



An  
Coimisiún  
Pleanála

## Inspector's Report

**ABP-321394-24**

---

<b>Development</b>	Demolition of two storey dwelling 'Maple Tree House' and removal of foundation slab of a previous demolished dwelling 'Yonder' and construction of a 104 bedroom nursing home, car and bicycle parking and all associated site works on c. 0.6hectares
<b>Location</b>	Site comprising 'Maple Tree House', Harbour Road, Bulloch Harbour and the former 'Yonder' residence, Ulverton Road in Dalkey, County Dublin
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D21A/ 0304
<b>Applicant(s)</b>	Bartra Property Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party v Refusal
<b>Appellant(s)</b>	Bartra Property Ltd.
<b>Observer(s)</b>	1) Mairead & Sam Duncan-Jones

- 2) Donal McBrinn
- 3) Neils & Marlene van Antwerpen
- 4) Billy Flynn
- 5) Pat & Kathy Kenny
- 6) Frank & Stephanie Keane
- 7) Christopher & Ann Herbert
- 8) Dalkey Community Council
- 9) Kerri and Peter Cullen
- 10) Kerri and Peter Cullen and  
Others.
- 11) Tom & Elke Palmer
- 12) Patrick J Drudy
- 13) Maura Lee West
- 14) Danielle Byrne
- 15) Damien and Siobhan Gill

**Date of Site Inspection**

27<sup>th</sup> November 2025

**Inspector**

Suzanne Kehely

## Contents

1.0 Site Location and Description .....	5
2.0 Proposed Development .....	6
3.0 Planning Authority Decision .....	8
3.1. Decision .....	8
3.2. Planning Authority Reports .....	9
3.3. Other Technical Reports .....	9
4.0 Planning History.....	10
5.0 Policy Context.....	11
5.1. National Planning Policy .....	11
5.2. Section 28 Ministerial Guidelines .....	12
5.3. Development Plan – Dun Laoghaire Rathdown County Development Plan 2022-2028. (CDP).....	13
6.0 EIA Screening.....	16
7.0 Water Framework Directive Screening .....	17
8.0 Natural Heritage Designations .....	17
9.0 The Appeal .....	18
9.1. Grounds of Appeal .....	18
9.2. Planning Authority Response.....	19
9.3. Observations.....	19
10.0 Further submissions on remittal of case .....	21
10.1. First Party .....	21
10.2. Third Party observations.....	22
10.3. Planning Authority .....	25
11.0 Assessment.....	26

12.0 AA Screening..... 55  
13.0 Recommendation ..... 56  
Reasons and Considerations ..... 56

Appendices

**Appendix 1 - EIA Pre-Screening – Form 1**

**Appendix 2 - EIA Preliminary Examination – Form 2**

**Appendix 3 - AA Screening Determination**

**Appendix 4 – Water Framework Directive Screening Matrix**

## 1.0 Site Location and Description

- 1.1. The site of c. 0.6 hectares is a large and partly backland site amid a mature enclave of low-density houses nestled into a quarried granite hillside setting in the coastal environs of Bulloch Harbour in South County Dublin. The houses in the area are a mix of grand scaled Victorian houses, small cottages and more modern infill houses. This eclectic style in a varied topographical setting combine to define the unique and scenic character of the area. It is c.500m to Dalkey Village and c.1km from Dalkey Dart station.
- 1.2. The site comprises two house plots. One is on higher ground fronting onto Ulverton Road to the west, along which there is c. 19m frontage and this relates to the substantially demolished house, 'Yonder'. The other relates to an existing house (Maple Tree) on lower ground where it is partially level and stepped and fronts a cul-de-sac lane off Harbour Road, hereinafter referred to as the lane. The terrain is varied with steep stepping in parts and with an overall downward sloping in an easterly direction. The ground level on the Ulverton Road frontage is in the order of 18mOD and this drops to 9.3mOD at the northeastern corner of the site near the entrance to the lane. The south end of the site rises to about 15.5m. The existing site survey sets out the levels of the site and surrounding properties.
- 1.3. There is a steep incline from Ulverton Road to the Lane along the northern side of the site where the site is overgrown whereas the southern side is stepped and gently sloped as part of the landscaped grounds of Maple Tree House. The lane is a cul-de-sac providing access to some 11 houses on sites of varying sizes. The lane has an approximate width of 4.5m as measured across the carriageway with a 1070mm kerbed footpath extending from the junction with Harbour Road over a distance of 170 m at which point it forks. The western fork narrows to a 3.6m driveway flagged by modern tiled piers and this extends along the frontage of the site to its entrance and beyond to a two other houses. There is a short drive to the existing house, and it is not visible from the tiled piers. The gardens of Maple Tree House extend along the rear of a fairly ordered row of houses fronting Ulverton road to the west and elevated above the site and the grounds are otherwise adjoined by more randomly sited detached houses including a large Victorian property, Luckington House off

Ulverton Road but which fronts onto the western boundary at the southern end. The Yonder part of the site is flanked by detached houses on each site.

- 1.4. Maple Tree House is an existing large scaled 1950s two storey house centrally positioned in the site and is presently occupied, although in a visually poor state of repair. The lawns are generally maintained but the boundaries feature mature shrubbery and dense growth in parts with some mature trees as evident in the photos. There are some retaining walls where ground levels differ between properties and fencing along more level boundary areas. The southeastern part of the site is the location of a Badger sett entrance and Badger activity as observed by the ACP ecologist who also inspected the site in June of this year.

## 2.0 Proposed Development

2.1. The proposed development as shown in the submitted detail comprises:

- Demolition of a two-storey dwelling house and removal of concrete foundations of previously demolished dwelling all outbuildings including all boundary walls and features along the road frontage.
- Construction of a 104-bedroom nursing home in a single building block stepping up from 2 storeys to 5 storeys in height. The overall height is maintained in a range of 22m -26mOD while the stepped floor level reflects the contours of the site. The actual ground floor to parapet heights ranges from 7.4m to 16.3m for the lift shaft. The building reads as two storeys along Ulverton Road and five storeys from the Harbour Road lane on lower ground
- The main vehicular access to the parking area is off the lane and this is where the reception entrance is proposed.

### 2.2. Summary of Development as set out in submitted details.

<b>Development Parameter</b>	<b>Proposed</b>
<b>Application Site (Gross Site Area)</b>	0.6ha. site outlined in red
<b>Lands outlined in blue</b>	This includes the access lane from Harbour Road to the site entrance but excludes the footpath. Rights of way highlighted in yellow over lane.

<b>Demolition</b>	House (289sq.m.) and foundation slab
<b>Existing/Former use</b>	Residential
<b>Nursing home bedrooms</b>	104
<b>Gross Floor Area</b>	5,618.40 sq m
<b>Height</b>	Varied 7.6m – 16.3m (scaled from drawings)
<b>Lift</b>	2
<b>Communal open space</b>	<ul style="list-style-type: none"> <li>• Communal residents garden of 1525 sq.m.</li> <li>• Visual open space 800 sq.m.</li> <li>• Roof terrace 55 sq.m</li> <li>• Other ancillary environmental boundary landscaping</li> <li>• Permeability thorough site via steps</li> </ul>
<b>Residential Amenity</b>	Internal family rooms at each level, dining and communal areas
<b>Car Parking Spaces</b>	15 spaces 3 disabled (one on Ulverton Road side)
<b>Cycle Parking</b>	30 spaces – 10 off Harbour Road access and 20 covered spaces inside Ulverton Road entrance
<b>Pedestrian</b>	Access from both sides but main from with pedestrian permeability throughout site (lift in building as alternative to steps)
<b>Entrance</b>	Vehicular access from both sides – main entrance off lane off Harbour Road. Internal access road 6m wide with turning area

2.3. The application was accompanied by a comprehensive set of drawings and technical reports which include the following documents

- Planning application report
- Landscape design report and visual impact
- Architectural design statement
- Operational Waste management plan
- Mobility Management plan framework
- Noise impact assessment

- Quality Audit response
- Traffic and transport assessment
- Arboricultural assessment
- Outline construction management plan
- Report for the purposes of appropriate assessment screening that graph site specific flood risk assessment
- Engineering services report
- Drainage and water infrastructure report and flood risk assessment
- Daylight and sunlight report (3D Design Bureau)
- Verified view montages and CGI's like 3D Design Bureau
- Conservation report on House
- Sustainability Report

(A pouch with almost replica drawings and reports for a similar withdrawn application dated 15<sup>th</sup> January 2021) are attached as a history case and should not be confused with the relevant submitted drawings.)

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. By Order dated 3<sup>rd</sup> June 2021, the Planning authority issued notification of decision to refuse permission for two reasons:

1. The proposed development by reason of the massing, scale, design and proximity to the site boundaries would adversely impact on the residential amenity with the adjacent properties by reason of overlooking and overbearing impact. The proposed development would detract from the existing visual and residential amenities of the area would depreciate the value of property in the vicinity and if permitted to set an undesirable precedent for similar development in the area and would be contrary to the Dun Laoghaire Rathdown County Development Plan.
2. The proposed development by reason of layout would not accord with the provisions of policy UD1 urban design principles and section 8.2.3.4 (xiii) Nursing Homes for the elderly/Assisted Living Accommodation. Furthermore,

because of the intensification of use along the existing substandard access lane from Harbour Road, the proposed development would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise.

### **3.2. Planning Authority Reports**

- 3.2.1. **Planning Reports:** The report (25/9/24) considers the proposal in the context of the Dun Laoghaire Rathdown Development Plan 2016-2021 and notably urban design objective UD1 is applied. Some discrepancies in drawings are highlighted and considered to be in need of clarification in event of a grant. The report is heavily informed by the transport planning report.

### **3.3. Other Technical Reports**

- 3.3.1. Transport Planning: This division has serious concerns about road layout and width and sightlines. It points out deficiencies in the Quality Audit and does not accept that the access lane will not be used by pedestrians which is contrary to the development plan aim of providing choice of movement. (UD1). Recommends refusal on grounds of endangerment of public safety by reason of intensification of use and resultant potential hazard arising along the sub-standard access lane off Harbour Road. Queries legal interest in access lane.
- 3.3.2. Environment Section: This division reviewed the noise impact assessment, outline construction management plan and operational waste plan in detail and having regard to the residential setting and underlying bedrock, has highlighted inconsistencies with the methodology and ability to achieve an acceptable standard noise. Accordingly, it is recommended that a noise limit condition is attached, and that use of specialist rock removal techniques are employed subject to written agreement. This is for the purposes of minimising noise and vibration. There is no objection to operational or building use subject to conditions. Construction waste is also required to be subject of further agreement. Appropriate Assessment was screened out.
- 3.3.3. Drainage Engineer Further information required.
- 3.3.4. Public lighting: Further information required.

### **3.4. Prescribed Bodies**

- 3.4.1. Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media: In a letter, dated 21<sup>st</sup> May 2021, comments are made on both Archaeology and Nature Conservation. A condition is recommended for archaeological assessment in respect of nearby monuments. In respect of nature conservation, the Badger Conservation Plan is critiqued and further information is sought with the possible outcome of revised plans and ultimately protection of the Badger sett.
- 3.4.2. Uisce Eireann: Feasibility of Connection confirmed. (This is in a letter appended to applicant's Engineering Report.)

### **3.5. Third Party Observations**

- 3.5.1. The submissions are acknowledged and stated to be addressed in the planner's report. Matters relate to traffic, nature and scale of development, impact on Badgers and impact on amenities all of which are substantially reiterated in the observations on the appeal.

## **4.0 Planning History**

### **4.1. The site**

**ABP303279-18 (PA Reg Ref 18A/0929)** refers to permission, (overturning a decision to Refuse) for demolition of Maple Tree House and erection of 26 apartments/duplex units (7 houses and 19 apartments) located between Harbour Road and Ulverton Road, Dalkey, County Dublin.

**PA Reg Ref D21A/002615** refers to a withdrawn application for permission for the demolition of the existing 2 storey dwelling removal of the foundation slab of the previously demolished dwelling and construction of a 104 No. bedroom nursing home, ranging in height from part-two to part-five storey with vehicular entrance off Ulverton Road and the spur off Harbour Road; car and bicycle parking; green roofs; PV panels; ancillary signage; boundary treatments; hard and soft landscaping; plant; lighting; changes in level; and all other associated site works above and below ground.

### **4.2. Adjacent site**

**ABP310648 – 21(PA Reg Ref D21B/0193)** refers to a removal of windows related condition on appeal attached to permission for domestic extension and alterations at a neighbouring dwelling off Harbour Road, Dalkey,

## 5.0 Policy Context

### 5.1. National Planning Policy

5.1.1. **Project Ireland 2040 - National Planning Framework:** Part of the vision of the NPF is for more compact and sustainable development involving a greater proportion of residential and mixed- use development within the existing built-up footprints of our cities and towns. This is achieved through managing growth by directing significant amounts of new housing into existing built-up areas of cities, towns and villages and doing this particularly through infill and brownfield sites while the rest of new homes will be targeted on greenfield edge of settlement areas. The NPF also sets out a number of National Strategic Outcomes which include Compact Growth and facilitating greater densities while delivering high quality design. In so far as nursing homes are a form of residential accommodation, relevant objectives include:

- National Policy Objective 22 In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth.
- National Policy Objective 40: Local planning, housing, health facilities and services, transport/ accessibility and leisure policies will be developed with a focus on meeting the needs and opportunities of an ageing population along with the inclusion of specific projections, supported by clear proposals in respect of ageing communities as part of the core strategy of city and county development plans.

5.1.2. **The Eastern and Midland Regional Assembly Regional Economic and Spatial Strategy 2019-2031** includes the following objectives:

**RPO 4.3:** Consolidation and Re-Intensification - Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive

uses within the existing built-up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.

**RPO 9.23:** Facilitate the development of primary health care centres, hospitals, clinics, and facilities to cater for the specific needs of an ageing population in appropriate urban areas in accordance with RSES settlement strategy and core strategies of development plans.

## 5.2. Section 28 Ministerial Guidelines

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) – these revoke Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)
  - In refining density to a particular site, Section 3.4.2 refers to consideration of character, amenity and natural environment. The evaluation of impact on local character should focus on the defining characteristics of an area, including for example, the prevailing scale and mass of buildings, urban grain and architectural language, any particular sensitivities and the capacity of the area for change.
  - It will be necessary to consider the impact of a proposed development on the amenities of residential properties that are in close proximity to a development site. The key considerations should include privacy, daylight and sunlight, and microclimate. These considerations are addressed in more detail in Chapter 5 Development Standards.
  - SPPR1 minimum separation distances
- Urban Development and Building Heights Guidelines for Planning Authorities December 2018 These reflect the strategic aim of achieving compact growth and give scope to consider general building heights of at least three to four storeys, coupled with appropriate density, in locations outside what would be defined as city and town centre areas, and which would include suburban areas, must be supported in principle at development plan and development management levels. The Guidelines also require consideration of a balanced mix of uses in densified growing area.
- Design Manual for Urban Roads and Streets (2013)

### 5.3. Development Plan – Dun Laoghaire Rathdown County Development Plan 2022-2028. (CDP)

5.3.1. **Zoning:** The site is zoned A where it is an objective 'To provide residential development and improve residential amenity while protecting the existing residential amenities.' Assisted living accommodation and residential institutions are permissible categories of development in this zone in principle.

#### 5.3.2. **Age Friendly policy:**

- Policy Objective PHP14: Age Friendly Strategy: It is a Policy Objective to support and facilitate the implementation of the Dún Laoghaire Rathdown Age Friendly Strategy 2016-2020.
- Policy Objective PHP30: Housing for All
  - Support housing options for older people and persons with disabilities/mental health issues consistent with NPO 30 in the NPF, RPO 9.1 and 9.12 of the RSES.
  - Support the provision of specific purpose-built accommodation, including assisted living units and lifetime housing, and adaptation of existing properties.

5.3.3. **Urban Design:** Chapter 4: Neighbourhood – People, Homes and Place incorporates previous urban design policies. Section 4.4.1 sets out policy for quality urban design and placemaking.

- Policy Objective PHP20: Protection of Existing Residential Amenity
- Policy Objective PHP35: Healthy Placemaking It is a Policy Objective to: Ensure that all development is of high-quality design with a focus on healthy placemaking consistent with NPO 4, 26 and 27 of the NPF, and RPO 6.1, 6.12, 9.10 and 9.11 of the RSES. Promote the guidance principles set out in the 'Urban Design Manual – A Best Practice Guide' (2009), and in the 'Design Manual for Urban Roads and Streets' (2013). Ensure that development proposals are cognisant of the need for proper consideration of context, connectivity, inclusivity, variety,

efficiency, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking, wayfinding and detailed design.

- Policy Objective PHP41: Safer Living Environment: It is a Policy Objective to facilitate the promotion and delivery of a safe environment for both the residents of, and visitors to, the County.

5.3.4. **Nursing Homes:** Section 12.3.8.2 sets out development management guidance for nursing homes/Assisted living accommodation. It states that when dealing with planning applications for such developments a number of criteria will be taken into account including:

- Such facilities will be resisted in remote locations at a remove from urban areas. They should be located into established neighbourhoods / residential areas well served by community infrastructure, and amenities. Future residents should expect reasonable access to local services such as shops and community facilities
- The potential impact on residential amenities of adjoining properties.
- Nursing Homes/Assisted Living Accommodation will provide at least 20% open space of the overall site area (Refer also to Section 12.8.4) [This has increased since last CDP]
- Adequate provision of parking facilities (Refer also to Section 12.4.5).
- The design, proposed palette of materials, and fenestration.
- The size and scale of the proposal must be appropriate to the area.
- Proximity of high-quality public transport links and provision of good footpath links.

Individual dwelling units within established residential areas may also be considered under the provisions of infill/garden site development (Refer also to Section 12.3.7.7) particularly, where there is insufficient land availability for larger housing/ nursing home development, and there is a need to provide alternative accommodation for older people wanting to downsize but remain within their community.

5.3.5. Section 12.3.9 sets out policy for demolition and replacement dwellings

5.3.6. **Car parking:** Table 12.5 Car Parking Zones and Standards states a maximum rate of 1 per 2 for 'residential institution' in zone 2 (near public transport) and zone 3

(remainder of the non-rural county). On page 319, a nursing home is included under heading of 'residential institution.'

5.3.7. Road widths in general should be sufficient to accommodate two vehicles passing, but not so generous as to encourage speeding or excessive on-street/kerbside parking. The 'shared space' concept promoted in the 'Design Manual for Urban Roads and Streets' (DMURS) is essentially traffic calming interwoven with considered urban design in residential and town/village areas, to ensure that the car does not dominate in terms of street use and is required to manoeuvre at lower speeds. Going forward into the future the promotion of sustainable settlement and transportation strategies in urban and rural areas in the County will require to be informed by the principles set out in this Manual. The emphasis of the DMURS is on the delivery of permeability and public realm quality necessary to promote sustainable communities

5.3.8. **Open Space:** Section 12.8.4 states inter alia about open space suitability and accessibility - 'it should Be accessible for all users and provide links to adjoining public footpaths.'

5.3.9. **Backland and Mews Lane Development:**

Section 12.3.7.6 refers to **backland** development: typically for a new single dwelling. Adequate vehicular access of a lane width of 3.7 metres must be provided to the proposed dwelling (3.1 metres at pinch points) to allow easy passage of large vehicles such as fire tenders or refuse collection vehicles.

Section 12.3.7.7 refers to infill. **New infill** development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/ gateways, trees, landscaping, and fencing or railings

Section 12.3.7.8 sets out criteria for **Mews Lane Development** and in this minimum lane width requirements are:

- **Up to 6 dwellings:** Adequate vehicular access of a lane width of circa **3.7m** must be provided to the proposed dwellings - 3.1 metres at pinch points – to allow easy passage of large vehicles such as fire tenders or refuse collection vehicles.

- **Up to 20 dwellings:** Width of **4.8m** subject to a maximum length of 300 metres. Short lengths of narrow width may be acceptable where there will be no frontage access to those lengths.

5.3.10. **Active travel:** Section 5.6 sets out active travel policy in line with Smarter Travel.

Policy Objective T11: Walking and Cycling: It is a Policy Objective to secure the development of a high quality, fully connected and inclusive walking and cycling network across the County and the integration of walking, cycling and physical activity with placemaking including public realm permeability improvements.

(Consistent with NPO 27 and 64 of the NPF and RPO 5.2 of the RSES)

5.3.11. **Building Height Strategy - Appendix 5.**

- Policy Objective BHS 1 promotes higher buildings
- Policy Objective BHS 3 Building Height in Residual Suburban Areas: It is a policy objective to promote general building height of 3 to 4 storeys, coupled with appropriate density in what are termed the residual suburban areas of the County provided that proposals ensure a balance between the reasonable protection of existing amenities including residential amenity and the established character of the area. Having regard to the Building Height Guidelines and more specifically in order to apply SPPR 3 there may be instances where an argument can be made for increased height and/or taller buildings in the residual suburban areas. Any such proposals must be assessed in accordance with the criteria set out below in table 5.1 as contained in Section 5.

## 6.0 EIA Screening

6.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

## 7.0 Water Framework Directive Screening

- 7.1. The site is an urban serviced site. There is no watercourse on site. The proposed works while involving significant earthworks and piling into granite bedrock, the site investigation results appended to the Engineering Report indicate no groundwater encountered. The measures for drainage which incorporate SuDS and nature based systems and for which no substantive drainage issues arise in the Drainage Division report do require clarification of detail is required, but do not warrant a refusal of permission. Uisce Eireann have confirmed feasibility without infrastructure upgrade required. Given the location removed from any significant waterbody and within the curtilages of existing and former dwellings there is no likely pathway due to the nature of the development at this location and good construction practice.
- 7.2. Having assessed the proposed development and considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration and having further considered the nature, scale and location of the project, I consider that the proposal can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.
- 7.3. The reason for this conclusion is as follows:
- the nature of works in an urban serviced area

I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

## 8.0 Natural Heritage Designations

The nearest sites directly across land and water are in approximate distances:

- South Dublin Bay SAC (Site Code 000210) 3.7km northwest
- Rockabill to Dalkey Island SAC (Site Code 003000) 1.1km east

- South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) 3.7km northwest
- Dalkey Islands SPA (Site Code 004172) 1km east
- Dalkey Coastal Zone and Killiney Hill pNHA (Site Code 001206) 240m east

## 9.0 The Appeal

### 9.1. Grounds of Appeal

9.1.1. The agent for the applicant has appealed the decision to refuse permission based on the following grounds:

- The infill development complies with national policy targeting brownfield sites for redevelopment and providing accommodation for older people.
- The taller building height accords with the Building Height Guidelines.
- The reasons for refusal by the planning authority for both the apartment scheme and the subject home on the same site are for essentially the same reasoning – i.e. based on massing and scale and visual dominance yet apartments were permitted on appeal.
- Given this precedence as permitted under ABP303279-18 with the same height but with varied massing and form due to the nature of the use, the proposal is acceptable in the area. The main difference the southern end has been omitted
- The proposed nursing home complies with the residential zoning objective for the site set out in the County Development Plan.
- The site has significant frontage on Harbour Road [this is stated an error as there is no frontage]
- The windows in the northern elevation are designed to not overlook The Wave or Shelsbury and the design incorporating rows of spy windows with screens fully mitigate potential overlooking of these properties to north which are already overlooked.
- The set back from the boundaries are similar to previously approved with a distance range of 8.9 to 29.9m from the eastern boundary 25-30 from the western boundary. 18m separation distance is cited as being accept in Board decision.

- Privacy and amenity are protected by using the lower-level ground for development. In this context a maximum height of 16.3m is not excessive on the lower ground and given the strategic location and proximity to Dalkey.
- The coastal fringe context permits higher buildings than prevailing. This requires a design statement rationale which is provided in this case.
- The provision of open space is more than adequate as accepted by the planning authority.

## **9.2. Planning Authority Response**

No further comments.

## **9.3. Observations**

9.3.1. Fifteen observations were received from local residents in support of the decision to refuse permission. In summary, the following points are made:

- Does not meet development plan criteria for nursing homes due to impact on residences, inappropriate size and scale proximity to high quality public transport the footpaths do not adequately serve the demographics associated with use contravene section 8.2.3.4.
- The need for the proposed nursing home is questioned having regard to the provision of such in the area already. 118 bed home 200m north.
- This is a commercial proposal which will diminish the neighborhood community.
- The quality and aspect of rooms is also questioned given the site constraints.
- Contravenes development plan urban design/placemaking policies. Contrary to backland/infill policy with multiple access. New infill shall respect height and massing.
- Monolithic design - An inappropriate massing, scale and height. The proposed development contravenes national planning guidance on building heights and the county development plan. Country to UD1 regarding placemaking.
- Urban design context: it is a corporate design that is inappropriate in terms of densification and the environs of Bulloch Harbour.
- Scale: 5600sqm nursing home dwarfs a 2500 sq.m. apartment scheme.

- Precedence of apartments on site not a basis for something with an even greater adverse impact. Permission is being sought for more of something that was questionable in the first place.
- Visual inclusion. There is an absence of key drawings and images for example there are no photographs of relationships with existing properties suggesting that it is worse than the description. Only two CGI submitted.
- There is an effective wall of development extending 73 meters oriented onto the surrounding houses which would have an overbearing impact.
- Justification is questioned by the references to comparison with development of Charleville and what is submitted to be erroneous quotes from the inspector's report given that the description does not match.
- Insufficient access due to the narrow road and footpath and cannot safely accommodate traffic generated by the development of both construction and operational phase. Ulverton Road has very dangerous bends and nursing home use will conflict with the Castle Park School pedestrian traffic among other users the reality of the Harbour Road lane is described, that the Bloyke entrance proposed to provide a layby cannot be used as it is a private entrance and is never used as a lay-by vehicle contrary to the applicant's submission. Cars tend to wait at each end of the lane.
- Residents are heavily reliant on the lane for non-car use and large vehicles will make this unsafe. 20 movements per day will be highly disruptive in everyday life.
- Impact on residential amenities: the kitchen waste along the boundary with one residence is likely to generate odours and noise. Other issues relate to light, noise and disturbance caused by the adjacent passageway between the east and West along the northern boundary which is required to provide the permeability through the site - there is no buffer.
- The proposed car parking does not accord with Development Plan standards.
- The site development will obstruct sea views from some properties.
- Overlooking of adjacent private dwellings and gardens such as:
  - 'Praiano'- from communal area room
  - 'Montpelier'- proposed east elevation is 17m from bedroom windows – very close and will cause overlooking and overshadowing and will be highly visible over trees blocking afternoon sun.

- Inadequate measurements and distances provided.
- 'Faro' with a 7m garden would feel engulfed – as illustrated in montages attached.
- DAU is concerned that development is not good for badger conservation.
- Loss of biodiversity and impact on Badger, bats, foxes, sparrowhawks and squirrels)
- Concerned about noise and proximity and having particular regard to matters raised in EHO which reports the experience of Charleville site prep rock breaking has been very disruptive.
- Waste is presently collected at the and the lane- trucks do not collect along lane..
- The traffic audit has identified a risk arising from the narrowness and the likelihood of side sweeping of vehicles and the pedestrians risk being hit in pinch point.
- Insufficient regard to the traffic department report which recommends the refusal of permission.
- Risk of subsidence – old quarry.

## 10.0 Further submissions on remittal of case

### 10.1. First Party

- 10.1.1. The agent for the applicant has submitted a letter explaining that Scott Cawley was engaged to carry out an updated walkover survey in view of the passage of time. It is explained that the attached Scott Cawley memo sets out mitigation strategy involving sett closure out of breeding season and that an artificial sett will be constructed. An amendment to the landscape design is advised such that the slope under the original chamber would be regraded with additional topsoil for possible future use and the applicant is agreeable to a condition in this regard. The mitigation strategy outlined has been developed cognisant of the NRA guidance. Additional conditions are invited.
- 10.1.2. In support of the approach the letter includes a submission from McCann Fitzgerald which concludes that:

- There is no requirement for a licence from the NPWS despite the NRA 2006 guidance reference.
- As a matter of practice, the NPWS will not use a licence where there is already planning permission and the correct procedure for dealing with the Badgers on site is via attached planning conditions including compliance with the Guidelines for the Treatment of Badgers Prior to Construction of National Road Schemes and as agreed with the planning authority.
- It is entirely possible for the applicant to carry out the necessary works on site based on detailed reasoning by McCann Fitzgerald.

## **10.2. Third Party observations**

10.2.1. Five parties made individual submissions some of which appended expert environmental and legal opinions in support of their respective objections in relation to the matter of Badger Setts.

- Crucially, the developer acknowledges project cannot be constructed while protecting the Badger sett located on and adjacent to the property. Permission should therefore be refused on the basis that permission has been sought for an impermissible unilateral modification of the planning application at an advanced stage and is now outside the scope of the original application.
- There has been no environmental impact assessment regarding the destruction of the sett and creation of an artificial one.
- No details or plans regarding the Badger sett have been submitted at any stage by the applicant and the changes in this regard are considered material and significant. The third parties are excluded from comment.
- It is not possible to supersede Badger protection under the Bern Convention simply on the basis of the grant of permission.
- The concerns raised in the initial observations have not been adequately considered such as:
  - The substandard lane intended as a main vehicular entrance which would be an insurmountable obstacle.
  - Overlooking of adjacent houses such as 'The Wave' to the north and Kilderry.

- Overbearing impact due to massing and scale.
- Traffic due to use of lane for off-site parking and servicing in context of where two cars cannot easily pass and Harbour Road at capacity for on-street parking at weekends.
- Run-off loading at Bulloch pumping station.

**10.2.2. Environmental consultants firm Flynn Furne, in a ‘statement of authority’ as an observing party (also appended to other third-party observations) make the following comments:**

- It is their opinion that the sett is likely to be a main sett which is used for breeding and is inhabited by Badgers throughout the year. This is a Badger territory based on their experience in the area since 2019 and this has been active without interruption.
- The statements in the Thornton O'Connor submission contain errors in relation to licensing requirements for Badgers and should be excluded from consideration. The reference to NRA guidance 2006 is correct and this guidance document makes direct reference to the Wildlife Acts and the requirement for licensing from the NPWS prior to any actions that would impact upon an active sett. That the NPWS will not issue licenses simply because planning permission has been received is factually incorrect.

Observations on memo by Scott Cawley

- It is noted that the findings of the single survey carried out on 10th of January 2025 and there were signs of recent Badger activity. However, it did not conclude that the sett was inactive at the time of survey. However, two main entrances to the sett are outside the property surveyed and would not therefore have been available to examine in close proximity. The author has had access to hundreds of images and dozens of hours of footage of this setting which continues unbroken since 2019 and has included evidence of Badger mating and breeding. The mitigation proposed describes standard methodology, but it ignores key elements which will lead to the failure of the mitigation strategy.

- It does not address that a portion of the sett is outside the area within which these interventions are planned. Excavation will in effect be conducted while Badgers remain inside which is not accepted guidance or best practice. The measures proposed present real difficulties in terms of gates and tunnels and effectively prolong the exclusion and add to stress upon this group.
- The Scott Cawley memo was vague as to the location of the artificial sett, yet this is a critical factor, and it is submitted that the nursing home will effectively make any location of such a sett unsuitable.
- The artificial sett will be within 60 metres of site in which rock breaking and piling will be carried out which may compromise the integrity of the artificial sett. This is despite the NRA guidance stating correct location of an artificial sett is necessary to ensure its successful occupation by the affected patriots. Accordingly, it is submitted that given the nature and scale of the proposed development there is no correct location for an artificial site within the proposed site. Despite the memo referring to the importance of this site as a feeding and foraging area for the Badgers, the development would render this site unusable.
- The paving and fencing will represent a permanent barrier to Badger movement within and to and from the site as it will simply not allow the Badger group to survive here.
- The strategy is submitted to lead to the inevitable extinction of a protected species (through Bern convention) and therefore breaches international law.
- While the mitigation relies on the artificial sett being occupied such setts are not always successful and there is no data on the success of such setts yet in the experience of the author the occupation rate of such setts may be as low as 50%. Artificial sites are typically in rural locations where there are options whereas this is an extremely limited site and if the selected location is not suitable the strategy will fail.
- Even if the artificial sett is occupied, the feeding and foraging areas will be severed. The group will effectively be stranded within a built environment and would likely disperse and perish and result in the extinction of this Badger group.

- The reliance on the Badger conservation plan by Enviroguide in 2021 has been shown to be flawed and recommendations will be harmful to the Badger group such as using mammal proof fencing to restrict Badger movements.
- In conclusion the mitigation strategy cannot be accepted as realistic in terms of its aims given the nature and location of the development and the negative impacts that would endanger the conservation interests of this Badger community.

### 10.2.3. Legal note – F. Logue

- It is concluded that the applicant has made contradictory statements in that the development is in effect incompatible with the retention of the Badger sett.
- The construction of an artificial sett is a compensatory method and not a mitigation as described.
- The destruction of a Badger sett is illegal.
- It is not permissible to modify the proposal by way of an observation on a remittal.
- The modification such as the closure of the sett and construction of the artificial set are outside the scope of the planning application. The works are material and significant in that they are generally prohibited under the Wildlife Act 1976.
- An EIA must be carried out.
- The developer's modifications lack detailed plans and particulars and crucial information to make a lawful determination.
- The Board must exercise its jurisdiction in a way that is compatible with and gives effect to the Bern Convention. The exceptions in Article 9 of this Convention apply and sett destruction must be refused.
- The works are not included in the public notices notwithstanding the public interest.

### 10.3. Planning Authority

In a letter dated the 5th February 2025, the Board was referred to the previous planner's report. It is submitted that the grounds of appeal do not raise any new matters which would justify a change in attitude to the proposed development.

## 11.0 Assessment

### 11.1. Issues

- 11.1.1. This assessment is pursuant to the High Court order quashing the decision of the Board in this case having particular regard to the matter of Badger conservation. This assessment is based on all the original application documentation and associated submissions and issues arising therein in addition to the subsequent documentation and further submissions following remittance of the case.
- 11.1.2. Since the Board's initial decision and prior to this assessment, notable changes to the circumstances of the case include the expiration of an extant permission at the time of the Board's initial decision and the publication of the Compact Settlement Guidelines. As was the case, the relevant development plan remains as the 2022-2028 version, which replaces the previous plan which governed development management at the time of the planning authority's decision.
- 11.1.3. Having reviewed this documentation and relevant policy and guidance and inspected the site, I consider the key issues arising are:
- Principle of development
  - Traffic safety
  - Impact on residential amenity
  - Urban design value
  - Impact on Badgers
  - Other ecological issues
  - Impact on sewer infrastructure
  - Other matters: legal ownership

### 11.2. Principle of Development

- 11.2.1. The proposed development is in a low-density residential enclave in an area which is zoned 'A' where it is an objective 'to provide residential development and improve residential amenity while protecting the existing residential amenities' in the current Dun Laoghaire Rathdown County Development Plan 2022- 2028 (CDP). In terms of use, Nursing homes are acceptable in principle in such areas. Furthermore, provision of such a facility meets with the wider CDP Housing for All Policy Objective

(PHP30) which seeks to provide housing options for older people. With respect to the proposed five storey height, the Building Height Strategy in Appendix 5 of the CDP provides a framework for taller buildings in traditionally low-rise suburban locations. While I accept the points by the applicant that the principle of the proposed use is acceptable in terms of use and that higher building provision is in keeping with the strategic approach to intensification by building up within the urban footprint, permission is predicated on a range of criteria, some of which I do not consider can be adequately met.

11.2.2. The urban design criteria in chapter 4 requires connectivity and accessibility as key elements in placemaking, but the narrow laneway inhibits this. More particularly, based on the criteria for nursing home as set out in section 12.3.8.2 of the CDP, aspects of the proposed development are I consider inappropriate in terms of the location and accessibility in addition to aspects of layout and scale and impacts on residential amenities.

11.2.3. The nursing home criteria in the CDP is used to frame the justification of the proposal by the appellant. The CDP criteria require:

- Such facilities will be resisted in remote locations at a remove from urban areas. They should be located into established neighbourhoods / residential areas well served by community infrastructure, and amenities. Future residents should expect reasonable access to local services such as shops and community facilities
- The potential impact on residential amenities of adjoining properties.
- Nursing Homes/Assisted Living Accommodation will provide at least 20% open space of the overall site area (Refer also to Section 12.8.4)
- Adequate provision of parking facilities (Refer also to Section 12.4.5).
- The design, proposed pallet of materials, and fenestration.
- The size and scale of the proposal must be appropriate to the area.
- Proximity of high-quality public transport links and provision of good footpath links.

In view of this criterion, accessibility is a key consideration in both densification and use. However given the reliance on the proposed development on access from a narrow lane, this presents a challenge both in terms of vehicular traffic and conflict

with pedestrians and cyclists. The grounds of appeal set out how proposed measures, in terms of traffic generation and traffic safety, are considered to address the concerns of the planning authority and this is addressed in detail under the heading Traffic Safety in this assessment.

- 11.2.4. The potential impact on residential amenities of adjoining properties is another key consideration. The grounds of appeal emphasise how minimising such impact has informed the overall design and that in terms of scale and relationship with boundaries, it compares favourably with the previously permitted development, and I address this under the heading Impact on Residential Amenities.
- 11.2.5. In terms of the 5-storey building complying with the urban design criteria, this is addressed by my assessment of the appropriateness of the location by reference to the criteria in Building Height Strategy under the heading Urban Design Value below.
- 11.2.6. This proposed demolition of the dwelling is not an issue having reviewed the conservation report and related reports for the applicant and planning authority together with the size of the site and its capacity to accommodate a denser form in a standalone design.
- 11.2.7. Much of the case made in the appeal centres on the comparison of the proposal with that previously permitted on the site. What is submitted by the appellant to be only a marginal variation does not, it is argued therefore warrant a change from the previous decision to grant. The submitted drawings plot the outline of the previously permitted blocks, such as, in plan (AP020), section (AP130) and elevation (AP230). It is submitted that this illustrates a marginal increase in height in the design now proposed and which includes a stepping back and profiling at the edges where it adjoins dwellings close to the boundary. While I note that difference in the maximum height is as low as, less than 1m in places, it is also considerably more in places, but the key difference is that the span of the previous multi block apartment development has been reduced thereby freeing up the southern end of the site from development so that that part of the site will be retained as open space. This is primarily in the interest of Badger conservation. The series of previously proposed apartment/dwelling blocks with intervening landscape and seascape backdrops is now replaced with a solid mass which combine to present a monolithic and visually very different form along the streetscape and garden boundaries. I also note strategic and policy

considerations in the Board's decision Order for the proposed housing at that time and do not see that as being directly relevant to the proposed nursing home. That permission has however now lapsed and in any event the application must be assessed on its own merits and by reference to current policy and guidance. In the intervening period a new statutory plan and guidance such as the current Compact Settlement Guidelines now shape policy and development management. These guidelines emphasise the importance of context. Accordingly, I do not consider the principle of development can be accepted based on the planning history.

### **11.3. Traffic Safety**

- 11.3.1. The main entrance to the proposed nursing home is via a c.4.5m wide publicly accessible private lane off Harbour Road which is used exclusively for residential use. With the exception of one disabled car park space, all proposed car parking in addition to waste collection, ambulance and fire tendering services are reliant on this lane for vehicular access. As part of the initial application, a Quality Audit was prepared by the applicant and a subsequent Quality Audit Response (QARD) also prepared by the applicant, addressed recommendations by clarifications and modifications. However, the manner in which the applicant addressed the quality audit issues was not addressed to the satisfaction of the Transportation Department. Traffic hazard is accordingly one of the grounds for refusal by the planning authority. The rationale is set out in the Transportation Department report which expresses serious concerns about the access laneway off Harbour Road given its alignment and structure and the conflict with larger vehicles serving the proposal. It is also concerned about the manner in which pedestrian use is addressed and impact on connectivity.
- 11.3.2. In section 6.1 of the QARD, the footpath was highlighted as a safety issue. It states: 'A narrow footpath is provided on one side of the cul-de-sac between Harbour Road and the development access... Pedestrians travelling between the proposed development and Harbour Road may be at risk of being struck by a passing vehicle particularly where an adequate pedestrian linkage is not provided.' While the applicant's own Audit team recommended, 'provision of a continuous adequate pedestrian connectivity from Harbour Road ...' this was not taken on board in the design and instead it was proposed to not provide a pedestrian access via Harbour

Road and therefore I would submit, fails to address the safety of existing pedestrian use and safety issues arising notwithstanding the proposed use of signage. The proposal in section 6.3 of the QARD specifically sought to not create a link between the Ulverton Road and Harbour Road Lane, specifying Ulverton as the main pedestrian access via the lift, although the appeal documentation indicates there is a link via the steps<sup>1</sup> but my understanding from the appeal documentation is that the lane will be the main pedestrian access as it provides a permeable link to Ulverton Road north of the site rather than within. Safety measures include signage (yield signs) and, provision of sightlines on the vertical and horizontal plane. Swept path analyses also demonstrate that vehicles can geometrically access the site and manoeuvre within the site, and this is further clarified in the appeal documentation.

11.3.3. In the Transport Items Appeal Document (appended to the agent's appeal), the case is made in support of the access arrangements being adequate given that:

- Projected traffic volumes are not materially different to levels of previously permitted residential development on the site. It is projected, based on the provision of 17 car park spaces accessed off the lane that there will be 71 trips per day which is less than 76 trips for the previously permitted houses.
- Larger vehicle trips will be infrequent – limited to refuse and fire tender - as other servicing vehicles will use the Ulverton Road entrance.
- The narrowness of the lane is a form of traffic calming and creates a shared street environment.
- The shared entrance to the Bloyke dwellings provides a lay-by along the lane.
- In respect of through pedestrian access it is simply stated that the laneway alignment provides for safe shared space for pedestrian, cyclist and car users in a calm environment and that pedestrian access within the site is via 5 flights of steps which are for maintenance with access from Ulverton road and that there is access to lifts within the building.

---

<sup>1</sup> On page 7 of the appended Transport Items Appeal Document, it states pedestrian access is available to the site from Ulverton Road. Existing footpath infrastructure is in place on the access laneway. The site is accessible to public transport infrastructure along Ulverton Road. Pedestrian access within the site consists of 5 flights of steps in addition lifts within the building... At present a permeability link exists between Harbour Road and Ulverton Road at the junction of Harbour Road and the Harbour Road laneway to the north of the subject development site.

11.3.4. I consider the overriding consideration relates to the width of the access lane over which the proposed nursing home would be almost entirely reliant for access having regard to the location of the car parking and reception. The third-party submissions include observations from residents of this lane and their experiences of traffic obstruction due to two vehicles not being able to comfortably pass and requiring to mount the footpath as is evident in their appended photographs. They also state their pedestrian usage given the proximity to the village and amenities and in support of this use I observed a number of different groups walking at time of my inspection.

#### Road width

11.3.5. The CDP in section 4.4.1.6 requires that road widths in general should be sufficient to accommodate two vehicles passing, but not so generous as to encourage speeding or excessive on-street/kerbside parking and standards are guided by the Design Manual for Urban Roads and Streets (2019) in which permeability and the 'shared space' concept are promoted.

11.3.6. The geometric standard widths are set out in table 4.4.1 of DMURS and in this, the minimum carriage width is 4.8m which can, I note, provide for shared surfaces. I note from my inspection that the carriageway measured at approx. 4.5m and the footpath measured at a width of 1.07m, therefore a potential 5.5m wide shared surface could be accommodated in this space in geometric terms. (In this regard I note the applicant does not include the footpath in the lands outlined in blue associated with the access road.) I do not consider current alignment provides sufficient space for two passing vehicles particularly in view of the quality audit finding. While the site is not an urban mews, the CDP standards for road width and number of dwellings along such laneways is informative and gives context to the subject proposal. For example, it states in section 12.3.7.8 that a width of 4.8m is appropriate for up to 20 dwellings subject to a maximum length of 300 metres. Short lengths of narrow width may be acceptable where there will be no frontage access to those lengths.' In this case there are at least 10 dwellings along the laneway. For less intense development, a narrower drive of 3.7m is stated to be acceptable. One observer, a resident of The Wave along the lane indicates that there were 37 residents in 10 dwellings at the time of the observation. In this case the introduction of 104 residents with ancillary staffing is equivalent to significantly more than 10 dwellings. Therefore

by applying the guide of up to 20 dwellings for a 4.8m wide access road to a road less than this and having regard to the pattern of development in the area, I consider it reasonable to conclude that the scale and nature of development for 104 residents in a staffed care facility, to be excessive for the roadway having regard to the development plan guidance for laneway development.

### Traffic Type

- 11.3.7. I consider the comparison of a nursing facility with a multi-unit residential development as made by the applicant in the grounds of appeal is not fully cognisant of the nature of the traffic. A commercially run residential institution with a centralised kitchen and medical services is likely to be quite different compared to a residential unit-based scheme in terms of large vehicles for example. While I note the Ulverton Road access is proposed to be used for deliveries<sup>2</sup> aside from refuse collection and emergency, the site layout, such as the location of kitchen access and storage and the arrangement of steps and doors, storage and lift do not seem conducive to conveniently accommodating the use of the Ulverton Road access for these other deliveries, other than perhaps laundry deliveries. The loading area off Ulverton Road is for example 50m from the kitchen door via the passageway, service lift to the lower ground and corridor to the kitchen as compared to the possibility of driving to the external kitchen door at ground level 0 via the lane entrance - the accessibility map shows vehicular access alongside the northern elevation.
- 11.3.8. The refuse generation is not comparable to the private residential use, as in this case there is an extensive range of waste type associated with the different aspects of the facility, such as food, medical, hazardous medical, hairdressing and that related to the grounds, building and contents as listed in the Operational Waste Management plan.
- 11.3.9. The nursing home is likely to have busy periods associated with visiting hours with weekend afternoons likely to be the busiest - at a time when residents are most likely to walk along the lane. With a turnover of 15 car park spaces there is a likelihood of a high volume of passing vehicles along the access road. At the same time the 1m wide footpath does not allow for vulnerable mobile nursing home residents to be

---

<sup>2</sup> On Page 33 of the grounds of appeal it is stated that, 'with regard to trips by larger vehicles, CS Consulting note that these will be infrequent and will be limited to refuse vehicles and fire tender with other servicing vehicles making use of Ulverton Road entrance.'

accompanied side by side or comfortably use a mobility device and so pedestrian safety is likely to be at an increased risk.

- 11.3.10. The appellant makes the case that the current alignment is a form of traffic calming along the road and while this may be, but it does not address the risk of side swiping and narrowness of a footpath which is disconnected from the entrance.

#### Car Parking and Traffic Generation

- 11.3.11. Car Parking standards are set out in section 12.4.5 of the CDP. The site falls within parking zone 3 in the Supplementary Map T2 and based on Table 12.5 Car Parking Zones and Standards, this equates to a maximum provision of 52 spaces for the proposed nursing home<sup>3</sup>, whereas 18 spaces, of which 3 are reserved for disabled use, are delineated in the submitted layout plan. The appellant states that car parking is adequate having regard to the CDP 2016-2022 requirement of 1 space per 4 bed spaces and the overall provision of 20 spaces (17 off the lane access of which 2 are disabled and 3 off Ulverton Road one of which is a disabled space). The shortfall is submitted to be acceptable given the accessibility of the site and also that it does not exceed the maximum quantum. It is further argued in the appeal that the development is comparable in traffic terms to the previously permitted residential development.

- 11.3.12. With regard to the stated 20 spaces I note the Ulverton Road parking of 3 spaces is not set out in the drawing as was noted by the planning authority – there is only one space marked out and it is, otherwise appears to be a loading and turning area for vans, (based on the intended use on page 33 of the grounds of appeal) and there is also a bicycle parking area. The other 17 spaces comprise 15 regular spaces and 2 reserved for disabled parking accessed off the lane access via the main entrance.

- 11.3.13. I consider the case for reducing car parking provision is weak. The county is zoned for parking demand based on access to services and public transport. In parking zone 2 for example where lower parking can be accommodated as

---

<sup>3</sup> The CDP car parking standards for residential institutional use applies, as, by the development plan definition, this land use includes nursing homes.

compared to zone 3, the site criteria in the CPD is that it should be within a 10-minute walk to the DART. On page 29 of the appellant's grounds, the site, based on google maps is 12 minutes from the Ulverton entrance to the DART. While it has access to this train service, it is outside the 10 minute catchment and the bus service is not of a high-quality bus corridor category. There are no cycling routes and while there is a footpath, the linkage is poor. While a nursing home as an institutional use has the same maximum CDP rate of 1 car park space per 2 bed spaces in both zones 2 and 3, there is little difference between the zones in terms of scope for relaxing parking provision. For both areas, reduced provision may be acceptable subject to criteria in section 12.4.5.2 which includes, inter alia proximity to public transport service, capacity of surrounding road network, existing availability of parking and its potential for dual use and availability of on-street parking controls. In this case the road is private and street parking control by the local authority is not possible. There is no safe on street parking provision along the lane and capacity is constrained by its narrow alignment and potential for traffic hazard due to intensification of use as identified by the transportation department.

11.3.14. In view of the foregoing, I consider by reference to the current CDP criteria that car parking is deficient for the proposed development.

11.3.15. In terms of trip generation, the appellant case relies on the projected low level of traffic which is kept low by virtue of the 17 car park spaces accessed off the lane. (page 33 of appeal) However, I consider the projected traffic generation volumes along the lane are open to question given that they are based on only 17 spaces off the lane which is a significantly low level of car parking provision by reference to the CDP car parking standards for residential institutional. In support of the adequacy, a previous inspector's opinion is cited from a report for the previous proposal which concluded that traffic and access would not merit a refusal yet this as I have stated was for a residential unit development which has different CDP car parking requirements and is likely to generate different traffic patterns.

11.3.16. I note the TRICS projections (which are based on UK land use) anticipate a demand of up to 15 spaces at one time but based on a ratio up to 1 space per 2 beds, up to 52 spaces is the currently maximum guided amount for nursing homes in a suburban location such as this. While I note it is a maximum level and accessibility criteria also applies, the level of provision (15 fully available car park spaces and 3

additional spaces reserved for disabled use) is below this standard by a considerable magnitude. There appears to be limited buffer provision for exceedance of projected average demand for 15 universally available spaces. There is therefore a risk of an overspill on the surrounding roads where parking capacity is restricted due to alignment. On this basis I consider the concerns of the transportation department regard traffic hazard are reasonable and justified. Furthermore, as car parking provision is inadequate, this is contrary to one of the prerequisites for nursing home development.

### Modal shift

- 11.3.17. While the car parking shortfall is in part offset by bicycle parking, there is no real meaningful arrangement for enhanced pedestrian access such as via the Ulverton Road frontage – there is no reception nor, as it would appear from the submission on page 34 of the grounds of appeal that through-access within the grounds externally is intended and is restricted in its reliance on access via internal corridors. This could be addressed by modification. While the appellant emphasises the 1km DART distance and proximity, this access is intended for employees and is not universal. While this pedestrian access is nearer at 1km (14min walk) to the Dart, it is via five flights of steps (climbing some 10m) from the reception.
- 11.3.18. Pedestrian reliance on the Harbour Road Lane access increases the distance to the Dart to c.1.4km. bringing it well outside the 1km walking distance range. I note there is a bus service along Ulverton Road (with 3 buses stated by the appellant) but there is no evidence of it being high-quality public transport such that it would support a significant reduction in car parking.
- 11.3.19. I further note the applicant includes provision for a Mobility Management Plan which is mainly focused on employees and providing information and support to encourage other non-car modes of transport. While these measures along with the bicycle parking are positive in encouraging a modal shift from the car dependence in line with the national Smarter Travel strategy as promoted in the development plan, I do not consider the measures sufficiently address the safety issues associated with the intensification of vehicular use of this quiet residential lane used presently as a shared space. This I consider would be a weakness in implementing a MMP. One of the criteria for relaxing car parking in zone 3 is the robustness of the mobility

management plan. While I note the implementation management measures, the operation of such I consider lacks detail. There is no reference to managing the occupants, employees and visitor in terms of recruitment/enrolment or other measures to regulate demand. In order to achieve safe and orderly access with the limited level of proposed car parking it is likely to require policing to ensure safe compliance. I do not consider this can be reasonably implemented by condition. I would also query some of the underlying assumptions in the basis for reducing car parking demand. While the MMP seeks to apply CSO work travel data in achieving lower car usage, this data is not fully transferable to a care facility - for example, working from home is not likely to be relevant.

- 11.3.20. Accordingly, I consider there are practical aspects in managing the scale of the proposed facility with the low level of parking and limitations on accessibility without generating a traffic nuisance and hazard along the narrow lane and surrounding roads.

#### Connectivity

- 11.3.21. The proposed connectivity between the main site entrance with footpaths in the wider area is considered poor by the Transportation Department either via the lane or via the steps intended for maintenance but which I note involves climbing 9 metres in height - although the lift provides some assistance in this terrain. The proposed vehicular use of the lane in the absence of footpath improvements as recommended in the applicant's quality audit would I consider be contrary to the development plan age friendly policies in respect of walkable streets and supporting Age Friendly Towns. I refer for example to Policy Objective PHP41 for Safer Living Environment seeks to facilitate the promotion and delivery of a safe environment for both the residents of, and visitors to, the County. While on the one hand, the provision of a facility meets with the strategic delivery of long-term residential care proximate to local services, I consider the poor connectivity undermines its value and, in this way, runs counter to the NPF aims to improve services for older people by continuing the National Age Friendly Programme.

#### Ulverton Road sightlines

- 11.3.22. The Ulverton Road entrance is proposed for deliveries and maintenance and also has one disabled car parking space. The issue for traffic safety and sightline

provision is raised in the course of the application and by observers on the appeal. For sightlines along an urban road such as this, the DMURS - geometric design (May 2019) applies and this sets out minimum forward visibility required which corresponds to stopping sight distances (SSD). This is set out for different design speeds. In this case a SSD of 49m is required to provide forward visibility for buses which is applicable to Ulverton Road. The drawings submitted illustrate that this is achievable. Drawing 20009 AP401 appended to the appeal further illustrates a swept analysis for the entrance and its capacity for larger vehicles. I do not consider the proposed vehicular use of this entrance is likely to give rise to traffic hazard in this urban environment. However, the site layout and steeply contoured site do not allow for this to be the main vehicular entrance.

### Conclusion

11.3.23. When considering the CDP guidance for mews lane capacity in terms of road width and traffic, I consider a 104-bed nursing home well exceeds the residual development capacity of the lane having regard to its narrow alignment and restricted footpath and the existing residential use (by at least 10 houses) reliant on it as a sole means of vehicular and pedestrian access on the one hand, and on the other, the limited capacity for the volume and nature of traffic it is likely to generate and the significant shortfall in car parking which may result in a spillover in the surrounding roads. I do consider that the proposed yield signs at the egress onto the lane is sufficient to address safety issues raised in both the applicant's Quality Audit and by the Transportation Department and therefore I consider the safety concerns of the Transportation Division are valid. Accordingly, I consider the reason to refuse permission on the basis of traffic hazard is reasonable and should be upheld.

## **11.4. Impact on residential amenity**

11.4.1. The proposal is for a building of up to 5 storeys in height which is considerably taller than the prevailing domestic residential scale in the vicinity ranging from 1 to 3 storeys but predominantly 2 storey. While the Compact Settlement Guidelines in line with NPF advocate for consolidation in serviced urban areas through infill and redevelopment, the CDP, in its implementation of this, seeks to protect residential amenity. In section 4.3.1.3, Policy Objective PHP20: Protection of Existing

Residential Amenity, it is a Policy Objective to ensure the residential amenity of existing homes in the built-up area is protected where they are adjacent to proposed higher density and greater height infill developments. Having regard to the CDP Policy Objective BHS 3: Building Height in Residual Suburban Areas which seeks to promote 3 to 4 storeys in residual suburban areas, the area could be described as a residual infill site in that it is serviced land but not an identified area for comprehensive redevelopment and in this context five storey development is a considerable change in character and merits rigorous appraisal. The objective PHP20 is I note supported in the Compact Settlement Guidelines (2024) assessment criteria which refers to 'consideration of character, amenity and natural environment' and 'the evaluation of impact on local character should focus on the defining characteristics of an area, including for example, the prevailing scale and mass of buildings,... and the capacity of the area for change.... It will be necessary to consider the impact of a proposed development on the amenities of residential properties that are in close proximity to a development site. The key considerations should include privacy, daylight and sunlight, and microclimate.'

11.4.2. The applicant makes the case that the encroachment on boundaries as compared to that previously permitted is very similar to the extent that impact would have a negligible impact. It is explained that the windows have been positioned and designed to not give rise to overlooking. From my examination of the drawings, in general terms it is quite apparent that the footprint is larger along the northern and western boundaries with its setback hatched in black against the footprint in purple in drawing 20009 AP016 Rev. Scaling dimensions from this drawing, I estimate that the depth of the previously permitted blocks extended 11m and 18m respectively along the northern boundary and with a 2m set back over a depth of 11m and a setback of 6.5m over an 11m elevation for the other block as compared to a continuous 55m elevation currently proposed. This elevation is now proposed to be setback in the order of 2m over a depth of 8.8m and a setback of 5-6m for the remainder save for a 8.5m set back over a length of 7m of the northern elevation. Similarly, along the western elevation while the set back is increased at a point where it was 3.1m to 5.1m, it is then reduced from a setback of 6.6m to a range of between 4.5 and 5.3m.

11.4.3. In both elevations the form is considerably different in that a continuous single block of development is now proposed as compared to a group of spaced blocks.

#### Impact on dwellings to the north

11.4.4. The proposed nursing home block is roughly L-shaped and concentrated at the northern end of the site where the shorter end of the block extends from Ulverton Road on the western side down to the laneway on the eastern side, encompassing the footprint of the now demolished dwelling 'Yonder' and therefore extends deep into the site alongside the northern boundary. Despite the steeply sloping site which varies some 9.5m in ground level, the parapet height, in the order of 22mOD - 24mOD and appearing as 2 storey on the higher ground as viewed from Ulverton Road, will be retained throughout the site over its depth of just over 55m. The drawings indicate some variance with a dipping in the height in the otherwise fairly consistent parapet heights in the elevation drawing which includes 5 storeys on the lower ground level.

11.4.5. The dwelling to the north, 'The Wave' at the lower level will be most impacted in that the 5-storey block will be prominent for a significant depth in close proximity and due south of its curtilage. The appellant makes the case that the windows in the northern elevation are designed to not overlook 'The Wave' or 'Shelsbury' and the design which incorporates rows of spy windows with screens is submitted to fully mitigate potential overlooking of these properties to north. It is further submitted that they are already overlooked by Ulverton Road dwellings. The arrangement of the proposed 16 bedroom windows, while in terms of opposing distances exceeds 22m the windows at upper levels 2 and 3 are angled such that they will directly oppose rear windows at a distance in the order of 5m from the boundary as delineated. The proposed generator is situated against the boundary fence although dimensions state a 1.1m setback from the site boundary (in red). This position places the generator in the line of view between windows BR227/327, 228/328 and 229/329 on levels 2 and 3 where there appears to be limited provision for screen planting.

11.4.6. I do not consider screening can sufficiently overcome this extent of overlooking. Nor do I not consider this is comparable to the domestic scale overlooking from upper floors of dwellings along Ulverton Road which are I note at a greater distance from

'The Wave'. Furthermore, I note the red line boundary delineation extends beyond a fence line and abuts The Wave whereas it would appear there is gap on the ground and therefore the setback from the boundary may be less. Either way, for the scale and extent of the block at this location and number of windows, the separation distance is I consider too low based on separation distances required between residential developments. I refer for example to the Compact Settlement Guidelines wherein SPPR 1 states that separation distance between opposing windows in habitable rooms of at least 16m shall be maintained but this may be reduced where suitable privacy measures to have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces.

- 11.4.7. While the separation and screens may improve privacy, the setback is disproportionately reliant on the private space of 'The Wave' and may unreasonably compromise its expansion southwards.
- 11.4.8. In terms of overshadowing, I note the daylight and sunlight analyses by the applicant illustrates the extent of loss of VSC and sunlight which the appellant reaffirms in the grounds of appeal to be imperceptible. I note an omission of a window in the analysis which relates to a studio and perhaps was omitted as not being a habitable room. It seems evident that this would be adversely impacted. One other habitable room window is shown to be below the 27% threshold for VSC as a consequence of the development. While it is a negligible quantitative loss, the overall massing and proximity due south would moreover, I consider have an overbearing impact on the habitable space and curtilage of the property. I say this having regard to the 5 storey height to the south relative to the single storey height and orientation and layout of the Wave and the steep sloping terrain and height of houses enclosing the site to the west which combine to, in a manner, box in the private curtilage to the rear.
- 11.4.9. Another consideration is the nature of the use and that the proposed intervening space with 'The Wave' is a passageway intended as a service access to the kitchen and utility areas. (The generator plant is also in the order of 1m off the boundary). Given the institutional nature of the proposed use, is likely to be a source of considerable daily activity and to be a source of nuisance to the extent that it significantly alters the character of this residential area. The Noise Impact Assessment does not provide noise levels for these elements but refers to noise attenuation. While this could be regulated by noise and odour management

conditions, it is likely to be an onerous, and what I consider, a significant burden given the extremely quiet background noise in the immediate area. Avoidance by modification to layout and integration would be a better alternative.

11.4.10. I consider the scale, massing and proximity of development, together with the number of upper floor bedroom windows oriented in the direction of 'The Wave' to its rear and the daily operations of an institutional kitchen and utilities combine to alter the existing residential character to a degree that it is likely to seriously injure residential amenity of this neighbouring property.

11.4.11. The property to the north on Ulverton Road, 'Shelsbury' is less vulnerable given its elevated location, aspect and sea views and also the angling of the proposed bedroom windows which only overlook the end of the garden. The biggest impact is from the proposed 22mOD high block situated along its southern boundary for the entire depth of the garden and at a distance of 2-6.5m. The height and depth as compared to the relatively lower ground level of the rear garden (15mOD based on the site contours) of 'Shelsbury' would contribute to an overbearing nature with the diminution of sunlight in the garden due to overshadowing impact notwithstanding the generally acceptable impact on sunlight in the Daylight and Sunlight assessment.

#### Impact on dwellings to west

11.4.12. The proposed block extends alongside 'Faro' the two-storey dwelling to the south on Ulverton Road. It is proposed to extend alongside the c.7m deep rear garden at a distance of 1.4m and then extend beyond the garden for depth for 10.7m at which point it steps across the rear of the property. It is set back 24m from the rear wall at its greatest distance. There are no directly opposing windows and overlooking is not a significant issue. The generous garden depths of the adjacent properties along Ulverton Road moving southward provide a degree of privacy from the section of the block that extends in width to over 73m and alongside the rear boundaries at a distance of 4.5m at the closest point which I consider to be very close. Screen planting is proposed in a retained terrace along the existing boundary wall to be retained. In the selection of cross sections, the proposed trees/hedging are shown to reach 3m above the ground level. Given the lower ground level and required height of intervening landscaping in raised beds to provide screening of upper levels (levels

2 and 3) I do not consider privacy can be adequately protected. As the top level 4 only has high level corridor windows in the western elevation at this point there is no likely source of overlooking from this level. I note however from the section drawing 20009 AO130 Rev that the level 3 windows are higher than the boundary wall and that a single row of planting is unlikely to fully screen the properties in such close proximity. Moreover, the proposed block will rise in the order of 5m over the treetop in close proximity and with no visual break. While I note the design incorporates visual interest in layering and modelling, ultimately the height and breadth create a continuous horizontal massing that would be visually prominent and overbearing and alter the aspect and character of the properties by creating a sense of enclosure. This is particularly the case for 'Faro' where it is bound on both sides to its rear and the proposed development would accordingly be oppressive. I note loss of VSC and sunlight is slightly decreased and while I note it is with acceptable levels the diminution of light serves to accentuate the overbearing impact.

#### Impact on dwellings to the east

11.4.13. The longer section of the L extends north to south over a distance 73.4m and the maximum height is over 16m. The set back from the eastern boundary is in the order of 10- 30m. The dwellings to the north 'Montpelier' and 'The Anchorage' are at an angle and there are no directly opposing windows consequent on the development. Overlooking would be minimal due to obliqueness of angles, distance, trees and mature boundaries and would in any event be over the public realm to the front of the properties and would not therefore be significant in terms of injury of amenities. The main impact would be by way of altering the character of the laneway by the introduction of an expansive building of up to 5 storeys in height. I do not consider the differences in levels within the site have been sufficiently reflected to assimilate the proposal into the local landscape and to retain the character of the area without seriously injuring the residential amenities.

#### Impact on dwellings to the south

11.4.14. The southern end of the site is to remain as open space for the use of the residents and landscaped for Badger conservation and will retain its boundary character and open aspect. Accordingly, due to separation distance and site layout, the properties to the south, southeast and southwest will substantially retain their

character and amenity. Luckington House which fronts on to the site and backs onto Ulverton Road will retain its open character to its front.

#### Amenity of Lane

- 11.4.15. Infill sites are specifically identified as a means to delivering compact growth. The critical issue in this case is that development relies on a substandard road work in a quiet residential cluster. Accordingly, given the limitations of the lane, the nature of the use and associated traffic are I consider likely to militate against providing a safe pedestrian environment for the current residents who clearly rely on this lane for walking to the surrounding area. In this way the proposal does not constitute a form of development that is wholly consistent with protecting the character and amenities of the residential enclave.

#### Conclusion

- 11.4.16. Having regard to the monolithic massing, height and close proximity to boundaries for such an extent, I consider the proposed nursing home block would have an oppressive and overbearing impact on the immediately adjacent surrounding dwellings. Furthermore, the multiplicity of upper floor windows in the northern and western elevations in close proximity to boundaries would contribute to significant overlooking and loss of privacy. I further consider the nature of the institutional use and site layout and associated nature of traffic are likely to give rise to nuisance and disturbance that would be difficult to regulate. Accordingly, I consider the proposed development would, on its merits, seriously injure residential amenity and this constitutes grounds for refusal.

### **11.5. Urban Design Value**

- 11.5.1. One of the reasons for refusal by the planning authority was in the context of objective UD1 under the previous development plan 2016-2022 which aimed to achieve a high-quality design in promoting a 'sense of place'. It stated, 'The Council will promote the guidance principles set out in the 'Urban Design Manual – A Best Practice Guide' (2009), and in the 'Design Manual for Urban Roads and Streets' (2013) and will seek to ensure that development proposals are cognisant of the need for proper consideration of context, connectivity, inclusivity, variety, efficiency,

distinctiveness, layout, public realm, adaptability, privacy and amenity, parking, wayfinding and detailed design.’ In the current CDP this has been incorporated into chapter 4 and policy objectives therein. PHP 35, for example, seeks to ensure that development proposals are cognisant of the need for proper consideration of context, connectivity, inclusivity, variety, efficiency, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking, wayfinding and detailed design.

11.5.2. The overall design approach is comprehensively presented with drawings and descriptions in the Design Statement by DMOD Architects. It illustrates the profile and modelling of the proposed building and the contouring of the site as existing and as proposed and in comparison, with previously approved development. From my review of this, one of the design strengths of the scheme is in reinstating the streetscape along Ulverton Road, a main thoroughfare and bus route into Dalkey village. As I read it, this contemporary styled and modestly scaled two storey frontage will be somewhat of a foil to the scale and extent of the 55m deep block which widens to 73m on the lower terrain from where it is accessed via a lane. The main elevation and functional entrance onto this lane are I consider an urban design weakness, as, compared to Ulverton Road, it is in a partly backland setting between gardens of established low density detached dwellings that are mainly two-storey in height and scale.

11.5.3. in respect of connectivity, I note the criteria as set out in DMURS design audit May 2019. The double frontage of the site provides multiple points of entry for connectivity and multi-modal transport. Through movement of vehicles in this site is however not possible by virtue of the steeply sloping terrain and layout. However, connectivity is possible by providing pedestrian access and cycling access and parking on both sides of the site together with through pedestrian access by way of a series of flights of steps along the northern boundary. Access to a lift for less mobile persons is within the building but there is no obvious reception area to avail of this in the layout or details. External permeability would be preferable. Given the constraints of the Ulverton Road frontage in terms of its accessible level ground, the resultant functionality of this frontage is subordinate and secondary to the overall development with the key activities, access, servicing, reception, vehicular parking and visitors relying almost entirely on the laneway frontage. This level of functional

reliance on a narrow lane would be disproportionate in scale to the environs and capacity of the lane.

11.5.4. While the grounds of appeal imply a generous site frontage on Harbour Road by citing an ABP inspector’s report as a precedence this is in error and seems to be the appellant’s understanding that it is referring to the subject site. The extract for example refers to a generous 68m frontage along Harbour Road but this reference relates to another site and is misleading as it is evident in the drawings to not be the case. The site fronts onto the lane and not onto Harbour Road.

11.5.5. I have reviewed the Urban Design Manual Criteria – A Best Practice Guide and its primary relevance is in the streetscape frontage along Ulverton Road where there is a gap and realising a potential for connectivity with two public roads.

11.5.6. Given the considerable change in prevailing height along this suburban lane and the policy objective BHS 3 Building Height in Residual Suburban Areas, I consider the key criteria for assessing the suitability of form is as set out in the Building Height Strategy in Appendix 5 of the development plan. The below table highlights the key issues.

11.5.7. Assessment of Building Height

<b>Criteria for assessing proposed increased in height</b>	<b>Development Management Requirement and assessment</b>
<b>At County Level</b>	
<b>Securing strategic objectives for compact growth</b>	<ul style="list-style-type: none"> <li>While availing of serviced land, the nature of the use is not optimal in terms of accessibility and is also likely to generate car usage where capacity is restricted.</li> </ul>
<b>Site within 10 minutes of high-quality public transport. (Areas Coverage under policy BH S3 such as residual residential infill sites are not required to meet this criteria)</b>	<ul style="list-style-type: none"> <li>The site at its nearest is c. 1km distance -12min walking distance from the Dart and Dalkey village is closer. There is a local bus service but it is not high quality. It is not an optimal site for the nature of the use.</li> </ul>

<p><b>Successful integration with topography/protected view and prospects</b></p>	<ul style="list-style-type: none"> <li>• There are no protected views. The site is within a sensitive coastal setting. Distant views of the site will be obscured by the steep and undulating terrain, mature vegetation and existing pattern of development.</li> <li>• The proposed 5 storey block spanning 73.8m in one direction and 56m in depth at a fairly consistent parapet height will alter the aspect given its form massing and proximity to dwellings in the locality as viewed from the surrounding properties. It will not be overly dominant from main roads such as Ulverton and Harbour Roads due to its backland nature.</li> </ul>
<p><b>Infrastructure carrying capacity</b></p>	<ul style="list-style-type: none"> <li>• The wider area supports the scale of development in terms of access to services. Letter of feasibility to UE services is attached. SuDs /Nature based design can protect combined sewer capacity.</li> </ul>
<p><b>At District/Neighbourhood/Street Level</b></p>	
<p><b>Responding to overall natural and built environment and positively contribute to the neighbourhood/streetscape</b></p>	<ul style="list-style-type: none"> <li>• The terrain will be considerably altered to facilitate the scale and continuous level floor plate.</li> <li>• Works will involve interference with a Badger sett.</li> </ul>
<p><b>Should not be monolithic</b></p>	<ul style="list-style-type: none"> <li>• The elevation to the Ulverton Road presents as a two-storey modern detached building which is domestic in scale and assimilates well into the street elevation. However deeper into the site and as likely viewed from surrounding properties and the laneway, the proposed 5 storey block has monolithic properties. I refer to the continuous span of 73.8m in one direction and 55.5m in the other direction with fairly uniform</li> </ul>

	parapet heights in terms of metres above sea level notwithstanding the considerable variance in underlying ground level.
<b>Use of high-quality materials</b>	<ul style="list-style-type: none"> <li>This is proposed and can also be subject to agreement to ensure an adequate standard.</li> </ul>
<b>Enhance urban design context for public spaces and key thoroughfares/enhance legibility</b>	<ul style="list-style-type: none"> <li>A derelict site along Ulverton Road will be developed which contribute to definition and enhancement of streetscape. The pedestrian passageway potentially enhances street activity.</li> </ul>
<b>Contribute to mix of uses and building typologies</b>	<ul style="list-style-type: none"> <li>The proposed nursing home will contribute to a mix of residential accommodation in a contemporary building typology in contrast to the existing adjacent residences.</li> </ul>
<b>Appropriate level of enclosure Human space urban grain</b>	<ul style="list-style-type: none"> <li>The streetscape along Ulverton Road will be appropriately reinforced, however, the height of the building along the lane in a low-density context is over scaled.</li> </ul>
<b>Enhance character and identity of neighbourhood</b>	<ul style="list-style-type: none"> <li>As above – it will considerably alter and detract from the character of the lane.</li> </ul>
<b>Respect the form of buildings and landscape around the site edges and amenity enjoyed by neighbouring properties</b>	<ul style="list-style-type: none"> <li>As above – Property to the north and east as outlined in assessment on impact on residential amenity will be adversely impacted.</li> </ul>
<b>At Site/Building Scale</b>	
<b>Access to daylight and sunlight, ventilation and views and minimise overshadowing/quantitative demonstration of BRE Guidance (2<sup>nd</sup> edition)</b>	<ul style="list-style-type: none"> <li>The development has been subject of daylight and sunlight assessment<sup>4</sup>, and I am satisfied meets substantially with the minimum standards. Adverse impacts are most apparent for The Wave to the north in terms of Visible Sky</li> </ul>

<sup>4</sup> The assessment was based on BS 8206-2:2008 BRE Guidelines which have been since updated in 2022. The CDP states in 12.2.4.2 that ‘Development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011) and/or any updated, or subsequent guidance.’

	<p>Component. Most windows are below the BRE Target value of 27% (also used in the current 2022 version) but all will be impacted. However, due to the 0.8 factor, only one window (5F) falls below the compliance level.</p> <ul style="list-style-type: none"> <li>In terms of sunlight APSH the window 5F is omitted from table 6.6 and 6.7. Six other windows are shown to drop below the 27% guide for winter but are in compliance due to factoring.</li> </ul>
<b>No significant adverse impact on adjoining properties due to overlooking, overbearing and/or overshadowing.</b>	<ul style="list-style-type: none"> <li>Property to the north as outlined in assessment will be adversely impacted due to scale massing and height, number of windows overlooking The Wave in particular, and inadequate separation distance</li> <li>Property to the west, as outlined in assessment due to scale, massing height and monolithic character in addition to proximity of windows with insufficient setback and buffering for screening.</li> </ul>
<b>Impact on architectural heritage</b>	None. Archaeological impact can be addressed by condition.
<b>Energy cost</b>	<ul style="list-style-type: none"> <li>The Sustainability Statement and Preliminary Building Energy Assessment Report accompanying the application documentation demonstrates overall energy efficiency. A rate building efficiency is intended.</li> </ul>
<b>County Specific Criteria</b>	
<b>Where increased height is proposed within the coastal area from Booterstown to Dalkey, the proposed development shall protect the particular character of the coastline any such proposals should relate to the existing coastal towns and</b>	<ul style="list-style-type: none"> <li>A Landscape and Visual Appraisal has been submitted and includes CGI and assessment of views from Bulloch Harbour, Harbour Road, Church Road Barnacolle Park where views I concur would be generally imperceptible. Views from Ulverton Road would be the most apparent. They are described as 'moderate' or 'significant'</li> </ul>

<b>villages as opposed to the coastal corridor</b>	<p>but 'neutral' in impact which is reasonable given the gap it is filling in place of a demolished house.</p> <ul style="list-style-type: none"> <li>• I am satisfied that the wider coastal setting is protected.</li> </ul>
<b>Proposals for increased heights in the hillside landscape should ensure appropriate scale height and massing said was to avoid being obtrusive</b>	As above
<b>Microclimatic impacts</b>	<ul style="list-style-type: none"> <li>• No detailed information. The site is not I consider, of such scale to have such impacts</li> </ul>
<b>Site Specific Requirements</b>	
<b>Potential interaction of building materials and lighting on the flight lines proximity to sensitive bird/ bat areas</b>	<ul style="list-style-type: none"> <li>• No information. Materials can be agreed.</li> </ul>
<b>Assessment that proposal allows for retention of telecommunications channels assessment that the proposal maintains safe air navigation</b>	<ul style="list-style-type: none"> <li>• The building height does not exceed the ridge levels of a number of properties to the west and is bounded by some high trees and is therefore unlikely to conflict with channels.</li> </ul>
<b>Relevant environmental assessments</b>	<ul style="list-style-type: none"> <li>• Badger Conservation Plan as augmented.</li> <li>• AA screening report</li> </ul>

11.5.8. While infill site development is a means to achieving compact growth, I consider a key weakness is proposing, what I consider to be, an over urbanisation of a narrow residential lane environment. In traffic terms the intensification of the lane is likely to lead to obstruction rather than traffic calming due to its alignment. The key breach in this design standard is the carriageway width at 4.5m which below the minimum in DMURS (Table 4.4.1 of DMURS) which requires 4.8m at a minimum for a shared surface. Development along the lane of this scale is more appropriately guided, in

my judgement by the approach to develop mews lane, backland or infill sites typically served by narrow lanes and where the prevailing character is protected.

- 11.5.9. The introduction of a 5 storey development spanning over 73m, notwithstanding the modelling would be monolithic in its setting and would be visually incongruous with the residential scale and character prevailing. In this context, its proximity to neighbouring dwellings, in addition to quantum of overlooking, would have a significant overbearing impact and would not I consider contribute to the enhancement of area or creation of healthy placemaking contrary to the aims of PHP35..

## **11.6. Impact on Badgers**

- 11.6.1. The DAU, in its appraisal of the documentation initially submitted with the planning application, raised concerns about the impact on the Badger sett and noted that protection may involve revised plans. Following the remittal of the file to the Commission as matters of badger conservation remain essentially unresolved, the applicant submitted further details in respect of how it is proposed to address badger conservation in line with best practice and within the constraints of the site. As set out in section 10.1 of this report, the methodology relies on construction of an artificial sett given the inevitable disturbance during site works. This will involve some revisions to landscaping. The provision for completing the works is stated to be provided for within the legislation by reference to the appended legal opinion on the matter from McCann Fitzgerald solicitors.
- 11.6.2. The most recent observations on the remitted appeal expound on the impacts of the proposed site works on Badger conservation having regard to the undisputed presence of a Badger sett and associated activity on site. Given the nature and extent of works and proximity to a sett entrance, there is dispute on the feasibility of whether or not permission could be granted in a manner that supports Badger conservation. Even if the Badgers were provided successfully with an artificial sett and/or reverted to the original sett, post construction, ultimately the concern among the neighbouring residents is that the foraging area has already been diminished by developments in the nearby grounds of Charleville and Castle Park and the impact on Badgers would be starvation. The case by the observing parties is supported by an expert report and further supported by a legal opinion challenging the validity of

the consent process that would ultimately endanger Badger species, contrary, it is submitted to obligations under the Bern Convention.

11.6.3. A specialist report has been prepared by an ACP ecologist on the likely impact on Badgers arising from the proposed works. The report also comments on the scope for the Commission in attaching conditions of permission in the event of a decision to grant. I note the ecologist had regard to all submissions in this regard. In terms of impact there is no dispute that Badger activity occurs within the site. Given the location of the sett entrance, tunnels and the scale and extent of earthworks and piling activities it is also clear that there is a risk of encroachment on an active sett and that there is risk of collapse. There is dispute about the construction of an artificial sett as proposed by Scott Cawley. The TII guidance as referenced in the ACP specialist report provides for such mitigation. The methodology in the guidance includes one-way gates at sett entrances, but this is not achievable due to site ownership and concerns by the respective landowners. In this scenario an alternative system is proposed and this I note is an accepted approach in that the ecologist concludes:

Having had regard to all of the information provided and to best practice guidance, I consider that the mitigation strategy proposed in the SC memo for closure of the existing sett and construction of artificial sett is acceptable to ensure that significant impacts on Badgers will not arise. I consider that sufficient detail has been provided at this stage.

11.6.4. Having regard to the guidance and constraints, I consider this is a reasonable approach. I note the recommended conditions of permission involve some landscaping and boundary treatment which are typically subject of conditions for a development of this size. Other environmental requirements of the planning authority seek restricted construction times during a calendar year; while challenging given the extensive earth works and rock breaking, these periods are clearly stated by the applicant. Accordingly, having regard to the opinion of the ACP ecologist, I do not consider impact on Badger to constitute grounds for refusal of permission.

## **11.7. Other ecology**

- 11.7.1. While the issue of Badger conservation is the main focus of concern in respect of wildlife and biodiversity, concerns are also expressed about the impact on other wildlife observed in the area. Broad categories of mammals such as bats, squirrels and foxes and the sparrowhawk are listed by some third parties as being under threat by the development. I note that the no such species were raised as being of concern by the Development Applications Unit in its submission, nor has the planning authority or technical reports by the applicant indicated wildlife issues other than Badgers.
- 11.7.2. In this case the proposal involves the retention of a generous area of open space – some 1500sq.m. to the south where it interfaces with the mature gardens (some expansive) of surrounding dwellings and I note the proposed boundary treatment as a wildlife corridor is largely continuous, thereby providing for a continued habitat for typical garden species in the area.
- 11.7.3. With respect to the presence of bats, while no survey has been provided to definitively determine extent of such presence if any, there is nothing on the file to indicate that the matter of derogation is likely to arise. Surveys could be conditioned so as to inform a construction environmental management plan having regard also to the conditions for Badger conservation. A more precautionary approach would be to seek further information from the applicant on the likely impact of the development on bats. I do not however consider impact on the local wildlife, including bats to constitute grounds for refusal of permission.

## **11.8. Infrastructure capacity**

- 11.8.1. It is submitted by the observers that the sewer pipe network is old (Victorian) and that there are drainage pressures on the pumping station at Bulloch Harbour. I note the applicant has submitted a letter confirming feasibility of connection. While the sewer is combined, measures have been taken to reduce and also treat surface water and regulate its discharge. Details of design and calculations are stated to be required by the Drainage Division. The issue of overloading the pipe network did not arise. Connection is also subject to a connection agreement being in place with Uisce Eireann. While additional details are needed to ensure an acceptable design standard, I do not consider there are reasonable grounds to refuse an infill

development on a serviced urban of 0.6 hectares based on the sewer network capacity.

### **11.9. Other matters**

- 11.9.1. The validity of the application is challenged on the basis of both public notices and declared legal interest. Reference is also made to the inadequacy of drawings and images illustrating relationship with surrounding properties.
- 11.9.2. In respect of notices, the case is made that the works proposed which involve the destruction of a Badger sett are not accurately described. The public notice I note provides a comprehensive description of the demolition and construction works and all associated site works. I consider earth movements involving the subterranean tunnels used by mammals reasonably comes within the ancillary works for the subject site. I am satisfied the drawings comprehensively illustrate the proposed development and substantially comply with the requirements. I am accordingly satisfied that the description meets with the provisions of Article 19 of the Planning and Development Regulations as governing the application requirements at that time. I say this by reference to section 3.4 of the Development Management Guidelines (2007, updated 2020).
- 11.9.3. The case is made that the applicant has failed to fully declare land interests pertinent to the planning application. The site location plan I note includes the development site as outlined in red and the lane which excluded the footpath, is outlined in blue and shaded yellow indicating the applicant's ownership and rights of way over this. No works subject of planning permission are proposed in the roadway. In respect of the legal interest over the road, it is evident that Maple Tree House has a right of access over the lane from Harbour Road to the site and I am satisfied has sufficient entitlement for the purposes of a planning application. I consider the exclusion of the road fronting the site a de minimus departure from the statutory provisions for application documentation as provided for under Article 22 of the planning regulations. Furthermore, while there may be a difference of opinion on the entitlements of the owner regarding nature of access and use, it is not the role of the Commission to settle such disputes. In this regard I refer to Section 5.13 of the Development Management Guidelines in which it is explained that the planning

system is not designed to resolve disputes about title to land and even if there is doubt in relation to the legal title, the planning authority may still decide to grant permission. Ultimately permission is subject to the terms of Section 34(13) of the Planning and Development Act 2000, as amended, which states that 'a person shall not be entitled solely by reason of permission under this section to carry out any development'.

11.9.4. Accordingly, I do not consider there is a reasonable basis to refuse permission on grounds of breaches of the requirement under Articles 19 or 22.

### **11.10. Conclusion**

11.10.1. While infill sites are specifically identified as a means to delivering compact growth, in this case the critical issue is that development relies on a substandard road – a narrow lane serving a small residential cluster off the Harbour Road and in suburban environs. I do not consider the nursing home at the scale proposed is appropriately sited having regard to the partly backland location and accessibility constraints. Furthermore, while the elevational treatment, in form and materials, creates visual interest, the overall massing is I consider unsurmountable given its proximity and juxta-positioning with adjacent dwellings. I have considered omitting a storey such as either level 2 or 3 and while this would reduce localised visual impacts and injury to amenity it does not address the access issue or associated nuisances with servicing. There may also be a better way to comprehensively reduce the scale and intensity of development such as relocating some of the spy windows in the north elevation to the south elevation, but this is likely to require significant material changes to layout and elevations..

11.10.2. On balance, I do not consider the proposal meets with the criteria in Policy Objective PHP 35 regarding healthy placemaking in that it is not fully cognisant of the context of the laneway off Harbour Road in terms of its constraints and in terms of protecting privacy and amenities of adjacent dwelling particularly to the north and west. The traffic generation poses a risk to pedestrian users of the lane given its restricted capacity for passing vehicles and it is unlikely to provide for a safe shared space. Nor does the proposal make adequate provision for accessibility by way of parking provision requirements which I consider is necessitated by the nature of the

use and having particular regard to the restricted footpath connectivity with the wider environs.

11.10.3. While the appellant favourably compares the proposal in terms of traffic and impact on amenities with the previously permitted apartment, I do not agree based on the material differences in terms of use, traffic and form of development. Moreover, the permission on which the appellant relies has lapsed and the development is required to be assessed on its merits and on this basis in my judgement fails to comply with the proper planning and sustainable development of the area.

## 12.0 AA Screening

12.1.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.

12.1.2. The site is located in an urban serviced site. The proposed development comprises the construction of infill development and ancillary site development works including nature-based drainage measures and controlled run-off.

12.1.3. I note both the applicant and the planning authority have screened out the need for appropriate assessment and I concur with this.

12.1.4. Having considered the nature, scale and location of the project, on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on the South Dublin Bay SAC (Site Code 000210), the Rockabill to Dalkey Island SAC (Site Code 003000), the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) and the Dalkey Islands SPA (Site Code 004172) in view of the conservation objectives of these sites and the proposed development is therefore excluded from further consideration. Appropriate Assessment is not required.

12.1.5. This conclusion is based on:

- The nature, scale and location of the development in a fully serviced area,

- Standard construction and operational surface water pollution controls that would be employed regardless of proximity to a European site and the effectiveness of same.
- The absence of a direct ecological pathway to any European Site and distances in respect of indirect impacts.

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

## 13.0 Recommendation

Having considered the grounds of appeal and the responses thereto, it is my recommendation based on my assessment of the proposal, the site and all submissions and observations that the proposed development in the context of the relevant provisions of the Development Plan and national policy and guidance be refused permission for the following reasons.

### Reasons and Considerations

1. Having regard to the height, scale, mass and design of the proposed development, it is considered that the proposed development would have a negative impact on the residential amenities of the properties to the immediate north and west of the site, by way of overbearing impact and overlooking. The proposed development is therefore considered to be contrary to Policy Objective PHP20 in respect of protection of existing residential amenities and Policy Objective PHP35 in respect of healthy placemaking as contained in the Dun Laoghaire Rathdown County Development Plan 2022-2028, and would accordingly, be contrary to the proper planning and sustainable development of the area.
2. The access road off the Harbour Road over which the proposed development is to be primarily accessed is, by reason of width and alignment, lacking in sufficient capacity to safely accommodate the additional vehicular movements likely to be generated by the scale and nature of the proposed development. It is considered that the proposed development (notwithstanding the swept path analysis received by ABP on the 25th day of January 2025) would constitute

overdevelopment of the site, result in an unsuitable level of intensification of use of the subject site and would endanger public safety by reason of traffic hazard and obstruction of road users. This traffic safety issue will be further exacerbated by the overspill onto the adjacent road network resulting from the low level of car parking provision on site and by the likelihood of larger vehicles associated with a care facility of the proposed scale. Furthermore, it is considered that the proposed development does not comply with the criteria for nursing homes as contained in Section 12.3.8.2 of the Dun Laoghaire Rathdown County Development Plan 2022-2028, such as appropriateness of location, impact on amenities and adequate car parking. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

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

---

**Suzanne Kehely**  
**Senior Planning Inspector**  
**18<sup>th</sup> December 2025**

**Appendix 1 - EIA Pre-Screening – Form 1**

<b>An Bord Pleanála Case Reference</b>	<b>ABP-321394- 24</b>		
<b>Proposed Development Summary</b>	Demolition of house and removal of foundation slab of another dwelling house and construction of a 104-bedroom nursing home in a suburban infill site in within 0.5km of Dalkey village.		
<b>Development Address</b>	Site between Ulverton Road and Harbour Road, Dalkey		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	<b>X</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 10(b)(i) 'Construction of more than 500 dwellings units'	Proceed to Q3.
	<b>X</b>	Class 10(b)(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	
<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>			EIA Mandatory EIAR required
<b>No</b>	<b>X</b>		Proceed to Q4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
<b>Yes</b>	<b>X</b>	As a nursing home facility with 104 bedroom it is significantly below the 500 dwelling threshold.	<b>Preliminary examination required (Form 2)</b>

		As a 0.6hectare brownfield type site surrounded by development the scale of the development is significantly below the lower threshold of 10 hectares for built up areas..	
--	--	--	--

<b>5. Has Schedule 7A information been submitted?</b>		
<b>Yes</b>		<b>Screening Determination required</b>
<b>No</b>	<b>X</b>	<b>Screening determination remains as above (Q1 to Q4)</b>

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

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

## Appendix 2 - EIA Preliminary Examination – Form 2

<b>An Bord Pleanála Case Reference</b>	<b>ABP-321394- 24</b>
<b>Proposed Development</b>	Demolition of house and removal of foundation slab of another dwelling house and construction of a 104-bedroom nursing home in a suburban infill site within 0.5km of Dalkey village.
<b>Development Address</b>	Site between Ulverton Road and Harbour Road, Dalkey
<p><b>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations. This preliminary examination should be read with, and in the light of, the rest of the Inspector’s Report attached herewith.</b></p>	
<p><b>Characteristics of proposed development</b> (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The proposed development involves demolition of a house and foundations and construction of a two- five storey nursing home and communal open space. Site preparation involves considerable earthworks and rock breaking to assimilate development into terrain with a 9m difference in levels alongside established residential properties. The Noise Impact Assessment identifies an exceedance of limits for neighbouring residences.</p> <p>It is within a developed area and is serviced.</p> <p>The demolition and production of waste is to be managed by an updated version of the submitted Outline Construction Management Plan which seeks to minimise cut material which will be reused where possible. (No quantities are given). Rock blasting has been reviewed in terms of methodology and noise by the Environment engineer for the PA and rock breaking is required to be carried out with different methodology in accordance with specialist measures, subject to agreement.</p> <p>The proposal will considerably alter the localised urban form in consolidating development within an urban footprint.</p> <p>Construction materials will be of high quality. Any</p>

	<p>construction impacts would be local and temporary in nature, and the implementation of a standard Construction Management Plan with specialist input and monitoring will satisfactorily address potential impacts.</p> <p>Operational waste will be managed via a Waste Management Plan.</p> <p>The site is not at risk of flooding as confirmed in a SSFRA. Quarrying ceased over 100 years ago.</p> <p>There are no SEVESO/COMAH sites in the vicinity of this location.</p> <p>The site coverage represents an intensification of building footprint and does not involve the use of substantial natural resources by itself to give rise to significant risk of pollution or nuisance. The development, in overall terms, by virtue of its type and scale, does not pose a risk of major accident and/or disaster, nor is it vulnerable to climate change.</p> <p>Subject to compliance with the conditions recommended by the environment division the proposal presents no likely risks to human health. Issues of residential amenity, urban design and traffic are addressed within the scope of planning considerations as set out in the planning assessment.</p>
<p><b>Location of development</b> (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature</p>	<p>The site is not located within a designated protection area for a natural landscape, habitat or any species. It is within close proximity of a number of recorded monuments DU0230-020001 and DU0230-020004 with potential for material to be found on site. This can be addressed by pre-development assessment. The site does contain a Badger sett which can be addressed through artificial construction all in accordance with a best practice.</p> <p>The site is served by a local urban road network and is about 1km from the DART at the nearest point. This would be available for future employees, visitors and mobile</p>

<p>reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>residents. Vehicular traffic impact on carrying capacity of Harbour Road and Ulverton is likely to be negligible, however the access lane off Harbour Road is constrained in alignment (and its intensification of use is potentially grounds for refusal) as addressed in the planning assessment.</p> <p><u>Surface Water:</u> Impacts on water quality will be mitigated by standard good practice construction stage measures and the operational surface water drainage system. The development will implement a range of natural drainage systems which will control surface water run-off and improve its quality before discharging to a combined network.</p> <p><u>Foul drainage:</u> The proposal is reliant on connection to the Ringsend WWTP and connection is confirmed to be feasible.</p>
<p><b>Types and characteristics of potential impacts</b> (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>The proposed development, will involve a significant change in the local landscape in terms of terrain, building form in a partly backland area and disturbance to Badger activity on site and this is addressed in the planning assessment. It will otherwise not be visually incongruous in the wider coastal context. The principle of intensification by itself is not likely to result in significant environmental effects. Construction works will be temporary over 18-24 months and subject to environmental and traffic monitoring. Noise mitigation is addressed in the Noise Impact Assessment at construction and operation phases and the Environmental Division recommends further measures to manage and construction phase. At operational stage the nuisance factor can be managed through development management - minor layout and operational modifications and noise limits.</p> <p>Accordingly, having regard to the nature of the proposed development, its location relative to sensitive habitats/features, likely limited magnitude and spatial extent of</p>

	effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.	
<b>Conclusion</b>		
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>	<b>Yes or No</b>
There is no real likelihood of significant effects on the environment.	<b>EIA is not required.</b>	<b>Yes</b>
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	<b>No</b>
There is a real likelihood of significant effects on the environment.	EIAR required.	<b>No</b>

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

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

(only where Schedule 7A information or EIAR required)

### Appendix 3 – Appropriate Assessment Screening

Screening for Appropriate Assessment				
Test for likely significant effects				
<b>Step 1: Description of the project and local site characteristics</b>				
Case file ABP-321394-24				
<b>Brief description of project</b>	Demolition of house and removal of foundation slab of another dwelling house and construction of a 104 bedroom nursing home 5618sq.m. in a suburban infill site in within 1km of Dalkey village.			
<b>Brief description of development site characteristics and potential impact mechanisms</b>	Steep urban site of 0.6 hectares in a low density mature residential area . with extensive bedrock (on a former quarry site within 250m of coast. Contains a badger sett.			
<b>Screening report</b>	Y (by Moore Group -Environmental Services). The Planning authority report concluded that Appropriate Assessment can be screened out.			
<b>Natura Impact Statement</b>	N			
<b>Relevant submissions</b>	None			
Step 2. Identification of relevant European sites using the Source-pathway-receptor model				
European Site (code)	Qualifying interests Link to conservation objectives (NPWS, date)	Distance from proposed development	Ecological connections	Consider further in screening Y/N
The Dalkey Islands SPA (Site	<ul style="list-style-type: none"> <li>• Roseate Tern</li> <li>• Common Tern</li> <li>• Arctic Tern</li> </ul>	1km east	No direct connection	N

Code 004172)	<u>Conservation Objectives</u> <a href="#">Dalkey Islands SPA   National Parks &amp; Wildlife Service</a>			
Rockabill to Dalkey Island SAC (Site Code 003000)	<ul style="list-style-type: none"> <li>• Reefs</li> <li>• Phocoena phocoena (Harbour Porpoise)</li> </ul> <u>Conservation Objectives</u> <a href="#">Rockabill to Dalkey Island SAC   National Parks &amp; Wildlife Service</a>	1km east	No direct connection	N
South Dublin Bay SAC (Site Code 000210)	<ul style="list-style-type: none"> <li>• Mudflats and sandflats not covered by seawater at low tide</li> <li>• Annual vegetation of drift lines</li> <li>• Salicornia and other annuals colonising mud and sand</li> <li>• Embryonic shifting dunes</li> </ul> <u>Conservation Objectives</u> <a href="#">South Dublin Bay SAC   National Parks &amp; Wildlife Service</a>	3.7km northwest	No direct connection	N
South Dublin Bay and River Tolka Estuary SPA (Site Code 004024)	<ul style="list-style-type: none"> <li>• Light-bellied Brent Goose</li> <li>• Oystercatcher</li> <li>• Ringed Plover</li> <li>• Grey Plover</li> <li>• Knot</li> <li>• Sanderling</li> <li>• Dunlin</li> <li>• Bar-tailed Godwit</li> <li>• Redshank</li> <li>• Black-headed Gull</li> <li>• Roseate Tern</li> </ul>	3.7km northwest	No direct connection	N

	<ul style="list-style-type: none"> <li>• Common Tern</li> <li>• Arctic Tern</li> <li>• Wetland and Waterbirds</li> </ul> <p><u>Conservation Objectives</u></p> <p><a href="#"><u>South Dublin Bay and River Tolka Estuary SPA   National Parks &amp; Wildlife Service</u></a></p>			
--	---	--	--	--

**Further Commentary / discussion**

I note the applicant’s submitted Report for AA Screening and NPWS maps and that the nearest Site and associated islands and coastal areas are suitable for Terns. It is reasonable to conclude that the subject site is not suitable for this QI being a residential house and garden and therefore given the removed suburban locations no disturbance of species is likely to arise. There will be no discharge to the nearby coastal waters and there is no potential for contamination of coastal waters arising directly from the development site. Noise would not be expected to extend beyond 300m where it would attenuate close to background levels.

No change to surface water run-off will arise nor will it be contaminated and no significant increase in foul water will arise. Discharges from the site to the WWTP will be negligible. Accordingly significant effects can be ruled out.

Accordingly, in respect of the Dalkey Islands SPA (Site Code 004172), the Rockabill to Dalkey Island SAC (Site Code 003000), South Dublin Bay SAC (Site Code 000210), and the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) there is no hydrological connectivity between these European sites and the development site. The development site is located in a developed serviced urban area. It can be concluded that there are no significant hydrological or ecological connectivity pathways between the European Sites and the development site.

**Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites**

<b>AA Screening matrix</b>		
<b>Site name Qualifying interests</b>	<b>Possibility of significant effects (alone) in view of the conservation objectives of the site*</b>	
	<b>Impacts</b>	<b>Effects</b>
N/A	N/A	N/A
	Likelihood of significant effects from proposed development (alone): <b>No</b>	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? <b>No</b>	
<b>Step 4 Conclude if the proposed development could result in likely significant effects on a European site</b>		
I conclude that the proposed development (alone) would not result in likely significant effects on the Dalkey Islands SPA (Site Code 004172), the Rockabill to Dalkey Island SAC (Site Code 003000), South Dublin Bay SAC (Site Code 000210), or the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024). The proposed development would have no likely significant effect in combination with other plans and projects on any European site(s). No further assessment is required for the project. No mitigation measures are required to come to these conclusions.		

## **Screening Determination**

### **Finding of no likely significant effects**

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on the Dalkey Islands SPA (Site Code 004172), the

Rockabill to Dalkey Island SAC (Site Code 003000), South Dublin Bay SAC (Site Code 000210), and the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- The absence of any ecological pathway from the development site to the nearest European Sites.
- Scale nature of the development site and location of the development in a fully developed and serviced urban area.
- Location-distance from nearest European sites.

**Appendix 4**

**WFD IMPACT ASSESSMENT STAGE 1: SCREENING**

**Step 1: Nature of the Project, the Site and Locality**

<b>An Bord Pleanála ref.</b>	<b>ABP-321394</b>	<b>Townland, address</b>	Site fronting Ulverton Road and access road off Harbour Road, Bulloch Harbour, Dalkey, Co. Dublin
<b>Description of project</b>		Demolitions works and construction of 2-5 storey development on a site of c. 0.6hectares. Rock excavation and piling involved in recontouring a steeply inclined site.	
<b>Brief site description, relevant to WFD Screening</b>		The site is a low-density single house site within a serviced urban area. It has a steep slope downwards in a west to east direct in the direction of the sea. Existing foul and surface water services are on site.	
<b>Proposed surface water details</b>		<p>Propose to discharge existing public sewer on the site. Feasibility of connection confirmed by Uisce Eireann.</p> <p>Propose to incorporate SuDs as part of the development with low levels of discharge to the combined. sewer. This would attenuate the surface runoff and ease loading on the public network.</p> <p>SuD's measures Include rainwater harvesting, green roof in the flat area, permeable pavements, tree pits.</p>	

<b>Water supply</b>		Public Water Mains.				
<b>Proposed wastewater treatment system &amp; available capacity, other issues</b>		To foul sewer. Feasibility of connection confirmed by Uisce Eireann				
<b>Other matters</b>						
<b>Step 2: Identification of relevant water bodies and Step 3: S-P-R connection</b>						
<b>Identified water body</b>	<b>Distance to (m)</b>	<b>Water body name(s) (code)</b>	<b>WFD Status</b>	<b>Risk of not achieving WFD Objective e.g.at risk, review, not at risk</b>	<b>Identified pressures on that water body</b>	<b>Pathway linkage to water feature</b>
Groundwater	Underlying site	Kilcullen IE_EA_G_00 3	Good	At risk	Ag, forestry anthropogenic unknown,	Yes – drainage through underlying soil and bedrock
Coastal	250m approx..	Dublin Bay	Good	Not at risk	Not stated	No
Transitional	15km approx.	Lower Liffey Estuary IE_EA__090_ 0 300	Moderate	At risk	Urban Wastewater Nutrients	Yes – Hydrological link via wastewater sewer -

discharges to Ringsend WWTP

**Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.**

**CONSTRUCTION PHASE**

No	Component	Water body receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure	Residual Risk (yes/no) Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' /'uncertain' proceed to Stage2.
1.	<u>Surface water run-off</u>	Lower Liffey Estuary	Existing surface water drainage system via the public stormwater drain which	Sedimentation, Siltation due to earthworks, vegetation clearance, demolition.	SuDs and natural drainage/filtering to limit run-off and treat. Standard construction practice.	No	Screened Out

			<p>discharges combined public sewer. which in turn discharges to the Ringsend WWTP at Dublin Bay via the Lower Liffey Estuary</p>	<p>Hydrocarbon spillages/leaks from machinery, plant. Uisce Eireann confirms available capacity in the Ringsend WWTP connection is acceptable without upgrades.</p>	<p>The Annual Environmental Report for Ringsend WWTP 2023 stated that the WWTP, which discharges to the River Liffey, was non-compliant with emission limit values for BOD, COD, TSS, Tota P and Total N due to overloading. In section 2.1.3.1 (Ambient Monitoring summary for the Treatment Plant discharge, it states that the primary discharge from the WWTP does not have</p>		
--	--	--	---	---	---	--	--

					an observable negative impact on the Water Framework Directive status in the Liffey Estuary. No mitigation required		
2.	<u>Earthworks /piling and seepage to Ground water</u>	Kilcullen IE_EA_G_003	The pathway is through soil and piling channels in rock	Hydrocarbon spillages	No groundwater encountered in site investigations for piling. See Geotech site investigation report Appendix G of Engineering Services Report. The Outline Construction Management Plan is to be refined to address outstanding issues.	No	Screened Out
<b>OPERATIONAL PHASE</b>							

1	<u>Surface water run-off</u>	Dublin Bay	Existing surface water drainage via foul sewer which discharges to a water body. Uisce Eireann confirms available capacity in the Ringsend WWTP connection is acceptable without upgrades.	Siltation, hydrocarbon spillages, siltation, ph concrete	Standard maintenance. SUDS/nature-based measures proposed to address surface water run-off before discharging to public sewer,	No	Screened Out
	<u>Connection to foul sewer</u>		Via the WWTP which discharges to this surface water. Uisce Eireann confirms available capacity in the Ringsend WWTP connection is		WWTP to comply within its discharge license.	No	Screened out

			acceptable without upgrades.				
2	<u>Run-off and seepage to Ground water</u>	Kilcullen IE_EA_G_003	The pathway is through soil if unfiltered	Hydrocarbon spillages	SUDS/nature-based measures which incorporate pollution mitigation for the nature of specific land uses. uses.	No	Screened Out
<b>DECOMMISSIONING PHASE</b>							
N/A							