected structure and its ancillary buildings or features (e.g., a designed vista between a building and a landscape feature within its gardens, or a less formal relationship between a house and its outbuildings).

- The relationship between the protected structure and the street should not be damaged.
  - New works should not adversely impact on views of the principal elevations of the protected structure.
  - Where a large house has a garden which contributes to the character of the protected structure, subdivision of the garden, particularly by permanent subdividers, may be inappropriate.
  - Can be beneficial to phase works to a protected structure (conservation, renovation, new use) and the new development within the curtilage to ensure the satisfactory completion of both.
- The Planning System and Flood Risk Management, Guidelines for Planning Authorities, 2009 (Flood Risk Guidelines).
  - Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities, 2021, updated 2023 (Commercial Institutional Investment Guidelines).

## 6.2. Regional Policy

### Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES)

- 6.2.1. The RSES provides a development framework for the region, including a specific Metropolitan Area Strategic Plan (MASP) covering Dublin City and suburbs (which the appeal site is located within).
- 6.2.2. Accordingly, certain regional policy objectives are applicable to the proposed development, including RPOs 5.3, 5.4, and 5.5 which require future residential development in the MASP to plan led, facilitate sustainable travel patterns provide for higher densities and qualitative standards, focus on the consolidation of Dublin and suburbs.

## 6.3. Local Policy

- 6.3.1. The local policy context guiding future growth in Ballyogan is determined by the Dún Laoghaire Rathdown County Development Plan 2022-2028 and the Ballyogan and Environs Local Area Plan 2019-2025, as extended.

## Dún Laoghaire Rathdown County Development Plan 2022-2028

6.3.2. Dún Laoghaire Rathdown County Development Plan 2022-2028 (CDP) contains map-based designations, and policy and objectives in several chapters which establish the context for the proposed development.

6.3.3. The relevant CDP map-based designations include:

- The site is zoned as ‘A’ with the stated objective *‘To provide residential development and improve residential amenity while protecting the existing residential amenities’* (as per Map 9).
- The site is within the curtilage of Clay Farm House, a protected structure. The CDP Record of Protected Structures (RPS) lists the property as RPS Ref. 2119, cites the property’s name and address, and under ‘description’ states ‘Farmhouse’.
- To the south of the site is a 6-Year Road Objective, reserving the route of the Clay Farm Loop Road.
- The site is located within the catchment area of the Section 49 Supplementary Development Contribution Scheme for the ‘Luas Line B1 extension between Sandyford and Cherrywood’ (as per Map T1).
- The site is located within Parking Zone 3 (as per Map T2).

6.3.4. The most relevant CDP policy and objectives<sup>1</sup> include:

- Chapter 2 Core Strategy:
  - Policy Objective CS 11: Compact Growth
- Chapter 4 Neighbourhood: People, Homes and Place:
  - Policy Objective PHP 18: Residential Density
  - Policy Objective PHP 19: Existing Housing Stock – Adaptation
  - Policy Objective PHP 20: Protection of Existing Residential Amenity

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<sup>1</sup> Note: this list is to be read in conjunction with the applicant’s Planning Report and Statement of Consistency, the planning authority’s Planning Report, and the applicant’s First Party Appeal within which the policies and objectives are cited in full.



- Policy Objective PHP 27: Housing Mix
- Chapter 11 Heritage and Conservation:
  - Policy Objective HER 8: Work to Protected Structures
    - *ii) Ensure that any development proposals to Protected Structures, their curtilage and setting shall have regard to the 'Architectural Heritage Protection Guidelines for Planning Authorities' published by the Department of the Arts, Heritage and the Gaeltacht....*
    - *iv) Ensure that any development...affecting a Protected Structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout, and materials.*
    - *v) Ensure that the form and structural integrity of the Protected Structure is retained in any redevelopment and that the relationship between the Protected Structure and any complex of adjoining buildings, designed landscape features, or views and vistas from within the grounds of the structure are respected....*
    - *viii) Protect the curtilage of protected structures and refuse planning permission for inappropriate development within the curtilage and attendant grounds that would adversely impact on the special character of the Protected Structure....*
- Chapter 12 Development Management:
  - Section 12.3.1.1, Design Criteria
  - Section 12.3.3.1, Residential Size and Mix and Table 12.1
  - Section 12.3.5, Apartment Development
  - Section 12.3.7.7, Infill
  - Section 12.4.5.6, Residential Parking
  - Section 12.8.3, Open Space Quantity for Residential Development
  - Section 12.8.11, Existing Trees and Hedgerows
  - Section 12.9.10.1, Light Pollution

- Section 12.11.2.3, Development within the Grounds of a Protected Structure

#### Ballyogan and Environs Local Area Plan 2019-2025, extended

6.3.5. Ballyogan and Environs Local Area Plan 2019-2025, as extended (LAP) contains map-based guidance for the development of neighbourhoods and quarters, and policy and objectives in several chapters which reflect and largely align with those of CDP.

6.3.6. Most relevant among which include:

- Chapter 1 Introduction
  - Site located within Kilgobbin Quarter, Neighbourhood 11 – Kilgobbin South (Fig. 1.5)
- Chapter 4 Transportation and Movement
  - Policy BELAP MOV12 – New Linkages
- Chapter 5 Residential Development and Built Form
  - Policy BELAP RES2 – Density by Neighbourhood and Table 5.4
  - Policy BELAP RES3 – Building Height by Neighbourhood and Table 5.5
  - Policy BELAP RES6 – Housing Mix
  - Policy BELAP RES7 – Housing Design
- Chapter 7 Built Heritage and Archaeology
  - Policy BELAP BH2 – Protected Structures
    - *To ensure that new development respects the significance of the Protected Structures within the BELAP area and responds to their historic spatial context and landscape setting and the opportunity presented by these buildings to create a unique feature and setting that enhance the sense of place for new communities.*
- Chapter 9 Leisure and Environment
  - Policy BELAP ENV7 – Links to Adjoining

#### 6.4. Natural Heritage Designations

6.4.1. The appeal site is not located in or immediately adjacent to a European Site, a Natural Heritage Area (NHA) or a proposed NHA. There are no watercourses at or adjacent to the site. The closest watercourse is Ballyogan Stream located c.290m to the northeast of the site.

6.4.2. The European Site designations in proximity to the site include (measured at closest proximity):

- Knocksink Wood SAC (site code 000725) is c.4.96km to the south.
- Wicklow Mountains SAC (site code 002122) is c.5.21km to the southwest.
- Wicklow Mountains SPA (site code 004040) is c.5.48km to the southwest.
- South Dublin Bay SAC (site code 000210) is c.5.59km to the northeast.
- South Dublin Bay and River Tolka Estuary SPA (site code 004024) is c.5.59km to the northeast.
- Ballyman Glen SAC (site code 000713) is c.6.09km to the southeast.
- Rockabill to Dalkey Island SAC (site code 003000) is c.7.4km to the east.
- Dalkey Islands SPA (site code 004172) is c.7.95km to the northeast.

6.4.3. There are pNHA designations that align/ crossover with the European site designations above, including those at:

- Knocksink Wood, Ballyman Glen, South Dublin Bay, and Dalkey Coastal Zone.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

7.1.1. This is a first party appeal against the decision of the planning authority to refuse permission for the proposed development. The key issues raised in the appeal can be summarised under the following headed items.

#### Overall Justification for the Proposed Development

- The appeal site is zoned Objective 'A', residential is a 'permitted in principle' use and therefore the proposed development is consistent with the land use zoning objective pertaining to the lands.
- The density, scale, massing and design of the proposal is suitable, has been informed by urban design, building height, and architectural heritage analysis of the site and its surrounds, and complies with the local and national planning policy context.
- The site comprises underutilised, zoned, and serviced lands that can be suitably developed without causing significant impacts on Clay Farm House or amenity of surrounding residences, whilst delivering a high quality well located residential scheme of appropriate scale and density.
- An Architectural Heritage Impact Assessment has been undertaken for the proposal which finds the scheme is an architecturally cohesive design, retains the prominent composition of the house and outbuildings, and provides for additional planting for screening.
- Some alteration to the protected structure and its setting is necessary to allow for the creation of additional residential development on the site, and the approach to conservation is considered appropriate.
- The proposal will be accessed via the adjacent Clay Farm residential development (Phases 1 and 2, c.1,300 residential units) and will be serviced by the significant infrastructure already delivered by the applicant (road infrastructure, a local park).

#### Revised and Alternative Designs

- The key factors for the planning authority's refusal reason are identified as being the adverse impacts on residential amenity of adjacent properties and on the site's architectural heritage. These arise due to/ include:
  - the largely blank gable wall visible from the courtyard (southwest elevation).
  - the windows and balconies of the apartment structure.
  - opposition to a reduction in curtilage of the protected structure.

- an opportunity to retain a sense of the rural setting not taken.
- a character zone differential to the surrounding urban development not created.
- The appeal states that should the Board share these concerns, a revised design (i.e., revised elevations of the proposed development) and an alternative design (with more notable amendments) are included in the appeal to address these factors.
- Appendix 2 of the appeal presents an overview of the revised design and the alternative design, with descriptions, and identification of key revisions or amendments.
- Appendix 4 of the appeal includes revised plans of the proposed development to address concerns relating to the adverse impact on residential amenity. These include revisions to:
  - First floor window removed in order to prevent overlooking of the outbuildings.
  - Frames onto balconies removed in order to reduce the visual impact and overbearing on Clay Farm House.
  - Additional landscaping screening is proposed along the boundary, ensuring that there is no perceived overlooking.
- Appendix 5 of the appeal includes a more comprehensive alternative design to address concerns relating to adverse impacts on both residential amenity and architectural heritage. The appendix includes amended plans and particulars indicating:
  - Reduction in the overall floorspace, footprint and massing of the apartment block, with the omission of two apartments (from 10 2-bed units to eight 2-beds).
  - Increase in the separation distances between the apartment block and the neighbouring boundaries to the northwest and northeast.
  - Amended elevations indicating the removal of balconies from the southeast elevation (front, Clay Farm View streetscape) and the removal

of the frames around the balconies on the northwest elevation (rear, privacy screens retained where required).

- Amended design of the southwestern gable removing any windows and providing a directional bay window, in similarity with that proposed on the northeastern gable.
  - Provision of additional landscaped screening to the boundaries.
  - Reduction in the number of car parking spaces (from 10 to eight spaces) and an increase in the number of cycle spaces (from 22 to 25 spaces, including cargo bike spaces).
  - Relocation of the bin, bicycle and external store from on the street of Clay Farm View to along the site's southwestern boundary.
  - An updated schedule of accommodation and housing quality assessment for the alternative design.
- The appeal includes responses to 'other matters' identified from the planning officer's assessment, the planning authority's internal reports, and the third-party observation.
  - Documentation accompanying the first party appeal in support of the proposed development and the alternative designs includes (i.e., appendices prepared by applicant's consultancy team):
    - Architectural Response
    - Architectural Heritage Response
    - Residential Amenity Revised Architectural Drawings and Schedule
    - Alternative Option Revised Architectural Drawings and Schedule
    - Engineering Technical Note
    - Landscape Appeal Response
    - Public Lighting Appeal Response
    - Updated Photomontages Brochure

## 7.2. Planning Authority Response

7.2.1. A response received from the planning authority states that the grounds of appeal do not raise any new matter which would justify a change of attitude to the proposed development.

### 7.3. **Observations**

7.3.1. No observations have been received on the appeal.

### 7.4. **Further Responses**

7.4.1. No further responses have been received on the appeal.

## 8.0 **Planning Assessment**

### 8.1. **Introduction**

8.1.1. Having examined the appeal and all other documentation on the case file, inspected the site, and had regard to the relevant national, regional, and local policies and guidance, I consider that the main planning issues in the appeal to be as follows:

- Planning History
- Design and Layout
- Residential Density
- Architectural and Archaeological Heritage
- Residential Amenity
- Access, Traffic and Transportation
- Water Services, Flood Risk, and Utilities

8.1.2. In respect of the proposed development, I have carried out a screening determination for Appropriate Assessment (AA) and a pre-screening and a screening determination for Environmental Impact Assessment (EIA) which are presented in sections 9.0 and 10.0 below, to be read in conjunction with the applicable appendices (Appendices 1-3) at the end of this report.

### 8.2. **Planning History**

8.2.1. The planning history at the site is a key consideration in the assessment of the appeal. An understanding of the parent permission is necessary (nature of the

development previously granted, comparison between the extant and proposed development, a consideration of the attached conditions), as is of other recent planning history in the vicinity of the site, and whether there are implications for the appeal.

### Parent Permission

- 8.2.2. The proposed development seeks modifications to the parent permission, ABP 301522-18. This is an SHD application under which permission was granted to the applicant for 935 no. residential units, childcare and retail uses. The parent permission is referred to in the case documentation as Clay Farm Phase 2 and is at an advanced stage of construction and occupation.
- 8.2.3. I have reviewed the details of the parent permission, including the Inspector's report. The Inspector's report defers to the assessment of ABP TA0002 (see section 5.0 above of this report). ABP TA0002, an SHD application for a similar development as the parent permission, was initially refused permission by the Board due to insufficient information provided in respect of surface water drainage management.
- 8.2.4. The Inspector's report for ABP 301522-18 only assesses the surface water issues related to the refusal reason of ABP TA0002, concurring with and relying on the assessment undertaken by the Inspector of ABP TA0002 for all other components in the subsequent parent permission. Accordingly, I have reviewed the plans and particulars of ABP TA0002 and its assessment by the applicable Inspector.
- 8.2.5. I confirm to the Board that at the time of assessment of the SHD applications<sup>2</sup>, Clay Farm House was not designated as a protected structure in the applicable CDP 2016-2022. Clay Farm House and its curtilage were not included within the development areas (red line boundaries) of these SHD applications. Instead, the red line boundaries extended along the eastern side boundary of Clay Farm House. In ABP 301522-18, the area adjacent to Clay Farm House is indicated for development as a cul de sac residential street (referred to as Road 26 as per Site Layout 3 of 3,

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<sup>2</sup> Note: I refer to the 'SHD applications' due to the Inspector for ABP 301522-18 deferring to and relying on the assessment of the Inspector of ABP TA0002. However, it is understood that the relevant consent for the appeal case is the as-granted parent permission, ABP 301522-18.



Dwg No. 0358B-OMP-00-00-DRAXX-10003). This corresponds with Clay Farm View street presently at an advanced stage of construction.

- 8.2.6. Both ABP TA0002 and ABP 301522-18 included environmental impact assessment reports (EIARs) and were subject to EIA by the Board. In the case documentation, there is no reference to Clay Farm House (e.g., in a consideration of architectural heritage in the EIARs), with an emphasis being on the archaeological heritage of the site and receiving area.
- 8.2.7. I have reviewed the site layout plans and boundary treatments of the SHD applications with a focus on the area of and interface at the appeal site. The parent permission indicates the eastern boundary of Clay Farm House as comprising a wall with vegetation which is to be retained (as per Landscape Boundary Treatments, Dwg No. 2-309). At the time of my site inspection, I noted remnants of a stonewall and earthen bank, with temporary metal fencing along the site's eastern boundary. In this regard, the majority of the appeal site, that being, the curtilage of Clay Farm House, is partially open (physically and visually) to/ from Clay Farm View.
- 8.2.8. As outlined above, the majority of the appeal site was not part of the SHD applications. Common to both the development boundary of the site and that of the parent permission is a linear portion of land along the site's eastern boundary. Under ABP 301522-18, permission is granted for a swale and grassed verge in this strip of land (as per Site Layout 3 of 3, Dwg No. 0358B-OMP-00-00-DRAXX-10003). The proposed development seeks the replacement of same with part of the apartment building, parking, stores, and ancillary development.
- 8.2.9. Lastly, of relevance to the parent permission, I have undertaken an EIA pre-screening and a screening determination of the proposed development. In so doing, I consider the proposed development to be an extension of the parent permission and to come within the scope of Class 13, Part 2, Schedule 5 of the Planning and Development Regulations 2001, as amended. This is because the parent permission was subject to EIA, has been implemented and is at an advanced stage of construction.

#### Conditions

- 8.2.10. The Board granted permission for ABP 301522-18 on 2<sup>nd</sup> August 2018, subject to 25 conditions. These relate to construction, operation, technical, and financial matters.

As outlined above, the parent permission has been implemented and is at an advanced stage of construction.

- 8.2.11. The description of the proposed development refers to alterations of the parent permission and, as is apparent on review of the case documentation, the proposal is to be accessed via road infrastructure and serviced by open spaces, water services and utility infrastructure associated with/ as constructed in Clay Farm Phase 2. Accordingly, in the event of a grant of permission, it is appropriate that the proposed development be linked to the parent permission by condition.
- 8.2.12. This is also of relevance in respect of the appropriate period of the parent permission and by association, the proposed development. Under Condition 2, ABP 301522-18 was granted permission for a period of 10 years and thereby has a minimum expiry date of 1<sup>st</sup> August 2028 (the consent can benefit from several additional days gained through sections 251 and 251A of the 2000 Act). This is considered to be a reasonable length of time which would allow for the implementation of the proposal.
- 8.2.13. However, as outlined above, the proposal can also be classified as an extension to the parent permission rather than just a modification to the parent permission in itself. This is due to the fact that the majority of the appeal site was not included within the development boundary of the parent permission, and the proposal seeks new and additional residential units (e.g., as opposed to a change of unit type). Also, from a review of the conditions of the parent permission, I note some are outdated, historic, and/ or likely to have been complied with (for which the discharge process is likely to have been completed). Therefore, in the event of a grant of permission, in addition to being tied to the parent permission and those conditions which remain relevant and applicable, I recommend the proposed development be subject to several new conditions in the interests of clarity.

#### Recent Planning History

- 8.2.14. Finally, of relevance to planning history, the Board will be aware of recent planning decisions made in vicinity of the appeal site (see section 5.0 of this report above).
- 8.2.15. The planning authority and the Board on appeal (where appeals have been decided) have refused permissions of residential developments on lands to the northwest and southwest of the appeal site, for reasons including the non-delivery of the Clay Farm Loop Road (6-Year Road Objective in the CDP).

8.2.16. I have reviewed these applications and appeals, and confirm to the Board that I do not consider these to set a precedent for the proposed development. The proposal will be accessed via the Clay Farm Phase 2 development (residential streets, access road, main entrance to Ballyogan Road), on which the proposal is demonstrated as having an insignificant impact (as discussed in subsection 8.7 below).

### Conclusion

8.2.17. In conclusion, the proposed development comprises alterations to and an extension of an extant permission of an extensive residential development which is at an advanced stage of construction. In the event of a grant of permission, the attachment of conditions linking the proposal to the parent permission and of new conditions is recommended. From a review of the planning history at and in the vicinity of the site, no issue has arisen which would prevent a positive assessment of the proposal, subject to the achievement of normal planning standards as discussed in the following subsections.

### **8.3. Design and Layout**

8.3.1. The proposed development comprises a two-storey apartment building (with 10 2-bedroom units), parking (10 car and 22 cycle spaces), stores (bin and storage), communal open space, landscaping, and boundary treatments, and water and utility services infrastructure.

8.3.2. I identify the key statistics of the proposed block as including a gross floorspace of c.906 sqm, principal dimensions of 8.55m in height, 21.16m in depth, and 29.61m in width, and minimum separation distances to boundaries of c.2.66m to the southwest (Clay Farm House courtyard), c.5.37m to the northwest (Clay Farm House front garden area), c.4.37m to the northeast (Woodlawn), and c.3.17m to the southeast (Clay Farm View street edge).

### Planning Authority Assessment

8.3.3. I have reviewed the planning authority decision, including the assessment undertaken by the planning officer and those of the internal departments. Overall, the planning authority finds the proposal to be acceptable under all headed items except in relation to residential amenity and heritage, opposition to which form the basis of the single refusal reason for permission.

- 8.3.4. Of relevance to the design and layout of the proposal, I note that the planning authority accepts that the appeal site could accommodate residential development, however a more sympathetic form of development is considered necessary due to the adverse impact on residential amenity due primarily to overlooking and overbearance (planner's report, pg. 34).
- 8.3.5. Similarly, the planning authority finds the reduction in the curtilage of Clay Farm House acceptable in principle, but that the form of the proposed development, its proximity to the protected structure, and its revised boundaries are not (pg. 48). The proposal is considered to be inappropriate design solution for the site.
- 8.3.6. The first party appeal outlines the manner in which the proposed development is considered to be acceptable in terms of its siting, design, massing, and height, of its impact on the residential amenity of adjacent properties and of the architectural heritage of the site, of its demand on services and infrastructure, and of its compliance with national, regional, and local planning policy (see section 7.0 of this report above).
- 8.3.7. While I note and acknowledge the applicant's appeal grounds, from the outset of this assessment, I highlight to the Board that I share the planning authority's concerns regarding the inappropriateness of the design and layout of the proposed development.
- 8.3.8. I concur with the planning authority's assessment and find that the proposal would cause injury to the residential amenity of Clay Farm House, in particular, due to overbearance and overlooking (proximity to boundaries, design of balconies, location of fenestration). Further, I find the proposal would negatively impact on the architectural heritage value of Clay Farm House due to a diminution of its character (proximity to boundaries, encroachment of the setting).
- 8.3.9. In this regard, I find the proposed development to be unacceptable due to its design and layout and the resultant adverse impacts on the residential amenity and architectural heritage of Clay Farm House. Accordingly, I recommend to the Board that permission for the proposed development (as submitted to the planning authority) be refused for the same reason as cited by the planning authority.

#### Revised and Alternative Designs

- 8.3.10. However, as outlined and described in section 7.0 above of this report, the first party appeal includes a revised and an alternative design of the proposed development. In the first instance is the revised design which only addresses issues relating to residential amenity (plans and particulars included in Appendix 4 of the appeal). In the second instance is the alternative design which addresses issues relating to both residential amenity and architectural heritage (plans and particulars included in Appendix 5).
- 8.3.11. I clarify to the Board that I do not consider the revised design included in Appendix 4 to sufficiently address all the shortcomings of the proposed development. This is because I find the proposed development to be unacceptable in terms of its adverse impact on both residential amenity and architectural heritage.
- 8.3.12. Conversely, I consider there to be planning merit in the alternative design of the proposed development described in Appendix 2 (architectural response, includes a schedule of accommodation and housing quality assessment for same) and included in Appendix 5 (plans and particulars).
- 8.3.13. This alternative design (that subject of the plans and particulars in Appendices 2 and 5) amends the proposed development by reducing the gross floorspace to c.790 sqm and omitting two apartments (from 10 2-bed units to eight 2-beds). The scale and massing of the block is decreased with a reduction of c.6m in the principal width to c.23.5m (principal dimensions of height and depth remain as initially proposed). Minimum separation distances between the amended block and adjacent boundaries are increased to c.5.48m to the southwest (Clay Farm House courtyard) and c.6.37m to the northeast (Woodlawn), with the other separation distances (northwest, southeast boundaries) largely remaining as initially proposed.
- 8.3.14. The alternative design amends the block's elevations through the removal of the balconies from the southeast elevation (front, Clay Farm View streetscape) and the removal of the balcony frames on the northwest elevation (rear, privacy screens are retained where required). The design of the southwestern gable is also amended to remove windows and provide a directional bay window, in similarity with that proposed on the northeastern gable. The amended design also provides for additional landscaped screening along the boundaries, in particular the northwest,

and relocates the bin, bicycle and external store from Clay Farm View to along the site's southwestern boundary.

- 8.3.15. I consider the alternative design and layout of the proposed development, as outlined above, to overcome the negative impacts caused to residential amenity (overbearance, overlooking) and architectural heritage (loss of character, encroachment of setting) at the site. This is achieved through a reduction in the building's gross floorspace, building footprint, and massing (width), an increase in separation distances to site boundaries, in particular that to the southwest (Clay Farm House courtyard), a redesign of elevations providing for the removal of balconies (southeast, Clay Farm View streetscape), and of windows and balcony frames (southwest, northwest elevations), and an increase in landscaping providing for additional screening (northwest boundary).
- 8.3.16. Accordingly, in the remainder of this appeal case, I propose to assess the alternative design which amends the proposed development as outlined above and indicated in the plans and particulars included in Appendices 2 and 5 of the first party appeal.
- 8.3.17. I am satisfied that this is appropriate having regard to a number of factors. These include that this is a first party appeal by the applicant against the decision of the planning authority to refuse permission, that the planning authority has been provided with the first party appeal documentation, reviewed same and responded that there is no change to its decision, and that there are no other third parties (appellants, observers) to the appeal case. Further, I consider that the alternative design of the proposed development remains materially the same scheme, whereby the proposed amendments remove and/ or reduce the impacts associated with same.
- 8.3.18. In the interests of natural justice, I have considered the issues raised in the third party observation submitted to the planning authority (see section 4.4 of this report above) and confirm these are addressed as part of this assessment.
- 8.3.19. Finally, for the Board's clarity, I confirm in undertaking the screenings for AA and EIA I have had regard to the alternative design and find that the information provided for both assessment processes remain applicable and that the Board can rely on same. I also highlight that, should the Board not agree with my recommendation, the

screenings for AA and EIA are relevant for the proposed development as initially submitted i.e., in terms of significance of impacts.

### Conclusion

8.3.20. In conclusion, I concur with the assessment of the planning authority and find the proposed development to be unacceptable in terms of the adverse impacts caused to residential amenity and architectural heritage of Clay Farm House. Conversely, I find the design and layout of the alternative design of the proposal (subject of plans and particulars included in Appendices 2 and 5 of the first party appeal) to be an appropriate design solution for the site. I recommend permission be granted for same subject to appropriate conditions. The remainder of this assessment is concerned with the alternative design (i.e., as may be referred to as the proposed development as amended/ amended proposal).

## 8.4. Residential Density

- 8.4.1. The amended proposal has a residential density of c.62dph, while that of the proposed development as initially submitted is somewhat higher at c.77dph. The applicable national and local planning policy context (see section 6.0 of this report above) encourages the development of infill sites, securing consolidated compact growth and achieving increased residential densities at certain types of locations (e.g., in Dublin city and suburbs, close to high frequency public transport such as the LUAS).
- 8.4.2. The applicant (in the application and appeal documentation) and the planning authority (in its decision) have both had regard to the provisions of the Compact Settlement Guidelines. The applicant contends the site should be categorised as City – Urban Neighbourhood with an acceptable density range of between 50dph to 250dph. Appropriate density ranges are subject to a refining process which considers accessibility and five site-specific criteria. The planning authority categorises the site as City – Urban Extension with an acceptable density range of between 40dph and 80dph, though increasing to 150dph for highly accessible locations.
- 8.4.3. In having reviewed the case documentation and undertaken my site inspection, I concur with the planning authority and consider the site comes within the scope of City – Urban Extension. While I note that the site is favourably located within 1km

walking distance of the Luas stop at Leopardstown Valley and the Board may consider a higher residential density to be desirable, as I have outlined in subsection 8.3 with regard to design and layout, I consider there to site-specific criteria which counter the intensity of residential development at the site, namely restrictions arising from impacts on architectural heritage and residential amenity. On balance, I am satisfied that the density of the amended proposal is appropriate for the site and complies with the requirements of the Compact Settlement Guidelines.

8.4.4. Similarly, I consider the density of the amended proposal to satisfy the requirements of applicable local policy including Policy Objective CS 11, Policy Objective PHP 18, and Policy Objective PHP 19, Section 12.3.7.7 in the CDP and Policy BELAP RES2 of the LAP.

8.4.5. The proposed development, as amended, results in a potential increase of c.32 persons. The proximate Clay Farm Phase 1 (Larkfield) and adjacent Clay Farm Phase 2 residential developments have c.1,300 dwelling units. The receiving area is a developing suburban location, which is in proximity to services, public transport, amenities, and has the capacity to accommodate the likely impacts associated with the marginal population increase. In this context, no adverse impacts are reasonably anticipated.

#### Conclusion

8.4.6. In conclusion, the proposed development as amended, constitutes a smallscale infill development on lands adjacent to a newly developing suburban neighbourhood. The residential density of the infill scheme is appropriate to its location and restricted context. The amended proposal will generate a marginal increase in population in the area. The intensity of residential use at the site is likely to be such that can be accommodated without adverse impacts on same.

### **8.5. Architectural and Archaeological Heritage**

8.5.1. A key consideration in the appeal case is the impact of the amended proposal on the architectural heritage of the site. Clay Farm House is designated as a protected structure in the current CDP, RPS Ref. 2119, described as a 'Farmhouse'. The property is also listed in the National Inventory of Architectural Heritage (NIAH ref. 60260009).



8.5.2. The farmhouse is an 18th century detached residence with outbuildings framing a courtyard to the rear of the house (south/ southwest), and with gardens to the front and sides (north/ east). The site comprises part of the eastern garden area.

### Background

8.5.3. As I outlined in subsection 8.2 above, in respect of planning history, Clay Farm House was not designated as a protected structure in the previous CDP 2016-2022, which was in effect at the time of the assessments of the SHD applications (ABP TA0002 and ABP 301522-18). The documentation in these SHD applications and the associated Inspectors' reports do not refer to or consider architectural heritage and/ or the interface between Clay Farm House and the Clay Farm Phase 2 scheme.

8.5.4. At the time of my site inspection, I noted the absence of a definitive boundary (i.e., permanent, intact, clear line) between the site and the recently constructed street edge of Clay Farm View. That being, the site, which comprises the curtilage of Clay Farm House (eastern side garden area), is partially open (physically and visually) to Clay Farm View.

8.5.5. Also evident at site inspection is the extent to which the setting of Clay Farm House (especially in the eastern portion of the property) has been altered by the wider development of Clay Farm Phase 2 (albeit permitted prior to the property being designated as a protected structure).

### Architectural Heritage Impact Assessment

8.5.6. The application includes an Architectural Heritage Impact Assessment (AHIA) for the proposed development, which refers to photomontages/ CGIs also prepared of the scheme. The first party appeal includes an architectural heritage response to the refusal reason (Appendix 3), and photomontages/ CGIs of the amended proposal (Appendix 9).

8.5.7. I have reviewed these documents, about which I note and find the following:

- The site comprises part of the garden to the east of the house, which may have been originally separated from the main front garden area by a path and line of mature trees.
- The site was possibly used as an orchard and/ or vegetable garden.

- The Clay Farm Phase 2 residential scheme to the east of the site has been developed in the fields which were originally associated with the farm.
- The development of this extensive residential scheme has fundamentally altered the setting of the protected structure.
- The character of the protected structure is formed by the relationship between the main house, the outbuildings and the open courtyard.
- The architectural heritage value of the property arises from the coherent and intact nature of the grouping.
- The apartment block (applicable for both the proposed and amended schemes) is sited behind the wall of the courtyard, is lower in height and lesser in scale than Clay Farm House, and existing screening will be supplemented by additional tree and hedgerow screening.
- The apartment block is not visible in and therefore does not affect views from the approaching avenue and main entrance (Kilgobbin Road) and/ or from windows of the main rooms in the house.

#### Policy Context

- 8.5.8. The planning policy context for new developments within the curtilages of protected structures is set at national level by the Architectural Heritage Guidelines, and at local level by policy in the CDP and LAP (see section 6.0 above of this report).
- 8.5.9. Key considerations in determining whether the amended proposal is an acceptable form of development in the curtilage of Clay Farm House include that the proposal maintains the character of the protected structure, does not interrupt relationships between the protected structure and ancillary buildings or landscape features, does not interfere with views of same, and is sensitively designed and sited.
- 8.5.10. As outlined above, I find that the character of the protected structure is formed by the grouping of the main house, outbuildings and courtyard. The garden to the front and sides of the house is largely obscured and the appeal site is at somewhat of a remove from the house (reflected in the possibility that the area was used as an orchard or vegetable garden, demarcated by a path and lined with mature trees, such that an element of separation was already established).

- 8.5.11. As the eastern boundary of the site has already been considerably altered by the development of Clay Farm Phase 2, I do not find that the development of the site (in such close proximity to Clay Farm View) will adversely affect the character of the protected structure. The apartment block and all ancillary development are sited outside of the main grouping ensuring it remains intact.
- 8.5.12. I find that the apartment block in the amended proposal is sensitively sited at increased separation distances from the main grouping, the form and structural integrity of the main house are retained, the relationship with the complex of adjoining buildings is respected, and views to and from within the main house and its curtilage are not affected by the proposal. Further, I consider the apartment block as amended to be sensitively designed being of a scale, massing, height which are subservient to the main house, and with external finishes that are consistent with same.
- 8.5.13. On balance, while the amended proposal will further alter the setting of the protected structure, for the reasons outlined above, I find that the amended proposal will not adversely impact on the architectural heritage of the site.

#### Archaeological Heritage

- 8.5.14. The application also includes an Archaeological Impact Assessment (AIA) which indicates the site is in a prehistoric and historical environment, with two recorded archaeological monuments in proximity to the site's northwestern and southeastern boundaries (c.150m) and several monuments within a wider catchment.
- 8.5.15. The AIA concludes there is high potential for the discovery of previously unknown small scale archaeological remains in the area and recommends appropriate mitigation measures. These include archaeological monitoring of all ground works and, for any archaeological remains that are identified, their preservation in-situ and/or by record. The DAU submission concurs with the recommendation. In the event of a grant of permission, I recommend the attachment of an appropriate condition.

#### Conclusion

- 8.5.16. In conclusion, I find that the setting of the protected structure has been considerably altered due to the development of Clay Farm Phase 2 and that the site has potential to accommodate new development. I consider that the amended proposal does not

cause an adverse impact on the architectural heritage of the site, and complies with the relevant national and local policy context for new developments in curtilages of protected structures (i.e., Section 13.5 of the Architectural Heritage Guidelines, Policy Objective HER 8 and policy in Section 12.11.2.3 of the CDP, and Policy BELAP BH2 of the LAP).

## 8.6. Residential Amenity

- 8.6.1. Residential amenity, of both the existing properties adjacent to the site and that afforded to future residents of the scheme, are relevant planning considerations in this appeal case.

### Existing Residential Amenity

- 8.6.2. The potential for adverse impacts on existing residences can arise from overlooking, overshadowing, overbearance, and disruption or nuisance during construction and/or operation phases.
- 8.6.3. In its decision, the planning authority found the proposed development would have a negative impact on the residential amenity of adjoining properties, primarily that of Clay Farm House, due to overbearance and overlooking. This is a position with which I agree.
- 8.6.4. In subsection 8.3 above, I outline and consider the merits of the alternative design included in the first party appeal (as per plans and particulars in Appendices 2 and 5). I find that the negative impacts caused by the proposed development are overcome in the amended proposal. This is achieved through a reduction in the block's scale and massing and an increase in the separation distances from site boundaries (i.e., addressing overbearance), and amending the design of the block's elevations by removing windows, balconies, and balcony frames and increasing landscaped screening along site boundaries (i.e., addressing overlooking and loss of privacy).
- 8.6.5. I am satisfied that the amended proposal is of a design, scale, siting, and orientation that will not result in overlooking, overshadowing, or overbearance of adjacent residential properties. I have considered Clay Farm House, Woodlawn, and dwellings along Clay Farm View.

- 8.6.6. In respect of construction and operation phase impacts, I consider that site development works are short term in duration and impacts arising will be temporary, localised, and managed in accordance with the provisions outlined in the preliminary Construction Environmental Management Plan (CEMP) submitted with the application. Of the occupation of the scheme, the amended proposal will result in a marginal increase of population in the area. Once the wider Clay Farm Phase 2 development is fully operational, impacts associated with the additional residences in the apartment block will be imperceptible in effect.
- 8.6.7. On balance, therefore, I consider that the amended proposal will not result in negative impacts on existing residential amenity, thereby complying with applicable national and local planning policy which encourages appropriately scaled infill developments whilst protecting existing residential amenity (e.g., SPPR 1 of the Compact Settlement Guidelines, and Policy Objective PHP 20 and Section 12.3.7.7 of the CDP).

#### Future Residential Amenity

- 8.6.8. Key considerations in determining the level of amenity for future residents of the amended proposal include the residential unit mix, accommodation design and standards, and open space provision and function. The proposed development is subject to the requirements of national policy in the Compact Settlements Guidelines and the Apartment Guidelines, both of which include mandatory SPPRs.
- 8.6.9. Of the residential unit mix, while I note each apartment is a 2-bedroom unit (there are two apartment designs/ layouts), due to the smallscale infill nature of the proposal, I find this to be acceptable. I concur with the planning authority's position that the requirements of CDP Section 12.3.3.1, Residential Size and Mix and Table 12.1 do not apply in this instance to the proposed development.
- 8.6.10. With regard to amenity levels of future residents of the scheme, I have reviewed the plans and particulars included in Appendices 2 and 5 of the appeal. Appendix 2 includes a schedule of accommodation and housing quality assessment for the amended proposal. I confirm the proposed apartments satisfy the minimum requirements (e.g., for floor areas, design standards, aspect, private open space) included in the national planning guidelines and local policy context (cited in section 6.0 of this report above).

8.6.11. The amended proposal is served by an area of communal open space for use by residents, which I find to be satisfactory in quantitative and qualitative terms. Future residents will have access to the public open space in the wider Clay Farm Phase 2 development (of which, the applicant indicates there is an over-supply and no in-lieu contribution arises in respect of the proposed development). I note the report from the Parks Section, and I consider it necessary for revised Landscape Masterplans (ground floor, roof plan) indicating the amended proposal and final landscaping particulars be agreed with the planning authority.

#### Other Procedural Items

8.6.12. I highlight to the Board that the Commercial Institutional Investment Guidelines do not apply to the proposed development (shared-door apartments) and accordingly the standard condition (restricting the first occupation of same) is not attached.

8.6.13. While I note the number of units recommended to be permitted is eight apartments, as the amended proposal is a modification of/ extension to the wider Clay Farm Phase 2 development, I consider the requirements of Part V apply (social and affordable housing allocation) and the standard condition is attached.

#### Conclusion

8.6.14. In conclusion, I have considered the residential amenity for existing and future residents. For existing residents, I consider that the amended proposal will not injure the residential amenity of adjacent properties or amenities in the wider area. I find that future residents will be provided with residential accommodation of a sufficient standard and enjoy acceptable levels of residential amenity, in a well-designed, serviced, and managed development, subject to condition in the event of a grant of permission.

### **8.7. Access, Traffic and Transportation**

8.7.1. I identify issues of access, traffic generation, and transportation including parking provision, as relevant considerations. I have reviewed the report of the planning authority's Transportation Section which does not object to the proposal, instead requiring conditions relating to design and construction standards, construction phase impacts, and operation phase mobility management.

#### Access

- 8.7.2. The proposed development is located on the eastern side of Clay Farm View, a recently constructed, cul de sac residential street. The proposal will be accessed via the main entrance serving the adjacent Clay Farm Phase 2, and primary access road Clay Farm Way, which extends south from Ballyogan Road.
- 8.7.3. There is no access to the proposed development from Kilgobbin Road, and the proposal does not affect the existing access arrangements to Clay Farm House and the adjacent Woodlawn. I have reviewed the proposed boundary treatments for the scheme which I consider to be suitable, adequate and robust. The proposed access arrangement is considered to be satisfactory.

#### Traffic Generation

- 8.7.4. During the site development works, the proposed development will result in an increase in traffic activity (HGVs, workers) as construction equipment, materials, and waste are delivered to/ removed from the site. However, site development works are short term in duration and impacts arising will be temporary, localised, and managed in accordance with the provisions outlined in the preliminary CEMP submitted with the application.
- 8.7.5. The amended proposal includes eight 2-bedroom apartments. The Engineering Services Report (ESR) submitted with the application considers the operation phase traffic impacts for the proposed development, predicting an increase in total vehicle trips (combined arrivals and departures) of four trips during the AM peak hour, and three trips in the PM peak hour. The traffic generation arising from the amended proposal is likely to be marginally less than this. Such increases in traffic generation are likely to be insignificant in effect. I consider that the internal road network of Clay Farm Phase 2 and the wider surrounding road network have sufficient capacity to cater for the proposal.

#### Transportation Infrastructure

- 8.7.6. The amended proposal includes for a reduced number of car parking spaces from 10 to eight spaces (1 space per apartment unit) and an increase in the number of cycle spaces (from 22 to 25 spaces). The car parking spaces, a combination of perpendicular and parallel spaces, are sited on-street. The cycle spaces are located along the southwestern site boundary and are covered.

8.7.7. I have reviewed the applicable CDP map for car parking zones and identify the site as being located just within Zone 3 (remainder of County non-rural). The applicable parking standards for Zone 3 are 1 space per 2-bedroom apartment. In addition to the CDP requirements, in terms of car and cycle parking provision, I have also had regard to SPPR 3 and SPPR 4 respectively of the Compact Settlements Guidelines (see section 6.0 above). I find both the car and cycle parking provision in the amended proposal to satisfy the applicable policy requirements and be an appropriate response for the location of the appeal site, and the availability of public transport.

#### Conditions

8.7.8. The Transportation Section recommends several conditions in the event of a grant of permission relating to transport and safety matters. An updated/ revised Road Layout and Levels drawing indicating the amended proposal will be required to be agreed by condition. Additionally, I agree with the Transportation Section's requirement for final agreement on the proposed cycle parking arrangements, and that the proposal be subject to the Clay Farm Phase 2 mobility management plan.

8.7.9. I also recommend conditions requiring the scheme's road layout (and all components thereof) be constructed to the standards of the planning authority for such work and accord with the requirements of DMURS and the National Cycle Manual, and relating to the provision of infrastructure for electric vehicles. I consider other construction related items can be appropriately addressed in a final CEMP to be agreed.

8.7.10. I note the submission made by the TII to the planning authority in relation to the site being within an area subject of the section 49 Supplementary Development Contribution Scheme -'Extension of LUAS Line B1 - Sandyford to Cherrywood'. I have reviewed the applicable CDP map and the planning authority's Scheme. I find that the contribution does apply as the proposal does not come within the scope of listed exemptions (as per section 13 of the Scheme). A section 49 condition should be attached accordingly.

8.7.11. Finally, as discussed in subsection 8.2 above, the Board will be aware of the recent planning history in the area whereby permissions for residential development have been refused due to the absence of the Clay Farm Loop Road. I do not consider this



to be the case for the proposed development which will be served instead by the Clay Farm Phase 2 transportation infrastructure.

### Conclusion

8.7.12. In conclusion, I find the amended proposal to be acceptable in terms of access, traffic generation, and transportation infrastructure. The proposal is of a design, scale and intensity of use that is not likely to cause congestion or to have an adverse impact on the traffic conditions of the surrounding area. In the event of a grant of permission, I recommend that standard and project specific conditions be attached, the latter requiring final agreement with the planning authority.

### **8.8. Water Services, Flood Risk, and Utilities**

8.8.1. I identify issues of water services, flood risk, and utilities as relevant considerations. I have reviewed the report of the planning authority's Drainage Section which sought further information on technical details and calculations, and the Public Lighting Section which also sought further information.

#### Water Services

8.8.2. The proposed development includes alterations to the parent permission by replacing a permitted swale and grassed verge along the site's eastern boundary with part of the proposed building, car parking spaces, bin, cycle and external stores, and new landscaping. Save for the Parks Section noting the loss of the swale, there is no objection from the planning authority to this alteration by itself.

8.8.3. The proposal includes connections to existing Uisce Eireann water services infrastructure in the adjacent Clay Farm Phase 2 scheme. Wastewater arising from the proposal will be collected, drain to the adjacent Clay Farm View sewer, discharge through the wastewater system of the overall scheme, be treated at Shanganagh WWTP, and discharged to necessary standards to the Irish Sea.

8.8.4. Surface water runoff arising from the proposal will drain to the adjacent Clay Farm View piped infrastructure, attenuate within the surface water system of the overall scheme, and in turn discharge to Ballyogan Stream. Discharge rates to the watercourse are restricted to those of greenfield runoff rates. The project's surface water management system incorporates several surface level SuDS and has been

designed to comply with the requirements of the GSDS and relevant industry manuals.

- 8.8.5. Uisce Eireann indicates the proposal can be serviced (Confirmations of Feasibility are provided for connections to water supply and wastewater), and that there is capacity in these public systems without requirement for any infrastructural upgrades.
- 8.8.6. Mitigation measures are identified in the preliminary CEMP and ESR during the construction phase of the proposal to safeguard the quality of the surface water runoff, prevent pollution events to groundwater, and mitigate against excessive siltation. The design of the proposal incorporates a comprehensive surface water management system including SuDS features, on-site attenuation in the wider Clay Farm scheme, and discharge at greenfield rates to Ballyogan Stream.

#### Flood Risk

- 8.8.7. The ESR includes a site-specific Flood Risk Assessment (SSFRA) for the proposal, which states there is no history of flooding at the site. The SSFRA identifies the proposal as being at remote and low risk of tidal flooding, at possible and low risk of fluvial flooding (associated with Ballyogan Stream), and at possible and moderate risk of pluvial flooding (primarily due to surcharge of the surface water drainage system).
- 8.8.8. Mitigation measures are proposed to address the risks (appropriate design of the drainage network, climate change allowance, finished floor levels). Subject to which the site is determined to be located within Flood Zone C, the proposal (a residential use) is appropriate for the zone, and a justification test is not required for the development.
- 8.8.9. The third party observation made to the planning authority on the application, raised concerns relating to drainage and flood risk issues. I have had regard to the first party appeal response on the matter. This highlights the topography of the area, outlines the difference in levels between the site and adjacent property, and clarifies that surface water runoff is collected in sub-surface infrastructure and drains to Clay Farm Phase 2 and discharged to Ballyogan Stream (i.e., away from the adjacent property).

## Utilities

8.8.10. The Public Lighting Section of the planning authority required further information on the proposed lighting scheme. I recommend agreement on a final scheme be required by way of condition having regard to the amended proposal.

## Conclusion

8.8.11. In conclusion, I consider that the applicant has adequately demonstrated that there is sufficient capacity in the public systems to accommodate the demands arising from the proposal, and that the water services infrastructure for the proposal will be designed, operated, and maintained to required standards. In respect of flood risk, the proposal has been demonstrated to not be at risk of flooding, creating or increasing flood risk for adjacent properties, thereby complying with national policy and local policy on the matter. In the event of a grant of permission, standard conditions relating to water services and utilities should be attached.

## **9.0 Appropriate Assessment**

### **9.1. Screening Determination for Appropriate Assessment**

9.1.1. In accordance with section 177U(4) of the Planning and Development Act 2000, as amended (2000 Act), and on the basis of objective information, I conclude that the proposed development would not have a likely significant effect on any European site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (Stage 2) under section 177V of the 2000 Act is not required.

9.1.2. This conclusion is based on:

- Objective information presented in the Appropriate Assessment Screening Report.
- Standard pollution controls that would be employed regardless of proximity to a European site and the effectiveness of same.
- Qualifying interests, special conservation interests, and conservation objectives of the European sites.
- Distances from European sites.
- Absence of any meaningful pathways to any European site.

9.1.3. No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

## 10.0 Environmental Impact Assessment

### 10.1. Pre Screening for Environmental Impact Assessment

10.1.1. Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended (2001 Regulations), and section 172(1)(a) of the Planning and Development Act 2000, as amended (2000 Act), identify classes of development with specified thresholds for which Environmental Impact Assessment (EIA) is required.

10.1.2. The proposed development is a modification of an extant permission, which has been implemented and is at an advanced stage of construction. The parent permission comprises 935 dwelling units and relates to a site measuring c.20.5ha. The proposal seeks an additional 10 dwelling units in an area extended from that of the extant permission, measuring c.0.13ha.

10.1.3. Accordingly, I identify the following classes of development in the 2001 Regulations as being of relevance to the proposed development:

- Class 13(a) relates to a change or extension of development already authorised, executed or in the process of being executed that would:
  - (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 the greater.
- Class 10(b) relates to infrastructure projects that involve:
  - (i) Construction of more than 500 dwelling units,
  - (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

10.1.4. With regard to thresholds of development, I identify the applicable threshold (i.e., the greater amount as per Class 13(a)(ii)) for Class 10(b)(i) is 250 dwellings units and for Class 10(b)(iv) is 5ha (I consider that the site comes within the definition of another

part of a built-up area where the 10ha threshold applies). Therefore, the proposed development is sub-threshold in terms of mandatory EIA requirements arising from Class 13(a)(ii) and Class 10(b)(i) and/ or (iv) of the 2001 Regulations.

10.1.5. As such, the criteria in Schedule 7 of the 2001 Regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment and should be the subject of EIA. The criteria include the characteristics of the project, the location of the site, and any other factors leading to an environmental impact.

## 10.2. **Screening Determination for Environmental Impact Assessment**

10.2.1. The applicant has submitted an Environmental Impact Assessment screening report (EIASR) with the application addressing issues which are included for in Schedule 7A of the 2001 Regulations.

10.2.2. Based on the criteria in Schedule 7 of the 2001 Regulations, I have carried out an EIA screening determination of the project (included in Appendix 3 of this report). For the Board's clarity, in undertaking the EIA screening determination, I have considered and assessed the alternative design of the proposed development as submitted by the applicant in the first party appeal.

10.2.3. I have had regard to the information provided in the applicant's EIASR and other related assessments and reports included in the case file, which I have found to be relevant to allow an assessment of the alternative design. I concur with the nature and scale of the impacts identified by the applicant and note the range of mitigation measures proposed. I am satisfied that the submitted EIASR identifies and describes adequately the effects of the proposed development on the environment.

10.2.4. I have concluded that the proposed development, as amended, would not be likely to have significant effects (in terms of extent, magnitude, complexity, probability, duration, frequency, or reversibility) on the environment and that the preparation and submission of an Environmental Impact Assessment Report is not therefore required.

10.2.5. This conclusion is based on regard being had to:

- a) The nature and scale of the project, which is below the thresholds in respect of Class 13(a)(ii) and Class 10(b)(i) and/ or Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended.
- b) The relevant policies and objectives in the Dún Laoghaire Rathdown County Development Plan 2022-2028 (including the site being subject to Zoning Objective A), those in the Ballyogan and Environs Local Area Plan 2019-2025, as extended, and the results of the strategic environmental assessment of these plans undertaken in accordance with the SEA Directive (2001/42/EC).
- c) The infill nature of the site and its location in a suburban area which is served by public services and infrastructure.
- d) The pattern of existing and permitted development in the area.
- e) The planning history at the site and within the area.
- f) 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.
- g) The guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage, and Local Government (2003).
- h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended.
- i) 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 EIA Directive.
- j) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the preliminary Construction Environmental Management Plan, Landscape, Biodiversity and Visual Impact Statement, Arboricultural Assessment, Engineering Services Report (Site-Specific Flood Risk Assessment), Architectural Heritage Impact Assessment, and Archaeological Impact Assessment.

## 11.0 Recommendation

Following from the above assessment, I recommend that permission is GRANTED for the development as proposed due to the following reasons and considerations, and subject to the conditions set out below.

## 12.0 Recommended Draft Board Order

### **Planning and Development Act 2000 as amended**

**Planning Authority:** Dún Laoghaire Rathdown County Council

**Planning Authority Register Reference:** LRD 24A/0451/WEB

**Appeal** by Viscount Securities Unlimited against the decision made on the 20<sup>th</sup> day of August 2024, by Dún Laoghaire Rathdown County Council to refuse permission to Viscount Securities Unlimited c/o of John Spain, 39 Fitzwilliam Place, Dublin 2, in accordance with plans and particulars lodged with the said Council.

### **Proposed Development**

Largescale residential development on a site at Clay Farm House (a protected structure), Kilgobbin Road, Dublin 18, and at Clay Farm (Phase 2), Ballyogan Road, Dublin 18. The site is located to the east of Clay Farm House, a protected structure under RPS Ref.: 2119, and to the west of the Clay Farm Phase 2 residential development (currently under construction).

The proposed development consists of the following:

- Construction of a two storey apartment building, over a lower ground level, comprising 10 no. 2 bedroom apartments. Balconies are provided for all apartments on the north-west and south-west elevations;
- Associated alterations to the Strategic Housing Development permitted under ABP Ref.: 301522-18, as amended under ABP Refs.: 304212-19, 305172-19, 308563-20, 310422- 21 and Reg. Ref.: LRD23A/0126, replacing a permitted

swale and grassed verge with 10 no. car parking spaces, bin, cycle and external stores, and associated landscaping changes;

- The proposed development includes foul and surface water drainage, communal open space, landscaping, boundary treatment, lighting and all associated site works.

The permitted SHD development (under ABP Ref.: 301522-18, as amended under ABP Refs.: 304212-19, 305172-19, 308563-20, 310422-21 and Reg. Ref.: LRD23A/0126), which is under construction, is for a total of 935 no. residential units (351 no. houses and 584 no. apartments) and the proposed alterations to the SHD permission relate to a permitted swale and grassed verge only.

## **Decision**

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

## **Matters Considered**

In coming to its decision, the Board had regard to the following:

- a) Policies and objectives set out in the National Planning Framework 2040 and the Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031.
- b) Policies and objectives set out in the Dún Laoghaire Rathdown County Development Plan 2022-2028, including the location of the site on lands subject to Zoning Objective A and the permitted uses therein.
- c) Policies and objectives of the Ballyogan and Environs Local Area Plan 2019-2025, as extended.
- d) Housing for All, A New Housing Plan for Ireland, 2021.
- e) Climate Action Plan, 2024.
- f) National Biodiversity Plan 2023-2030.



- g) Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024.
- h) Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2023.
- i) Architectural Heritage Protection, Guidelines for Planning Authorities, 2011.
- j) The Planning System and Flood Risk Management, Guidelines for Planning Authorities, 2009.
- k) The Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities, 2021, updated 2023.
- l) Design Manual for Urban Roads and Streets, 2013, updated 2019.
- m) The nature, scale, and design of the proposed development.
- n) The availability in the area of a range of social, community, and transport infrastructure.
- o) The pattern of existing and permitted development in the area.
- p) The planning history at the site and within the area.
- q) The reports of the planning authority.
- r) The submissions received by the planning authority from observers and prescribed bodies.
- s) The grounds of appeal.
- t) The response to the grounds of appeal by the planning authority.
- u) The report and recommendation of the Planning Inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

### **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment screening exercise (Stage 1) in relation to the potential effects of the proposed development on designated European sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment, the

distances to the nearest European sites, and the absence of any direct hydrological connections, submissions and observations on file, the information and reports submitted as part of the application and appeal, and the Planning Inspector's report. In completing the screening exercise, the Board adopted the report of the Planning Inspector and concluded that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, and that an Appropriate Assessment (Stage 2) and the preparation of a Natura Impact Statement would not, therefore, be required.

### **Environmental Impact Assessment Screening**

The Board completed an Environmental Impact Assessment screening determination of the project and considered that the Environmental Impact Assessment Screening Report and other documents submitted by the applicant identify and describe adequately the direct, indirect, and cumulative effects of the project on the environment.

Regard has been had to:

- a) The nature and scale of the project, which is below the thresholds in respect of Class 13(a)(ii) and Class 10(b)(i) and/ or Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended.
- b) The relevant policies and objectives in the Dún Laoghaire Rathdown County Development Plan 2022-2028 (including the site being subject to Zoning Objective A), those in the Ballyogan and Environs Local Area Plan 2019-2025, as extended, and the results of the strategic environmental assessment of these plans undertaken in accordance with the SEA Directive (2001/42/EC).
- c) The infill nature of the site and its location in a suburban area which is served by public services and infrastructure.
- d) The pattern of existing and permitted development in the area.
- e) The planning history at the site and within the area.

- f) 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.
- g) The guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage, and Local Government (2003).
- h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended.
- i) 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 EIA Directive.
- j) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the preliminary Construction Environmental Management Plan, Landscape, Biodiversity and Visual Impact Statement, Arboricultural Assessment, Engineering Services Report (Site-Specific Flood Risk Assessment), Architectural Heritage Impact Assessment, and Archaeological Impact Assessment.

In so doing, the Board concluded that by reason of the nature, scale and location of the proposed development, the development would not be likely to have significant effects on the environment and that an Environmental Impact Assessment and the preparation of an Environmental Impact Assessment Report would not, therefore, be required.

### **Conclusion on Proper Planning and Sustainable Development**

The Board considers that, subject to compliance with the conditions set out below, the proposed development would be consistent with the applicable Zoning Objective A and other policies and objectives of the Dún Laoghaire Rathdown County Development Plan 2022-2028, and those of the Ballyogan and Environs Local Area Plan 2019-2025, would appropriately intensify the residential use at the site, would provide acceptable levels of residential amenity for future occupants, would respect

the architectural heritage of the site, would not seriously injure the residential or visual amenities of property in the vicinity, would not cause adverse impacts on or serious pollution to biodiversity, lands, water, air, noise or waste, would be acceptable in terms of pedestrian, cyclist and traffic safety and convenience, and would be capable of being adequately served by water supply, wastewater, and surface water networks without risk of flooding. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application to the planning authority on the 26<sup>th</sup> June 2024, as amended by the plans and particulars received by An Bord Pleanála on the 16<sup>th</sup> September 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

2. Apart from any departures specifically authorised by this permission, the development shall comply with the conditions of the parent permission ABP 301522-18 unless the conditions set out hereunder specify otherwise. This permission shall expire on the same date as the parent permission.

**Reason:** In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

3. Permission is hereby granted for eight apartments in accordance with the plans and particulars (as per 'Revised Design Option', Section 4, Appendix 2 and 'Alternative Option Revised Architectural Drawings and Schedule', Appendix 5 of the appeal) received by An Bord Pleanála on the 16<sup>th</sup> September 2024 .

**Reason:** In the interests of clarity and the proper planning and sustainable development of the area.

4. Mitigation measures outlined in the plans and particulars, including the preliminary Construction Environmental Management Plan, Landscape, Biodiversity and Visual Impact Assessment, Arboricultural Assessment, Tree Protection Plan, and Engineering Services Report submitted with the application and, as relevant, as amended by those submitted with the appeal, shall be carried out in full, except where otherwise required by conditions attached to this permission.

**Reason:** In the interest of protecting the environment, public health, and clarity.

5. a) The developer shall engage a suitably qualified archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, groundworks, and/ or dredging associated with the development. The use of appropriate machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary.
- b) Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the Department of Housing, Local Government and Heritage, regarding appropriate mitigation [preservation in-situ/ excavation].
- c) The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the

planning authority, following consultation with the Department of Housing, Local Government and Heritage, shall be complied with by the developer.

d) Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the Department of Housing, Local Government and Heritage shall be furnished with a final archaeological report describing the results of the monitoring and any subsequent required archaeological investigative work/ excavation required. All resulting and associated archaeological costs shall be borne by the developer.

**Reason:** To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

6. Prior to the commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's 'Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects' (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

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

7. Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) shall be prepared and submitted to the planning authority for written agreement. The CEMP shall incorporate details for the following: collection and disposal of construction waste, surface water run-off from the site, on-site road construction, and environmental management measures during construction including working hours, noise control, dust and vibration control and monitoring of such measures. A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the

planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development.

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

8. a) Prior to commencement of development, proposals for a development name and numbering scheme, and associated signage shall be submitted to and agreed in writing with the planning authority. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.
- b) The development name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/ marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

9. Details of the materials, colours, and textures of all the external finishes to the proposed buildings and boundary treatments shall be as submitted with the application and, as relevant, as amended by those submitted with the appeal, unless otherwise agreed in writing with the planning authority.

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

10. Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes and in communal areas, and shall take account of trees within the Arboricultural Impact Assessment and Tree Protection Plan: Dwg No. CFH002. Such lighting shall be provided prior to the making available for occupation of any residential unit.

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

11. a) The developer shall enter into water and/ or wastewater connection agreement(s) with Uisce Éireann, prior to commencement of development.
- b) All development shall be carried out in compliance with Uisce Éireann codes and practices.
- c) Where the developer proposes to build over or divert existing water or wastewater services, the developer shall have received written Confirmation of Feasibility of Diversion(s) from Uisce Éireann prior to any works commencing.

**Reason:** In the interest of public health.

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

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

13. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

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

14. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

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



15. The following shall be complied with:

- a) Prior to commencement of development, a revised Road Layout and Levels drawing indicating the development as permitted in accordance with Condition 3, shall be submitted to and agreed in writing with the planning authority.
- b) Prior to commencement of development, plans and particulars for bicycle parking and storage shall be submitted to and agreed in writing with the planning authority.
- c) The proposed development shall be subject to the Clay Farm Phase 2 residential development Travel Plan (Mobility Management Plan).

**Reason:** In the interests of traffic, pedestrian and cyclist safety, and sustainable transport.

16. The road network serving the proposed development, including, as relevant, carriageway widths, corner radii, turning bays, junctions, set down/ drop off area(s), parking areas, footpaths, kerbs, pedestrian crossings, raised tables, and cycle lanes shall be in accordance with the detailed construction standards of the planning authority for such works, and design standards outlined in the Design Manual for Urban Roads and Streets and the National Cycle Manual issued by the National Transport Authority. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of traffic and pedestrian safety.

17. A minimum of one car parking space shall be provided with a functioning electric vehicle charging station/ point, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points/ stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/ points have not

been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

**Reason:** To provide for and/ or future proof the development such as would facilitate the use of electric vehicles.

18. a) The management and maintenance of the development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being so taken in charge.

b) The communal open spaces, hard and soft landscaping, car and cycle parking areas, access ways, refuse/ bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by the legally constituted management company.

c) Details of the management company contract, and drawings/ particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

**Reason:** In the interests of orderly development and to provide for the satisfactory future maintenance of this development.

19. a) Prior to commencement of development, revised Landscape Masterplan drawings (ground floor, roof plan) indicating the development as permitted in accordance with Condition 3, shall be submitted to and agreed in writing with the planning authority.

b) The areas of communal open space in the development shall be levelled, contoured, soiled, seeded, and landscaped (hard and soft) in accordance with the landscaping plans and particulars as revised in accordance with Condition 19(a) above and agreed in writing with the planning authority.

c) Final design, finishes, methods of construction and/ or installation of footpaths, seating, paving, and drains/ SuDS features, shall be submitted to the planning authority for its written agreement.

d) The landscaping work shall be completed before the applicable residential units are made available for occupation, unless otherwise agreed with the planning authority.

e) The landscaping and planting schedule shall be managed and maintained in accordance with a Landscape Management and Maintenance Plan, which shall be submitted to the planning authority for its written agreement. This schedule shall cover a period of at least three years and shall include details of the arrangements for its implementation.

f) The areas of communal open space shall be reserved and maintained as such by the developer until taken in charge by the management company or by the local authority.

**Reason:** In the interest of nature conservation, residential amenity, and to ensure the satisfactory development of the open space areas and their continued use for this purpose.

20. a) An Operational Waste Management Plan (OWMP) containing details for the management of waste within the development, the provision of facilities for the storage, separation, and collection of the waste and for the ongoing operation of these facilities, shall be submitted to and agreed in writing with the planning authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed OWMP.

b) The OWMP shall provide for screened communal bin stores for the apartment block, the locations, and designs of which shall be as indicated in the plans and particulars lodged within the application and, as relevant, as amended by those submitted with the appeal, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage for the proposed development.

21. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and sections 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

22. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority and/ or management company of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

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

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

24. The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 – Sandyford to Cherrywood in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

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

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Phillippa Joyce

Senior Planning Inspector

7<sup>th</sup> January 2025

## Appendix 1: Appropriate Assessment – Screening Determination

### Screening for Appropriate Assessment

#### Screening Determination

##### Step 1: Description of the Project

I have considered the proposed development (project) in light of the requirements of section 177U of the Planning and Development Act 2000, as amended.

##### Subject Site

The subject site is located on lands at Clay Farm House, Kilgobbin Road and at Clay Farm residential scheme, Ballyogan Road in Dublin 18. The site is located c.6.3km to the west of Killiney Beach and Irish Sea coastline (closest linear measurement).

The closest watercourse to the project is Ballyogan Stream, a waterbody located c.290m to the northeast of the site (to the north of Larkfield and Clay Farm residential schemes, source: [EPA Maps](#)). The stream flows in an easterly direction merging with Shanganagh River c.5km further to the east (the watercourses are culverted in places along their route downstream of the site). Shanganagh River enters the Irish Sea at a point south of Killiney Beach/ north of the Shanganagh Wastewater Treatment Plant (WWTP).

I have identified the European sites in proximity to the site (see section 6.4 of this report above) to include inland SACs and SPAs (c.5km-6km to the south, southwest and southeast), and coastal SACs and SPAs (c.5km-8km to the east and northeast). From the mouth of the Shanganagh River, the closest European sites are Rockabill to Dalkey Island SAC (c.1.5km to the east) and Dalkey Islands SPA (c.3.1km to the northeast).

##### Project

The project comprises the construction of a two-storey apartment building (10 units, or eight units subject to recommended amendments), car parking, bin, cycle and external stores, communal open space, landscaping, boundary treatment, lighting and all associated site works.

The project includes alterations to the parent permission (Clay Farm Phase 2, ABP 301522-18) by replacing a permitted swale and grassed verge along the site's eastern boundary with part of the proposed building, car parking spaces, bin, cycle and external stores, and new landscaping.

The project includes connections to existing Uisce Eireann water services infrastructure in the adjacent Clay Farm Phase 2 scheme, which in turn connects to the wider public networks (water supply and wastewater drainage).

Wastewater arising from the project will be collected, drain to the adjacent Clay Farm View sewer, discharge through the wastewater system of the overall scheme, be treated at Shanganagh WWTP, and discharged to necessary standards to the Irish Sea. There is confirmed capacity in both the Clay Farm network and Shanganagh WWTP to cater for the project.

Surface water runoff arising from the project will drain to the adjacent Clay Farm View piped infrastructure, attenuate within the surface water system of the overall scheme, and in turn discharge to Ballyogan Stream. Discharge rates to the watercourse are restricted to those of greenfield runoff rates. The project's surface water management system incorporates several surface level SuDS and has been designed to comply with the requirements of the GSDS and relevant industry manuals.

#### Submissions and Observations

Uisce Eireann indicates the project can be serviced (Confirmations of Feasibility are provided for connections to water supply and wastewater), and that there is capacity in these public systems without requirement for any infrastructural upgrades.

Department of Housing, Local Government and Heritage (Development Applications Unit) provides heritage related recommendations on archaeology. The issues raised are not of consequence to this appropriate assessment.

Relevant internal technical reports from the planning authority include those of Environmental Enforcement and Environmental Health Office, which include recommendations for the implementation and/ or final agreement of the preliminary Construction Environmental Management Plan (CEMP).

The planning authority completed an appropriate assessment screening of the project. It was 'determined that the proposed development would not, alone or in combination, significantly impact upon a Natura 2000 site'.

## **Step 2: Potential Impact Mechanisms from the Project**

### Site Surveys

Site surveys referred to in the applicant's Appropriate Assessment Screening Report (AASR) include that most recently undertaken for the project (June 2024), and multiple previous surveys undertaken for the parent permission and post-consent construction monitoring. Surveys have comprised habitat, invasive species, rare and protected plants, large mammal, bird and specialist bat surveys (most recently for the project in May 2024).



The survey in June 2024 focused on the identification of habitats and species that are listed as Qualifying Interests (QIs, for SACs) and Special Conservation Interests (SCIs, for SPAs) in the designations for European sites.

The site comprises part of the gardens associated with Clay Farm House. The survey work identified mature shrubs and trees, rough grass and ornamental planting. No rare habitats or habitats of any ecological value were found to be present. The site is confirmed as not being under any wildlife or conservation designation.

No rare or protected flora species were identified in the survey work. No rare or protected fauna species were identified save for bat populations. The bat survey observed four bat species feeding and commuting at the site, but no roosts were identified in the buildings or trees at the site.

Overall, the site is assessed as being of no ecological value for protected mammals such as otters, badger or hedgehog, for amphibians or reptiles, for rare or protected plants, or for overwintering or other protected birds. The habitats present are assessed as not suitable to support or for use by any protected species (i.e., flora and/ or fauna, save for bat populations).

None of the habitats, features, or species present at the site are QIs or SCIs of any European site. There is no evidence of any habitats or species with links to European sites and no 'reservoir' type habitats (i.e., habitats which have the potential to support QIs or SCIs species in/ from any European site) are present. It is concluded that there are no Key Ecological Receptors (KER) at the site.

#### European Sites

The AASR identifies 26 European sites in the zone of influence of the project (Table 5.1, pgs. 17-29). The table identifies the European site, states the QIs/ SCIs of each site, and outlines the conservation objectives of same (i.e. to maintain or restore favourable conditions). The project is found to have no conceivable pathway to or connection with 23 of these European sites, and thus the potential for likely significant effects by the project on same is screened out.

The AASR identifies potential indirect hydrological connections between the project and three European sites via water supply, wastewater, and surface water drainage.

An indirect hydrological pathway between the project and Poulaphouca Reservoir SPA is identified due to water abstraction for water supply. The weakness of the pathway is acknowledged due to the nature of the project (scale of water demand), separation distance (in excess of 20km), and the absence of the SCIs of the SPA (listed goose and gull bird species) at the site. Thus, the potential for likely significant effects by the project on the SPA is screened out.

Indirect hydrological pathways between the site and two coastal European sites, Rockabill to Dalkey Island SAC and Dalkey Islands SPA, are identified in respect of wastewater and surface water drainage.

Of the wastewater connection, wastewater from the project will drain to Shanganagh WWTP for treatment prior to discharge to the Irish Sea. The plant operates under an EPA licence, and as the discharge from the plant has been reported (2023) as having no observable negative impact on the Water Framework Directive status on same, the potential for likely significant effects by the project on the SAC and/ or the SPA is screened out.

Of the surface water connection, surface water runoff from the project will be collected, attenuated within the wider Clay Farm scheme, will drain to Ballyogan Stream which in turn joins with Shanganagh River, and will discharge to the Irish Sea. The AASR considers the likely low amounts of polluting material arising from the project, the low likelihood of a polluting event occurring, the dissipating effects of same by surface water dilution and subsequent seawater dispersal, and the separation distances involved.

The AASR concludes that the project, individually or in combination with another plan or project, will not have a likely significant effect on any European site in light of their conservation objectives.

#### Effect Mechanisms

In determining the potential impact mechanisms arising from the project on the relevant European sites, I note and find the following:

- There are no protected habitats or species identified at the site and therefore the likelihood of any significant effect of the project on any European site due to loss of habitat and/ or disturbance of species can be reasonably excluded.
- There is no meaningful hydrological connection between the project and any European site arising from water abstraction and/ or wastewater drainage.
- An indirect hydrological connection exists between the project and two coastal European sites via surface water drainage to Ballyogan Stream, Shanganagh River, and discharge to the Irish Sea.
- Site development, clearance and construction activities pose a potential risk to surface water/ groundwater quality due to contamination (e.g., from suspended solids, hydrocarbons and concrete/ cement products) of the local surface water network, including Ballyogan Stream, and/ or to ground.
- A reduction in surface water quality could negatively affect the qualifying features of the European sites (e.g., contaminate food sources for marine mammals, seabird species).
- The project incorporates several surface level SuDS features including green roofs, tree pits and permeable paving. These SuDS features will intercept, convey, and dispose of

stormwater thereby having an attenuating effect and reducing the volume of surface water runoff.

- The incorporation of SuDS features into the design of the project is required by several policy frameworks (GDSDS, Regional Code of Practice, Flood Risk Guidelines, CDP) and are a standardised embedded mitigation.
- The effects of SuDS have therefore been considered in the undertaking of this appropriate assessment screening as the primary reason for the use of SuDS has not been to protect a European site.
- As such, the potential for likely significant effects during the project's operation phase from surface water/ groundwater impacts through the hydrological connection is screened out.

Having regard to the characteristics of the project in terms of the site's features and location, and the project's scale of works, I consider the following potential impact mechanism requires examination for implications for a likely significant effect on two European sites, Rockabill to Dalkey Island SAC (site code 003000), and Dalkey Islands SPA (site code 004172).

A) Surface water/ groundwater pollution during construction phase.

### Step 3: European Site(s) at Risk

**Table 1: European Site at risk from impacts of the proposed project**

<b>Effect mechanism</b>	<b>Impact pathway/ Zone of influence</b>	<b>European Site(s)</b>	<b>Qualifying/ Conservation interest features at risk</b>
A) Surface water/ groundwater pollution during construction phase.	Impact via a potential hydrological pathway.	Rockabill to Dalkey Island SAC (site code 003000)	Reefs [1170]  Harbour porpoise (Phocoena phocoena) [1351]
As above	As above	Dalkey Islands SPA (site code 004172)	Roseate Tern (Sterna dougallii) [A192]  Common Tern (Sterna hirundo) [A193]  Arctic Tern (Sterna paradisaea) [A194]

#### Step 4: Likely Significant Effects on the European Site(s) 'Alone'

Table 2: Could the project undermine the Conservation Objectives 'alone'					
European Site and qualifying feature	Conservation objective	Could the conservation objectives be undermined (Y/ N)?			
		Effect A	Effect B	Effect C	Effect D
<u>Rockabill to Dalkey Island SAC</u>					
Reefs [1170]	<i>To maintain the favourable conservation condition of...</i>	N			
Harbour porpoise (Phocoena phocoena) [1351]	<i>As above</i>	N			
<u>Dalkey Islands SPA</u>					
Roseate Tern (Sterna dougallii) [A192]	<i>To restore the favourable conservation condition of....</i>	N			
Common Tern (Sterna hirundo) [A193]	<i>As above</i>	N			
Arctic Tern (Sterna paradisaea) [A194]	<i>As above</i>	N			

#### Effect Mechanism A (surface water/ groundwater pollution during construction phase)

Of the potential risk to surface water/ groundwater quality due to contamination from site development, clearance and construction activities, I have had regard to and note that:

- The watercourses downstream of the subject site do not directly discharge to any European site.
- The notable distances between the subject site and the European sites via the surface water pathway (the most proximate designation, Rockabill to Dalkey Island SAC, is c.1.5km from where Shanganagh River enters the Irish Sea).
- The strong likelihood that a pollution event at and/ or pollution from the construction site would be minimal in significance and/ or quantity.
- The high levels of dilution, mixing and/ or dissipation of any contaminant in the receiving surface and/ or sea waters.

- The low probability of surface water contamination which would have the potential to negatively affect the qualifying features of the European sites (e.g., contaminate food sources for marine mammals, seabird species).
- The development works will be managed and implemented in line with the preliminary CEMP, which includes standardised pollution prevention and surface water control measures.
- The potential risk to coastal European sites via contamination of the surface water pathway (and, as applicable, groundwater at site) is therefore considered to be extremely low and the effect of same is assessed to likely be imperceptible.

Overall, I conclude that the project would have no likely significant effect 'alone' on the qualifying features of any European site. Further appropriate assessment screening in-combination with other plans and projects is required.

### **Step 5: Where Relevant, Likely Significant Effects on the European Site(s) 'In-Combination with other Plans and Projects'**

**Table 3: Plans and projects that could act in combination with effect mechanisms of the proposed project (e.g. approved but uncompleted, or proposed)**

<b>Plan / Project</b>	<b>Effect mechanism</b>
Listed in section 7 of the AASR, and supplemented by information in section 5.0 Planning History of this report above.	As per Table 1 above

I have had regard to the information included in the AASR on plans and projects. I have also reviewed the planning authority's website for applicable appropriate assessment information on relevant plans (CDP, LAP), and the planning authority and An Bord Pleanála's planning registers for relevant planning cases (correct as of the date of this assessment).

The AASR outlines several plans and planning applications in the vicinity of the site. Following consideration of which, the AASR does not identify any significant in-combination effect. Following my own review, this is a conclusion with which I concur. I consider that the referred-to plans (key among which is the CDP) seeks environmental protection and pollution prevention, and the projects are to be constructed to/ operate within industry standards.

The key project is the parent permission, ABP 301522-18, for which An Bord Pleanála previously completed an appropriate assessment and screened out for the need for Stage 2: Appropriate Assessment.

**Table 4: Could the project undermine the Conservation Objectives in combination with other plans and projects?**

European Site and qualifying feature	Conservation objective	Could the conservation objectives be undermined (Y/ N)?			
		Effect A	Effect B	Effect C	Effect D
<u>Rockabill to Dalkey Island SAC</u>	As per Table 2 above	N			
<u>Dalkey Islands SPA</u>	As per Table 2 above	N			

I conclude that the project would have no likely significant effect in combination with other plans and projects on the qualifying features of any European site.

**Overall Conclusion – Screening Determination**

In accordance with section 177U(4) of the Planning and Development Act 2000, as amended, and on the basis of objective information, I conclude that the project would not have a likely significant effect on any European site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (Stage 2) under section 177V of the Planning and Development Act 2000, as amended, is not required.

This conclusion is based on:

- Objective information presented in the Appropriate Assessment Screening Report.
- Standard pollution controls that would be employed regardless of proximity to a European site and the effectiveness of same.
- Qualifying interests, special conservation interests, and conservation objectives of the European sites.
- Distances from European sites.
- Absence of any meaningful pathways to any European site.

No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

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

**Date:** \_\_7<sup>th</sup> January 2025\_\_

## Appendix 2: Environmental Impact Assessment Pre Screening Form

<b>An Bord Pleanála Case Reference</b>	<b>ABP 320827-24</b>		
<b>Proposed Development Summary</b>	Construction of an apartment building (10 units) with associated alterations to the SHD permitted under ABP-301522-18, as amended by ABP cases 304212-19, 305172-19, 308563-20, 310422-21 and PA Ref. LRD23A/0126.		
<b>Development Address</b>	Clay Farm House, Kilgobbin Road and Clay Farm residential scheme, Ballyogan Road, Dublin 18.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)</b>		<b>Yes</b>	✓
		<b>No</b>	
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>	✓	Class 13(a)(ii) and Class 10(b)(i) and/ or Class 10(b)(iv)	Proceed to Q.3
<b>No</b>			
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant class?</b>			
<b>Yes</b>			
<b>No</b>	✓	Class 13(a)(ii) – an extension resulting in an increase in size greater than 25%, or an amount equal to 50% of the appropriate threshold (i.e., Class 10(b)(i) and/ or Class 10(b)(iv)), whichever is the greater.	Proceed to Q.4
<b>4. Is the proposed development below the relevant threshold for the class of development [sub-threshold development]?</b>			
<b>Yes</b>	✓	Class 13(a)(ii) – appropriate thresholds as per Class 10(b): - Class 10(b)(i) – more than 250 dwelling units. - Class 10(b)(iv) – urban development in an area greater than 5ha.	Preliminary examination may be required
<b>5. Has Schedule 7A information been submitted?</b>			
<b>No</b>		<b>Pre-Screening determination remains as above (Q1 to Q4)</b>	
<b>Yes</b>	✓	<b>Screening Determination required</b>	

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

**Date:** \_\_\_ 7<sup>th</sup> January 2025\_\_\_

### Appendix 3: Environmental Impact Assessment Screening Determination Form

A. CASE DETAILS		
<b>An Bord Pleanála Case Reference</b>	<b>ABP 320827-24</b>	
<b>Development Summary</b>	Construction of an apartment building (10 units) with associated alterations to the SHD permitted under ABP-301522-18, as amended by ABP cases 304212-19, 305172-19, 308563-20, 310422-21 and PA Ref. LRD23A/0126, and all associated site works.	
	<b>Yes/ No/ N/A</b>	<b>Comment (if relevant)</b>
<b>1. Has an AA screening report or NIS been submitted?</b>	Yes	An Appropriate Assessment Screening Report (AASR) has been submitted with the application which considers the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC).
<b>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?</b>	No	N/A
<b>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.</b>	Yes	<p>Other assessments carried out include:</p> <ul style="list-style-type: none"> <li>• An Environmental Impact Assessment Screening Report (EIASR) which considers the EIA Directive (2011/92/EU, as amended by 2014/52/EU), and the content of the Birds Directive (2009/147/EC), and Water Framework Directive (2000/60/EC).</li> <li>• A Landscape, Biodiversity, and Visual Impact Statement (LBVIS) which considers the Habitats Directive (92/43/EEC).</li> <li>• An Engineering Services Report (ESR, which includes a site-specific Flood Risk Assessment (SSFRA)) which considers the content of the EU Floods Directive (2007/60/EC).</li> <li>• A Building Lifecycle Report and Energy &amp; Sustainability Report which consider the content of the Energy Performance in Buildings Directive (2010/31/EU).</li> </ul> <p>SEA was undertaken by the planning authority in respect of the Dún Laoghaire Rathdown County Development Plan 2022-2028, and the Ballyogan and Environs Local Area Plan 2019-2025, as extended.</p>



<b>B. EXAMINATION</b>	<b>Response: Yes/ No/ Uncertain</b>	<b>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</b> (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)	<b>Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain</b>
<b>1. Characteristics of proposed development</b> (including demolition, construction, operation, or decommissioning)			
<b>1.1</b> Is the project significantly different in character or scale to the existing surrounding or environment?	No	<p>The project comprises the construction of a smallscale, medium density residential scheme on zoned lands.</p> <p>The project does not differ significantly from the surrounding area in terms of character (residential uses exist in the area, suburban estate designs and layouts, with surface parking, landscaped open spaces, conventional boundary treatments).</p> <p>Nor does it differ significantly in terms of scale (use of conventional apartment block typology, consistent scale, height, and massing of built form, and marginal increase in density from that of Clay Farm residential scheme).</p>	No
<b>1.2</b> Will construction, operation, decommissioning, or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	<p>Project will cause physical changes to the appearance of the site during the site development works.</p> <p>Proposed excavation works will cause a change in site topography/ ground levels, which will be managed through implementation of the preliminary Construction Environmental Management Plan (CEMP) and Resource Waste Management Plan (RWMP) (final agreed versions to be required by condition).</p> <p>The residential land use at the site is maintained and will be marginally increased in intensity of the use.</p> <p>There are no watercourses located at or adjacent to the site (closest watercourse, Ballyogan Stream, is located c.290m to the northeast).</p>	No

		<p>Surface water runoff will be collected and attenuated in the Clay Farm residential development, and then discharged to Ballyogan Stream. The proposal will connect to/ be serviced by public water supply and wastewater drainage systems.</p> <p>The operational phase of project (i.e., the occupation of the apartments) will not cause physical changes to the locality by itself.</p> <p>Accordingly, I do not consider that the physical changes arising from the project are likely to result in significant effects on the environment in terms of topography, land use, and hydrology/ hydrogeology.</p>	
<p><b>1.3</b> 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 project uses standard construction methods, materials and equipment, and the process will be managed through the implementation of the preliminary/ final CEMP. Similarly, waste arising from the site preparation and construction phase will be managed through the implementation of a final RWMP. There is no significant use of natural resources anticipated.</p> <p>The project uses land, which is a finite resource, however it is used more efficiently and sustainably than at present (provision of smallscale, medium density residential scheme in an infill site). Otherwise, the operational phase of the project will not use natural resources in short supply.</p> <p>The project connects to the public water and wastewater services systems which have sufficient capacity to cater for demands arising from the project.</p> <p>The project includes an energy efficient design, several SuDS features in the surface water drainage design, and is part of and serviced by the wider Clay Farm residential scheme which includes public open spaces, and local retail and childcare facilities.</p> <p>Accordingly, I do not consider the use of natural resources in the project likely to result in a significant effect on the environment of the area.</p>	<p>No</p>

<p><b>1.4</b> Will the project involve the use, storage, transport, handling, or production of substance which would be harmful to human health or the environment?</p>	<p>Yes</p>	<p>Construction phase activities will require the use of potentially harmful materials, such as fuels and create waste for disposal. The use of such substances will be typical of construction sites.</p> <p>Noise and dust emissions during the construction phase are likely. These works will be managed through implementation of the preliminary/ final CEMP.</p> <p>The operational phase of the project does not involve the use, storage, or production of any harmful substance. Conventional waste produced from residential activity will be managed through the implementation of an Operational Waste Management Plan (OWMP).</p> <p>Accordingly, I do not consider this aspect of the project likely to result in significant effects on the environment in terms of human health or biodiversity.</p>	<p>No</p>
<p><b>1.5</b> Will the project produce solid waste, release pollutants or any hazardous/ toxic/ noxious substances?</p>	<p>Yes</p>	<p>Conventional waste will be produced from construction activity and will be managed through the implementation of the preliminary/ final CEMP and RWMP, as outlined above.</p> <p>The operational phase of the project (i.e., the occupation of the residential units) will not produce or release any pollutant or hazardous material. Conventional operational waste will be managed through the implementation of the OWMP to obviate potential environmental impacts.</p> <p>Accordingly, I do not consider the production of waste or generation of pollutants in the project likely to result in a significant effect on the environment of the area.</p>	<p>No</p>
<p><b>1.6</b> Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>Yes</p>	<p>The project involves site preparation (vegetation, top and subsoils removal), excavations (foundations for site services, building), reprofiling and construction (roads, footpaths, building), and landscaping works (open spaces). These construction phase activities are associated with contamination risks to land and / or water sources.</p>	<p>No</p>

		<p>Standard construction methods, materials and equipment are to be used, and the process will be managed through the implementation of the preliminary/ final CEMP and RWMP.</p> <p>I direct the Board to the response to Q:2.1 below in respect of the risk of contamination of protected water bodies/ ecological designations.</p> <p>I direct the Board to the response to Q:2.5 below in respect of the risk of contamination of water resources including surface waters, groundwaters, coastal waters, and of flood risk.</p> <p>Accordingly, as risks of contamination to ground or water bodies are not predicted and/ or can be mitigated against, I do not consider this aspect of the project likely to result in a significant effect on the environment.</p>	
<p><b>1.7</b> Will the project cause noise and vibration or release of light, heat, energy, or electromagnetic radiation?</p>	<p>Yes</p>	<p>Noise, vibration, and light impacts are likely during the site development works. These works are short term in duration, and impacts arising will be temporary, localised, and be managed through implementation of the preliminary/ final CEMP.</p> <p>The operational phase of the project will also likely result in noise and light impacts associated with the increased intensity of residential use (e.g., traffic generation, use of communal and private open spaces).</p> <p>However, these are anticipated to be typical of such smallscale medium density schemes as proposed. Noise associated with traffic generation is not considered to be of a scale requiring targeted mitigation. Lighting impacts will be mitigated by the provision of a public lighting plan designed to comply with industry guidance and provided to the satisfaction of the planning authority.</p> <p>I direct the Board to the response to Q:2.8 below in respect of the project's effect on sensitive land uses.</p> <p>Accordingly, I do not consider this aspect of the project likely to result in significant effects on the environment in terms of air quality (noise, vibration, light pollution).</p>	<p>No</p>

<p><b>1.8</b> Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p>Yes</p>	<p>The potential for water contamination and air pollution (noise and dust emissions) during the construction phase is likely.</p> <p>These works will be managed through implementation of the preliminary/ final CEMP. Site development works are short term in duration, and impacts arising will be temporary, localised, addressed by the mitigation measures.</p> <p>The operational phase of the project will not likely cause risks to human health through water contamination or air pollution due to the nature and design of the scheme, connection to public water systems, incorporation of SuDS features in the surface water management system, and scale of residential use/ activities arising.</p> <p>Accordingly, in terms of risks to human health, I do not consider this aspect of the project likely to result in a significant effect on the environment.</p>	<p>No</p>
<p><b>1.9</b> Will there be any risk of major accidents that could affect human health or the environment?</p>	<p>No</p>	<p>There is no risk of major accidents given nature of the project and location of the site.</p>	<p>No</p>
<p><b>1.10</b> Will the project affect the social environment (population, employment)</p>	<p>Yes</p>	<p>The project increases localised temporary employment activity at the site during development works (i.e. site enabling and construction phases). The site development works are short term in duration and impacts arising will be temporary, localised, addressed by the mitigation measures in the preliminary/ final CEMP.</p> <p>The operational phase of the project (i.e. the occupation of the residential units) will result in a potential increase of up to c.40 persons (i.e. 10 2-bedroom units).</p> <p>The receiving area is a developing suburban location, which is in proximity to services, public transport, amenities, and has the capacity to accommodate the likely impacts associated with the anticipated population increase.</p> <p>Accordingly, I do not consider this aspect of the project likely to result in a significant effect on the social environment of the area.</p>	<p>No</p>

<p><b>1.11</b> Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p>Yes</p>	<p>The site is subject to Zoning Objective A in the CDP, seeking new residential development, and identified for planned development in the BELAP (Neighbourhood 11: Kilgobbin South in the Kilgobbin Quarter). The neighbourhood development context and zonings at the site and in the vicinity serve to phase the development of the Ballyogan area.</p> <p>In this regard, the site is located in an area for which wider large-scale change is planned for in the LAP and CDP in the short term. However, as the project is associated with the parent permission (modifications thereof) and pertains to an infill site (without phasing restrictions), its development is not curtailed at this time.</p> <p>The design and layout of the project have had regard to the nature of development in adjacent lands, including the existing and extant development in Clay Farm House, Woodlawn, and Clay Farm residential scheme (and the latter has previously been subject of an EIA). The project includes for connections to and links with same.</p> <p>I direct the Board to the response to Q:3.1 below in respect of considerations of cumulative effects of the project.</p> <p>Within this planned context, I do not anticipate cumulative significant effects on the area arising from the project.</p>	<p>No</p>
<p><b>2. Location of proposed development</b></p>			
<p><b>2.1</b> 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"> <li>a) European site (SAC/ SPA/ pSAC/ pSPA)</li> <li>b) NHA/ pNHA</li> <li>c) Designated Nature Reserve</li> <li>d) Designated refuge for flora or fauna</li> <li>e) Place, site or feature of ecological interest, the preservation/ conservation/ protection of which is</li> </ul>	<p>Yes</p>	<p>The project is not located in, on, or adjoining any European site, any designated or proposed NHA, or any other listed area of ecological interest or protection.</p> <p>There is an indirect hydrological connection between the site and the European sites, Rockabill to Dalkey Island SAC and Dalkey Islands SPA, via a surface water pathway formed by Ballyogan Stream, Shanganagh River and the Irish Sea.</p>	<p>No</p>

<p>an objective of a development plan/ LAP/ draft plan or variation of a plan</p>		<p>The AASR, supplemented by the EIASR, LBVIS, ESR, SSFRA, and preliminary CEMP, presents information on potential impacts of the project on the European sites, allowing the Board to undertake an Appropriate Assessment screening determination (Stage 1) (see section 9.0 and Appendix 1 of this report).</p> <p>This screening process concluded that the project would not have a likely significant effect on any European site either alone or in combination with other plans or projects.</p> <p>Accordingly, I do not consider the project likely to result in a significant effect on the environment in terms of ecological designations or biodiversity.</p>	
<p><b>2.2</b> Could any protected, important, or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?</p>	<p>Yes</p>	<p>The site comprises part of the gardens associated with Clay Farm House. The site is confirmed as not being under any wildlife or conservation designation.</p> <p>Survey work undertaken for the project identified mature shrubs and trees, rough grass and ornamental planting. No rare habitats or habitats of any ecological value were found to be present. No rare or protected flora species were identified.</p> <p>No rare or protected fauna species were identified in the survey work, except for bat populations. The bat survey (the LBVIS includes a bat assessment as Appendix 1) observed four bat species feeding and commuting at the site, but no roosts were identified in the buildings or trees at/ proximate to the site.</p> <p>The bat assessment identifies mitigation measures (tree surveys prior to felling, provision of bat boxes, sensitive lighting), after which a slight negative impact on the conservation status of the bat species is predicted.</p> <p>Overall, the site is assessed as being of no ecological value for protected mammals such as otters, badger or hedgehog, for amphibians or reptiles, for rare or protected plants, or for overwintering or other protected birds. The habitats present are assessed as not suitable to</p>	<p>No</p>

		<p>support or for use by any protected species (i.e., flora and/ or fauna, save for bat populations).</p> <p>Accordingly, I do not consider the project likely to result in a significant effect on the environment in terms of biodiversity (protected habitats, flora, fauna).</p>	
<p><b>2.3</b> Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>Yes</p>	<p>There are no landscape designations or protected scenic views at the subject site.</p> <p>The site is part of the curtilage of Clay Farm House, a protected structure in the CDP (RPS Ref. 2119) and listed in the National Inventory of Architectural Heritage (NIAH ref. 60260009). An Architectural Heritage Impact Assessment (AHIA) has been prepared for the project.</p> <p>The farmhouse is an 18th century detached residence with outbuildings framing a courtyard to the rear of the house (south/ southwest), and with gardens to the front and sides (north/ east). The site comprises part of the eastern garden area, indicated as having likely been an orchard.</p> <p>The Clay Farm Phase 2 residential scheme to the east of the site has been developed in the fields which were originally associated with the farm. The development of this extensive residential scheme has fundamentally altered the setting of the protected structure.</p> <p>The closest part of the Clay Farm development to the project is Clay Farm View, a street directly opposite the eastern boundary of the site. The site's eastern boundary comprises the remnants of a stonewall and earthen bank, with temporary metal fencing (noted at the time of site inspection), and is thereby open to the street. The rural context of the original open farmlands has changed to that of newly developing suburban neighbourhood.</p> <p>The proposed apartment building is sited in the eastern side garden area of the house and on the northern side of the courtyard wall, such that the character formed by the vernacular building group (house, outbuildings, courtyard and wall) is maintained. The existing mature tree/ hedge</p>	<p>No</p>



		<p>screen between the house and garden area will be supplemented by additional treeline/ hedge screening and continue to serve as a shared boundary. The proposed building (subject to recommended amendments) is set back from the existing property boundaries and buildings, and is of a design, scale and height which is subservient to the main house, thereby allowing its prominence with the grouping to be maintained.</p> <p>The project (as amended) will further alter the setting of the protected structure. However, for the reasons outlined above, I consider the project has a not significant, neutral impact on the architectural heritage of the site.</p> <p>In my opinion, the project will cause a noticeable change to the character of Clay Farm House, but this is without significant consequence. Further, the change caused is within the normal bounds of variation having regard to the nature and extent of change which has occurred associated with the Clay Farm Phase 2 development.</p> <p>The Archaeological Impact Assessment (AIA) indicates the site is in a prehistoric and historical environment, with two recorded archaeological monuments in proximity to the site's northwestern and southeastern boundaries (c.150m) and several monuments within a wider catchment.</p> <p>The AIA concludes there is high potential for the discovery of previously unknown small scale archaeological remains in the area and recommends appropriate mitigation measures. These include archaeological monitoring of all ground works and, for any archaeological remains that are identified, their preservation in-situ and/ or by record. The DAU submission concurs with the recommendation.</p> <p>Accordingly, I do not consider the project likely to result in a significant effect on the environment in terms of architectural, archaeological and cultural heritage.</p>	
<p><b>2.4</b> 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:</p>	<p>No</p>	<p>There are no such resources on or close to the site.</p>	<p>No</p>

forestry, agriculture, water/ coastal, fisheries, minerals?			
<p><b>2.5</b> 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?</p>	Yes	<p>There are no watercourses located at or adjacent to the site (closest watercourse, Ballyogan Stream, is located c.290m to the northeast).</p> <p>I direct the Board to the response to Q:1.2 above in respect of the construction and operation phase impacts of the project on the water resources at the site/ in the vicinity (i.e., surface water/ groundwater impacts primarily associated with Ballyogan Stream).</p> <p>There is an indirect hydrological connection between the site and the European sites, Rockabill to Dalkey Island SAC and Dalkey Islands SPA, via a surface water pathway formed by Ballyogan Stream, Shanganagh River and the Irish Sea.</p> <p>I direct the Board to the response to Q:2.1 above in respect of the impact of the project on the watercourses, the European sites, and the Irish sea.</p> <p>Mitigation measures are identified in the preliminary CEMP and ESR during the construction phase of the project to safeguard the quality of the surface water runoff, prevent pollution events to groundwater, and mitigate against excessive siltation.</p> <p>The operational phase impacts are addressed primarily through design, with a comprehensive surface water management system including SuDS features, on-site attenuation in the wider Clay Farm scheme, and discharge at greenfield rates to Ballyogan Stream.</p> <p>The project's SSFRA states there is no history of flooding at the site. The SSFRA identifies the project as being at remote and low risk of tidal flooding, at possible and low risk of fluvial flooding (associated with Ballyogan Stream), and at possible and moderate risk of pluvial flooding (primarily due to surcharge of the surface water drainage system).</p> <p>Mitigation measures are proposed to address the risks (appropriate design of the drainage network, climate change allowance, finished floor</p>	No

		<p>levels). Subject to which the site is determined to be located within Flood Zone C, the project (a residential use) is appropriate for the zone, and a justification test is not required for the development.</p> <p>Accordingly, I do not consider the project likely to result in a significant effect on the environment in terms of water resources and flood risk.</p>	
<b>2.6</b> Is the location susceptible to subsidence, landslides or erosion?	No	There is no evidence identified of these risks.	No
<b>2.7</b> 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?	Yes	<p>The project will be accessed via the main entrance and access road serving Clay Farm Phase 2 (Clay Farm Way) which extends south from Ballyogan Road (along which the Luas green line is routed). This is part of the local road network which is well connected to other regional roads (e.g., R117 Enniskerry Road), and national roads (M50 and N11 to the northeast of the site) which can be susceptible to congestion.</p> <p>During the site development works, the project will result in an increase in traffic activity (HGVs, workers) as construction equipment, materials, and waste are delivered to/ removed from the site. Site development works are short term in duration and impacts arising will be temporary, localised, and managed under the preliminary/ final CEMP.</p> <p>The ESR considers operation phase traffic impacts for the project, predicting an increase in total vehicle trips (combined arrivals and departures) of four trips during the AM peak hour, and three trips in the PM peak hour. Such increases in traffic generation are insignificant in effect. Thus, the key transport routes in the vicinity of the site will not be congested by or otherwise affected by the project.</p> <p>Accordingly, I do not consider the project likely to result in a significant effect on the environment in terms of transportation.</p>	No
<b>2.8</b> Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?	No	<p>There are no sensitive community facilities, such as hospitals or schools, in proximity to the site that could be significantly affected by the project.</p> <p>There are private residential dwellings located in close proximity to the site (Clay Farm House, Woodlawn, dwellings on Clay Farm View), and</p>	No

		<p>extensive recently constructed residential schemes in the wider area (Clay Farm Phase 2, Larkfield (Clay Farm Phase 1), Stepside Park).</p> <p>Site development works will be implemented in accordance with the preliminary/ final CEMP which includes mitigation measures to protect the amenity of adjacent properties and residents.</p> <p>Once operational, the design, siting, and scale of the proposed apartment building (as amended) and the separation distances to the closest dwellings are such that negative impacts arising from overlooking, overshadowing, overbearance are not reasonably anticipated.</p> <p>The operational phase of the project will cause a slight increase in activity at the site (traffic generation, use of communal and private open spaces) which are considered to be typical of such smallscale medium density schemes as proposed, sited in newly developing suburban locations such as the receiving area and are well within acceptable parameters for same.</p> <p>The project will be under the control of an established management company and/ or elements taken in charge by the local authority, and no negative impacts on residential amenity are anticipated.</p>	
<b>3. Any other factors that should be considered which could lead to environmental impacts</b>			
<p><b>3.1 Cumulative Effects:</b> Could this project together with existing and/ or approved development result in cumulative effects during the construction/ operation phase?</p>	No	<p>Existing and/ or approved planning consents in the vicinity of the site and the wider Ballyogan area have been noted in the application documentation and associated assessments (e.g., in respect of AA, TTA, FRA).</p> <p>In considering cumulative effects in the context of EIA, the key project is the parent permission, ABP 301522-18, for which an EIAR was previously prepared and on which An Bord Pleanála has already completed an EIA.</p> <p>Other projects have been identified as part of the planning history in section 5.0 of this report (i.e., relevant if granted permission). These</p>	No

		developments are of a nature and scale that have been determined to not have likely significant effects on the environment.  No developments have been identified in the vicinity which would give rise to cumulative significant environmental effects with the project. As such, no cumulative significant effects on the area are reasonably anticipated.	
<b>3.2 Transboundary Effects:</b> Is the project likely to lead to transboundary effects?	No	There are no transboundary effects are arising.	No
<b>3.3</b> Are there any other relevant considerations?	No	No	No
<b>C.CONCLUSION</b>			
<b>No real likelihood of significant effects on the environment.</b>	<b>X</b>	EIAR Not Required	
<b>Real likelihood of significant effects on the environment.</b>		<del>EIAR Required</del>	
<b>D. MAIN REASONS AND CONSIDERATIONS</b>			
<p>Regard has been had to:</p> <p>a) The nature and scale of the project, which is below the thresholds in respect of Class 13(a)(ii) and Class 10(b)(i) and/ or Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended.</p> <p>b) The relevant policies and objectives in the Dún Laoghaire Rathdown County Development Plan 2022-2028 (including the site being subject to Zoning Objective A), those in the Ballyogan and Environs Local Area Plan 2019-2025, as extended, and the results of the strategic environmental assessment of these plans undertaken in accordance with the SEA Directive (2001/42/EC).</p> <p>c) The infill nature of the site and its location in a suburban area which is served by public services and infrastructure.</p> <p>d) The pattern of existing and permitted development in the area.</p> <p>e) The planning history at the site and within the area.</p>			

- f) 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.
- g) The guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage, and Local Government (2003).
- h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended.
- i) 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 EIA Directive.
- j) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the preliminary Construction Environmental Management Plan, Landscape, Biodiversity and Visual Impact Statement, Arboricultural Assessment, Engineering Services Report (Site-Specific Flood Risk Assessment), Architectural Heritage Impact Assessment, and Archaeological Impact Assessment.

In so doing, the Board concluded that by reason of the nature, scale and location of the proposed development, the development would not be likely to have significant effects on the environment and that an Environmental Impact Assessment and the preparation of an Environmental Impact Assessment Report would not, therefore, be required.

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

**Date:** \_\_ 7<sup>th</sup> January 2025\_\_

**Assistant Director of Planning:** \_\_\_\_\_

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