



An
Bord
Pleanála

Inspector's Report

ABP-321765-25

Development

Construction of a five to eight storey development in 2 blocks and the change of use and refurbishment of existing three-storey 'Dun Leary House' (a protected structure) to provide for 88 residential units, a retail unit and all associated site works.

Location

Site of approx 0.74 ha at the former Ted Castles Site and Dun Leary House (a protected structure), Old Dun Leary Road, Cumberland Street, Longford Place and Dun Leary Hill, Dun Laoghaire, Co. Dublin, A96 N208

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D24A/0484/WEB

Applicant(s)

Ted Living Limited

Type of Application

Permission

Planning Authority Decision

Grant with Conditions

Type of Appeal

Third Party

Appellant(s)

RF Management

Observer(s)

- 1) Senator Victor Boyhan
- 2) Ed & Silvia Greevy
- 3) Chris Doorly

Date of Site Inspection

31st March 2025

Inspector

Mary Crowley

Contents

1.0 Site Location and Description	5
2.0 Proposed Development	6
3.0 Planning Authority Decision	18
3.1. Decision	18
3.2. Planning Authority Reports	20
3.3. Other Technical Reports	21
3.14. Prescribed Bodies	23
3.15. Third Party Observations	24
4.0 Planning History	25
5.0 Policy Context	27
5.1. National Planning Policy	27
5.2. National Guidance	29
5.3. Section 28 Ministerial Guidelines	29
5.4. Regional Guidelines	30
5.5. Development Plan	32
5.6. Interim Dun Laoghaire Urban Framework Plan (Appendix 17)	44
5.7. Natural Heritage Designations	44
6.0 EIA Screening	44
7.0 The Appeal	45
7.1. Grounds of Appeal	45
7.2. Applicant Response	49
7.3. Planning Authority Response	55
7.4. Observations	55

7.5. Further Responses	56
8.0 Assessment.....	56
8.5. Principle	57
8.6. Protected Structure & Heritage Context.....	67
8.7. Height	75
8.8. Residential Amenity	91
8.9. Public Open Space	93
8.10. Condition 15	96
8.11. Legal Interest.....	97
8.12. Archaeology	98
8.13. Construction Hours.....	99
8.14. Finishes	100
8.15. Conditions	100
9.0 AA Screening.....	101
10.0 Recommendation	102
11.0 Reasons and Considerations.....	102
12.0 Conditions	104
13.0 Appendix 1 - EIA Pre-Screening – Form 1	115
14.0 Appendix 2 - EIA Preliminary Examination – Form 2.....	117
15.0 Appendix 3 - AA Screening Determination	121

1.0 Site Location and Description

- 1.1. The appeal site, the former Ted Castles Site, with a site area of 0.74 hectares is located in Dún Laoghaire, County Dublin adjacent to the West Pier of Dun Laoghaire Harbour. The brownfield site is currently occupied by an existing warehouse and hardstanding, with Dun Leary House (a protected structure) to the southwestern part of the site with its access currently located to the northwest of the site fronting onto Old Dunleary Road. The site is bound by streets on three sides, with Old Dun Leary Road to the north, Dun Leary Hill to the south and Cumberland Street to west. The subject site is immediately adjacent to two Architectural Conservation Areas – Monkstown ACA (to the west) and Vesey Place, De Vesci Terrace, and Willow Bank ACA (to the south). The site comprises lands in the ownership of the applicant Ted Living Limited (0.3 ha) and lands which are the subject of the proposed public realm works, which are within the control of Dun Laoghaire Rathdown County Council (0.44ha).
- 1.2. The site is composed of a large brownfield rectangular area, which is currently laid out as a yard with mixed concrete and hard-core surfaces, the land slopes markedly from Dunleary Hill with an 8m high scarp on the site's northern boundary. The yard area is accessed via Old Dunleary Rd which is bounded by high mass concrete walls. There is an open barn type corrugated roof open shed to the northeast corner of the site. The internal surface of the site is largely concrete with intermittent hard-core and small areas of green to the west and south where the yard has been levelled into Dunleary Hill leaving a very substantial drop from the road surface to the yard area (approximately 8m). The boundary wall to the east of the site is a substantial rubble granite wall to a height of approx. 2m. In the southwest corner of the site is a the three-storey Dunleary House (a proposed protected structure) with a sloping aluminium and glass extension to rear, a small car parking area and terrace area to the south which slopes down to the reduced yard level.
- 1.3. The site is well served by public transport. It is c.400m from the Salthill/Monkstown DART Station and c. 850m from Dun Laoghaire DART Station. In addition, there are high frequency bus stops (namely bus no.7, 46A and 111) located proximate to the site.

- 1.4. I refer to the photos and photomontages available to view throughout the file. Together with a set of photographs of the site and its environs taken during the course of my site inspection serve to describe the site and location in further detail.

2.0 Proposed Development

- 2.1. **Planning Application** - The planning application as submitted to DLRCC on 4th July 2024 sought permission for the following:

- The construction of a new **5-8 storey development in 2 no. Blocks** (Block 1 and Block 2) and the change of use and **refurbishment** of existing 3 storey (over adjacent basement level) '**Dun Leary House**' (a **Protected Structure**) to provide for **88 no. residential units** (26 no. 1 bed units; 37 no. 2 bed units; 24 no. 3 bed units; and 1 no. 4 bed detached house), residential amenity space at ground and first floor level (approx. 132 sq m) addressing the internal courtyard and upper terrace; 1 no. retail unit (approx. 108.5 sq m) with associated outdoor seating area at ground floor level addressing Old Dun Leary Road and Cumberland Street; and a public art display area (approx. 12 sq m) at ground floor level addressing Old Dun Leary Road.
- **Block 1** comprises 79 no. residential units (26 no. 1 bed units, 35 no. 2 bed units and 18 no. 3 bed units) with an overall height ranging from 6 - 8 storeys (with setbacks at sixth and seventh floor levels) addressing Old Dun Leary Road and 5-8 storeys (with set back at seventh floor level) addressing Cumberland Street.
- **Block 2** comprises 8 no. residential units (2 no. 2 bed units and 6 no. 3 bed units) with an overall height ranging from 4 - 5 storeys (with set back at fourth floor level) addressing Dun Leary Hill.
- The proposal provides for 2 no. **communal open spaces** in the form a ground floor level courtyard area which includes a lawn space, bee hives, pétanque court, kitchen, social area and seating and a first floor level terrace which provides for seating areas.
- **Private open space** is delivered in the form of balconies / terraces throughout the residential element of the development.
- Significant **Public Realm improvements** are also delivered and include the provision of footpath upgrades, a signalised junction on Old Dun Leary Road and

Cumberland Street (including pedestrian crossings on all arms), landscaping, bicycle and car parking spaces on Cumberland Street and new public lighting.

- Proposed works to '**Dun Leary House**' (a **Protected Structure**) will include the change of use and refurbishment of an existing 3 storey building (over adjacent basement level) from office/residential use to 1 no. 4 bed residential detached house (approx. 432.9 sqm) at lower ground floor level (level 01), ground floor level (level 02) and first floor level (level 03). Works will include
 - a) the demolition of the late-twentieth century extension to the north of the house including the lean-to glazed staircase annex, demolition of the adjacent basement structure and part of the internal structure to the north east of the house (approx. 284.8 sq m);
 - b) the refurbishment and internal / external alteration to the late-twentieth century north-east extension;
 - c) the blocking up of an existing window opening and the creation of a new window opening on the east façade at lower ground floor level;
 - d) the reinstatement of previously blocked door opening to the south porch (onto Dun Leary Hill);
 - e) the creation of a new opening on the north side of a vaulted area under the west entrance steps;
 - f) the demolition of some existing internal partitions and the construction of new partition walls at lower ground floor, ground floor and first floor levels;
 - g) the creation of a new door opening through a masonry wall between the nineteenth century house and late-twentieth century north-east extension;
 - h) the replacement of modern aluminium frame casement windows with replica timber sash windows;
 - i) the reinstatement of a timber staircase within the interior of the nineteenth century house; and
 - j) the conservation-led repairs to the roof, rainwater goods, external facades, boundary walls and railings of 'Dun Leary House'.
- The development shall also provide for:

- a) The demolition of the existing open fronted shed (approx. 367 sq m) located at the north eastern corner of the site together with all associated internal site walls and ancillary structures on site;
- b) A main entrance reception including residential amenities area (approx. 105 sq m) and maintenance room (approx. 8.2 sq m) at first floor level and a secondary entrance at ground floor level (approx. 27 sq m);
- c) 2 no. bin stores (retail and residential stores),
- d) 3 no. bulk storage areas, maintenance zone and plant room, ESB substation, switch room and all ancillary areas at ground floor level;
- 25 no. **car parking spaces** in total as follows
 - a) 17 no. car parking spaces provided at ground floor level (in curtilage) including 3 no. electric vehicle spaces and 1 no. disabled space;
 - b) the removal of 11 no. existing on street car parking spaces at Cumberland Street with provision made for 8 no. new on street car parking spaces;
 - c) 242 no. bicycle parking spaces (28 no. visitor bicycle spaces, 208 no. resident bicycle spaces, 4 no. cargo bicycle spaces and 2 no. bicycle spaces for Dun Leary House);
 - d) 1 no. motorcycle parking space;
 - e) 1 no. new vehicular entrance and pedestrian / cycle entrance via Old Dun Leary Road at ground floor level, 1 no. pedestrian / cycle entrance via Cumberland Street at an existing entrance at first floor level and 3 no. new residential entrances (2 no. for Dun Leary House and 1 no. for Block 2) via Cumberland Street and Old Dun Leary Hill at second floor level;
- All other site development and infrastructure works including water, foul and surface water drainage and all associated connections (including the diversion of an existing sewer at Cumberland Street); underground attenuation and associated underground pump station; all landscaping and boundary treatment works; green roofs; 10 no. solar panels at roof level; and all associated site clearance, excavation and development works.

2.2. Summary of Development

Development Parameter	Proposal
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Application Site (Gross Site Area)	0.74 ha <ul style="list-style-type: none"> 0.3ha in applicant ownership 0.44 ha controlled by DLRCC
Application Site (Net Developable Site Area)	0.447 ha (based on Appendix B calculations of the Sustainable Residential Development and Compact Settlement Guidelines 2024)
Demolition	Shed construction (c. 367 sqm) Non-original extensions to Dun Leary House, minor changes to internal layout and minor changes to fenestration
No. of residential units	Total: 88 no. units <ul style="list-style-type: none"> 26 no. 1 beds (2 person) – 29.5% - with private amenity space between 5.4 sqm and 15 sqm 37 no. 2 beds (4 person) – 42.5% - with private amenity space between 7.3 sqm and 9.3 sqm 24 no. 3 beds (5 person) – 27.6% - with private amenity space between 9 sqm and 24.7 sqm 1 no. 4 bed House – 1.1%
Gross Internal Floor Area	9,954 sqm
Density (Based on Gross Site Area)	119 units per ha (Gross) 199 units per ha (Net)
In excess of floor area minimums	59.8% (52 no units)
Proposed Ancillary and Commercial Development	1 no Retail Unit – 108.5 sqm 1 no Art Display Space – 12 sqm 1 no Internal Residential Amenity Space – 123 sqm

	<ul style="list-style-type: none"> ▪ Concierge area / entrance reception – c27 sqm ▪ Residential Amenities area (Lounge & working Space) – c105 sqm
Plot Ratio	2.2
Height	3-8 Storeys
Communal Open Space	707 sqm <ul style="list-style-type: none"> ▪ Central Courtyard at Ground Floor Level – 586 sqm ▪ Upper Courtyard at the First Floor Level – 121 sqm
Public Open Space	Public Realm Upgrades (4575 sqm in area – 61.5% of site area) Proposed Contribution in lieu of [providing public open space]
Residential Amenity	132 sqm entrance reception (approx. 27 sqm) residential amenities area (approx. 105 sqm)
Private Amenity Space	Block 1 <ul style="list-style-type: none"> ▪ 1 bed apartments - private amenity space between 5.4 sqm and 15 sqm. ▪ 2 bed apartments - private amenity space between 7.3 sqm and 9.3 sqm ▪ 3 bed apartments - private amenity space between 9 sqm and 24.7 sqm Block 2 <ul style="list-style-type: none"> ▪ 2 bed apartments - private amenity space between 7.3 sqm and 9.3 sqm.

	<ul style="list-style-type: none"> 3 bed apartments - private amenity space between 9 sqm and 24.7 sqm <p>Dun Leary House</p> <p>76 sqm over 2 no areas on level 2 comprising:</p> <ul style="list-style-type: none"> Front garden – 40 sqm Rear garden – 36 sqm
Dual Aspect	<p>69% (61 no units) are dual aspect</p> <p>31% (27 no units) are single aspect</p>
Non-residential Use	<p>retail unit (approx. 108.5 sqm)</p> <p>public art display area (approx.12 sqm)</p>
Car Parking Spaces	<p>17 undercroft spaces (including 3 no. electric vehicle spaces and 1 no. disabled space)</p> <p>8 street parking</p>
Car Parking Ratio	0.2
Motorcycle parking	1
Cycle Parking	<p>242 comprising</p> <ul style="list-style-type: none"> 208 no long term spaces 28 no short term spaces 4 no long term cargo spaces 2 no spaces for Dun Leary House
Bulk Storage	58 sqm
Dun Leary House use	1 no. 4 bed residential unit (433 sqm)
Part V	9 units in Block 1

2.3. **Surface Water Drainage** - The area is served by a complex network of surface water and combined sewers which surround the site. The management of surface water for the proposed development has been designed to comply with the policies and

guidelines outlined in the Greater Dublin Strategic Drainage Study (GDSDS) and with the requirements of Dun Laoghaire Rathdown County Development Plan 2022-2028. The surface water strategy for the proposed development area will incorporate SuDS features to reduce run-off and provide biodiversity benefits. Storm water from the contributing catchment will be attenuated to limit discharge to green-field runoff rates with storm-water storage facilities and SuDS elements incorporated to allow infiltration and reduction of run-off volumes and rates where possible.

- 2.4. **Foul Sewer** - Correspondence with Irish Water was undertaken on the proposed diversion of the existing Monkstown Culvert. A feasibility studies report, outlining the possible diversion options, was submitted to Irish Water along with the hydraulic modelling for each option based on the East and West Pier Drainage Area Plan. The preferred option and the confirmation of feasibility issued by Irish Water is included with the application.
- 2.5. **Water Supply** - The site is well served by a series of watermains in Old Dun Leary Road, Cumberland Street and Dun Leary Hill. As part of the development proposals the existing connection to the 100mm diameter uPVC water main on Old Dun Leary Road will be utilised. Irish Water has confirmed the feasibility of this connection, based on a pre-connection enquiry that was submitted to Irish Water to assess the capacity available in the network, subject to a valid connection agreement. The Irish Water confirmation of feasibility has been included with the application.
- 2.6. The application was accompanied by the following:
- 1) Site Location Map, Site Layout Plan and Full Set of Architectural Drawings & Drawing Issue Sheet
 - 2) Community Infrastructure Statement
 - 3) Residential Unit Mix Assessment Report
 - 4) Architectural Design Statement
 - 5) Housing Quality Assessment Schedule of Areas
 - 6) Part V Proposal Booklet (including costings and Housing Letter)
 - 7) Landscape Architecture Drawings & Drawing Issue Sheet
 - 8) Landscape Design Statement
 - 9) Arboricultural Assessment (Tree Survey)

- 10)Arboricultural Drawings (Tree Survey/Tree Removal Plan)
- 11)Engineer Drawings & Drawing Register
- 12)Infrastructure Design Report (including culvert diversion detail) (including confirmation of feasibility and design acceptance from Irish Water)
- 13)Traffic and Transport Assessment
- 14)Mobility Management Plan
- 15)Parking Strategy Report
- 16)Site Specific Flood Risk Assessment
- 17)DMURS Compliance Report
- 18)Preliminary Construction Management Plan
- 19)Stage 1 Storm Water Audit
- 20)Stage 1 Quality Audit
- 21)Architectural Heritage Impact Assessment Report
- 22)Operational Waste Management Plan
- 23)Resource and Waste Management Plan
- 24)Ground Investigation Report
- 25)Screening Report for Appropriate Assessment
- 26)Ecological Impact Statement
- 27)Bat Assessment
- 28)EIA Screening Report
- 29)Statement in accordance with Article 103 (1A)
- 30)Presentational, Verified Views and CGI
- 31)Landscape and Visual Impact Appraisal
- 32)Climate Action / Energy & Sustainability Report
- 33)Daylight Sunlight and Overshadowing Assessment
- 34)Building Lifecycle Report
- 35)Lighting Analysis
- 36)Proposed Site Lighting Layout
- 37)Acoustic Design Statement

38) Archaeology & Cultural Heritage

39) Telecommunications Impact Assessment Report

2.7. **Further Information** – Following a request for Further information on 27th August 2024 the following, as summarised, was submitted to DLRCC on 12th December 2024. Revised public notices (significant FI) were submitted on the 17th December 2024.

- Residential Units - An overall reduction in residential units from 88 no. to 84 no.
- Design and Site Activation: Revision of ground floor design to partially remove the stone wall along Cumberland Street and enhance active street frontage, in line with Policy Objective RET7 for Neighbourhood Centres.
- Land Use Balance: Reconfiguration of Block 01 to increase retail/commercial space and reduce car parking, to deliver an appropriate mix of residential and commercial spaces in the NC zone.
- Change of Use: The change of use of Dunleary House from a residential dwelling to a co-working unit.
- Architectural Design: Partial redesign of Block 01, including façade adjustments, materials, and alternative layouts (e.g., curved or staggered blocks), to enhance visual interest and improve interaction with the public realm.
- Privacy and Balcony Modulation: Revised plans for balcony privacy through façade modulation, recessed balconies, or living screens, ensuring privacy without compromising passive surveillance.
- Storage Provision Compliance: Details on storage space allocation within Blocks 01 and 02 in accordance with the County Development Plan.
- Separation Distances: Revised layout to ensure compliance with required separation distances between opposing windows at Dun Leary House and Block 01, as per Sustainable Residential Development guidelines.
- Bicycle Parking: Updated provision of cycle parking with designated “Sheffield” type spaces and cargo bike spaces, ensuring compliance with the DLRCC standards.

- Access and Public Realm: Improved access layout for cyclists and pedestrians, including multiple access routes and revised junction layouts to enhance safety and accessibility.
- Public Realm Integration: Alignments with the Coastal Mobility Route Scheme and upgrades to pedestrian and cycle track facilities, including continuous crossings at key junctions.
- Waste Management: Alternative waste staging arrangements to avoid obstruction and ensure clear footway and crossing access, supported by swept path analysis for refuse vehicle movements.
- Massing of Block 01 set back from Dun leary House. The revised design includes a scaling back of the height and massing of Block 1, to the immediate north of the protected structure (Dun Leary House) and includes two further set backs, at fifth floor and sixth floor levels, with a further set back to the seventh floor penthouse level.

2.8. Summary Changes

	Planning Application	Further Information
Total Units	88	84
Site Area	0.74 ha	0.74 ha
Net Density Site Area	0.447 ha	0.447 ha
Density	119 units per ha (Gross) 199 units per ha (Net)	113.5 units per ha (Gross) 199 units per ha (Net)
Gross Internal Floor Area	9,954 sqm	10,005.1 sqm
Residential GFA	9,834 sqm	9,446 sqm
Non-Residential GFA	120 sqm	559.1 sqm
Non-Residential GFA %	1.22%	5.59%
Dun Leary House (Protected Structure)	4 bed Private Dwelling	Co Working Space (293.1 sqm)

1 Bed	26	22
2 Bed	37	40
3 Bed	24	22
Car Parking	17 in curtilage (incl 3 EV & 1 DAC) 8 on street parking 1 motor bike	11 in curtilage (8 no standard, 2 no EV and 1 no DAC) Plus 8 off street
Bicycle Parking	Total - 242 28 – Short Stay 208 – long stay Plus 4 no cargo spaces Plus 2 no long stay for private dwelling (Ratio 0.2 spaces / unit)	Total - 248 30 – Short Stay 218 – Long Stay Plus 4 no cargo spaces (Ratio 0.13 spaces / unit)
Dual Aspect	69%	62%
Shared Residential Space Internal Amenity	105 sqm (L01 at Entrance) 27 sqm (L00)	160 sqm (L01 Reception / Lounge)
Communal Open Space	707 sqm (External) (Central Courtyard at Ground Floor Level – 586 sq and Upper Courtyard at the First Floor Level – 121 sqm)	607 sqm (607 sqm Breakdown: Central Courtyard at Ground Floor Level – 567.5 sqm Communal Terrace at the First Floor Level – 39.5 sqm)

Public Open Space		Upper Courtyard at the First Floor Level – 150 sqm Public Realm
Green Roof	752 sqm	739 sqm 623 sqm – Block 1 116 sqm – Block 2
Neighbourhood Centre Uses / Retail Unit	Retail - 108.5 sqm Public Art Display Area – 12 sqm	140 sqm – Retail Unit A 106 sqm – Retail Unit B 293.1 sqm – Co-working Space
Height	3-8 Storeys	3-8 Storeys with set backs on the 5th , 6th & 7th floor on Block 1 Elevation addressing Dun Leary House
Demolition Works	651.8 sqm 367 sqm – existing shed 284.8 sqm – Dun Leary House	651.8 sqm 367 sqm – existing shed 284.8 sqm – Dun Leary House

2.9. The FI was accompanied by the following:

- 1) Further Information Response Report
- 2) Architectural Drawing Pack & Drawing Register and Architectural Schedules
- 3) Architectural FI Response
- 4) Landscape Design Access Statement
- 5) Landscape Drawings & Issue Sheet
- 6) Conservation Architect's response to Further Information Request
- 7) Operational Waste Management Plan
- 8) Presentational, Verified Views and CGIs

- 9) Transport - Response to Request for Further Information & Drawing
- 10) Daylight, Sunlight & Overshadowing Report
- 11) Public Lighting Proposal – Drawing, Lighting Analysis and Data Sheet
- 12) Commentary on the Landscape and Visual Impact

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. DLRCC issued a notification of decision to grant permission subject to 30 no conditions summarised as follows:

1)	Compliance the plans, particulars and specifications lodged with the application, as amended by Further Information received on 17/12/2024.
2)	Amendments (details to be agreed): a) Relocation of the in-curtilage accessible car parking space in lieu of 2 no. standard car parking space and resulting increase in floorspace and shopfront glazing/fenestration to Retail Unit B b) Inclusion of a projecting, angled (south facing) window to Bedroom 'L' in Unit A-6-8 at 6th floor level of Block 1.
3)	No advertising sign or structure without the prior agreement.
4)	Dun Leary House (details to be agreed) a) Retention in situ of the original timber panelled door and leaded glass overlight on the West Elevation. b) Details of new timber staircase and balustrade design
5)	Dun Leary House - detailed method statement to include full specification and details of materials and methods to be agreed
6)	Dun Leary House – all works to be carried out under the professional supervision of an appropriately qualified architect.
7)	Landscape Plans to be implemented in full, within the first planting season following completion of the development.
8)	Professional services of a qualified and registered or chartered Landscape Architect, shall be retained for the full duration of the development works

9)	Prior to the commencement of development, the applicant is requested to submit for agreement with the (DLR Lighting Department), details of the lighting design proposed for the internal walkway or shared amenity space. REASON: In the interest of public safety.
10)	The allowable outflow to be revised in line with the requirements of Appendix 7: Stormwater Management Policy
11)	Details of the bund within the courtyard area to be provided.
12)	Cycle parking provision and design shall be in accordance with the DL RCC's 'Standards for Cycle Parking and associated Cycling Facilities for New Development - January 2018' and also within the NTA's Cycle Design Manual, 2023.
13)	A minimum of one car parking space per five car parking spaces shall be equipped with one fully functional EV charging point
14)	Mobility Plan Coordinator to be appointed.
15)	All proposed works shall be designed and constructed, to meet DL RCC 'Taking-in-Charge Development Standards Guidance Document' (June 2022) requirements and 'Taking In Charge Policy Document (May 2022)'
16)	Hours of site development and building works
17)	Site-specific Construction Management Plan (CMP) to be submitted and agreed.
18)	Implementation of the measures detailed in the submitted Resource & Waste Management Plan.
19)	Site-specific Operational Waste Management Plan to be submitted and agreed and updated to reflect FI.
20)	Public Liaison Plan to be implemented and to include the appointment of a Liaison Officer.
21)	Rodent/Pest Control Plan to be implemented for the duration of the works on site.
22)	All areas not intended to be taken in charge shall be maintained by a legally constituted management company.
23)	Part V
24)	Naming / numbering scheme to be agreed
25)	Bond.

26)	Development Contributions - Countywide Surface Water
27)	Development Contribution - Countywide Transport Infrastructure
28)	Development Contribution - Countywide Community & Parks facilities & Recreational amenities
29)	Financial contribution in lieu of open space.
30)	This development shall not be carried out without prior agreement between the Applicant and the Planning Authority relating to the payment of development contributions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The Case Planner in their first report while stating *that the principle of the development is generally acceptable on site* recommended that the following further information be sought as summarised. Further information was requested on the 27th of August 2024.

- Revised plans and particulars which reconfigure and redesign the proposed ground floor level of proposed building Block 1, omitting the retention of the stone wall on Cumberland Street, and creating an active street frontage.
- The Applicant is requested to reconfigure and redesign the proposed ground floor level of proposed building Block 1 and increase the retail commercial component ensuring that it shall be of a sufficient in size to be flexible for a variety of commercial retail uses.
- Revised plans and particulars detailing any changes to the siting, materials and finishes which revise the road fronted corner design to Block 1 and consider alternative designs that improve the relationship with the street layout.
- Building modulation to the external facades of the apartment Block 1 to create spaces of privacy on each of the balconies.
- Breakdown of the storage areas proposed. Where deficiencies exist a justification for same, including compensatory measures should be clearly identified.
- Revised plans and particulars to be submitted which demonstrate accordance SPPR 1 - Separation Distances under the Sustainable Residential Development

and Compact Settlements (2024) and Section 12.3.5.2 Separation Between Blocks of the County Development Plan 2022-2028

- Justify the proposed height and massing; or submitted revised plans modulating the massing, design and monolithic form of Block 1 and /or any revised design proposals, with a view to reducing its impact on the setting of the Protected Structure.
- Revised drawings and details which demonstrate the provision of the cycle stands/ spaces as outlined.
- Revised access layout with improved accessibility and ease of use for cyclists.
- Revised drawings and details which demonstrate that the following items:
 - disabled car parking spaces on Cumberland Street.
 - continuous crossing for pedestrians at the junction of Cumberland Street and Dunleary Hill Road.
 - junction tightening at junction of Cumberland Street and Dunleary Hill Road.
 - surface treatment at vehicular entrance to development
- Revised plans and particulars which detail how the proposed development aligns with the Coastal Mobility Route Scheme
- Alternative arrangement for waste staging as it is likely that the proposed arrangement will cause an obstruction to users of the footways and crossings.

3.2.3. The Case Planner in their second report and having considered the further information submitted recommended that permission be granted subject to 30 no conditions. The notification of decision to grant permission issued by DLRCC reflects this recommendation.

3.3. **Other Technical Reports**

3.4. **Conservation Officer** – In their first detailed report welcomed the changes from the previous application (ABP- 312070-21) for the Protected Structure which seeks to retain the original house and demolish the later twentieth century extension to the north of the house. There is no stated objection in principle to most of the work proposed for the Protected Structure. However, there are several items that required

further information in relation to the overall height, scale and design of Block 1 that would adversely impact on the setting of the protected structure. Accordingly, it was requested that the Applicant reconsider the massing, design and monolithic form of Block 1, with a view to reducing its impact on the setting of the Protected Structure. In their second report and having considered the FI submitted had no stated objection subject to conditions as set out in their report relating to the following summarised:

- Retention in situ of the original timber panelled door and leaded glass overlight on the West Elevation.
- Detailed drawings of the proposed new timber staircase and balustrade design
- Detailed method statement covering all works proposed to be carried out to the interior and exterior including
- All works to Dun Leary House are to be carried out under the professional supervision of an appropriately qualified architect with specialised conservation expertise
- Phasing of the works to ensure that conservation works to the protected structure are carried out in tandem

3.5. **Transportation Planning** – In their first report requested further information in relation to cycle parking, cycle parking access, proposed public realm changes and waste storage and collection. In their second report and having considered the FI submitted raised no objections subject to conditions relating to alternative cycle parking layout, all proposed works to the public realm to be agreed with DLRCC, location of waste collection day staging, occupants to be made aware of the lack of car parking provision and lack of car parking entitlement, , finishes and materials to the public realm to be agreed, EV charging points, Preliminary Construction Management Plan to be agreed, Mobility Plan Coordinator, Travel Plan Coordinator, avoid conflict between construction activities and pedestrian/vehicular movements in the surrounding area and works, both on the public road and within the site are to be designed and constructed, at the Applicant's own expense, to meet DLRCC 'Taking-in-Charge Development Standards'.

3.6. **Housing** – No objection subject to compliance with conditions as set out in their report relating to Part V.

- 3.7. **Parks and Landscape Services** – It is the opinion of the Parks & Landscape Section that the proposed development will have a positive impact on the local area. No stated objection subject to conditions as set out in the report relating to Implementation of submitted landscape plans, Biosecurity, Retention of landscape architect and a Financial contribution in lieu of public open space
- 3.8. **Active Travel** – No stated objection subject to a condition as set out in the report relating to scheme aligning with the Coastal Mobility Route Scheme.
- 3.9. **Water Services Drainage Planning** - No objection subject to conditions as set out in the report relating to Stormwater Management, drainage provision for the area of the site fronting Old Dun Leary Road and details of bund within the courtyard area.
- 3.10. **Public Lighting** - The lighting design for the surrounding roads and footpaths is acceptable to the public lighting section.
- 3.11. **Building Control** – No objections subject to conditions as set out in the report relating to Taking in Charge and Lighting/Parks/Water Services Departments, to be consulted on the detailed design and surface reinstatements.
- 3.12. **Environmental Health Officer** - The proposal is acceptable subject to conditions relating to the submission of a construction environmental management plan, noise mitigation, noise and vibration monitoring, implementation of a Public Liaison Plan, dust monitoring and location and orientation of any plant equipment.
- 3.13. **Enforcement / Waste Management** – No stated objection subject to conditions relating to Preliminary Construction Management Plan, Noise Specific Conditions, Resource & Waste Management Plan, Operational Waste Management Plan, Public Liaison Plan and Pest Control Plan.
- 3.14. **Prescribed Bodies**
- 3.14.1. **Iarnrod Eireann** – No stated objection subject to the following observations in respect of the proposed development:
- 1) The Railway Safety Act 2005 places an obligation on any 3rd party working near the railway to ensure no danger or hazard is posed to railway operations.

- 2) Should the development require the use of a crane that could swing over the railway property, then the developer must enter into an agreement with Iarnród Éireann / C.I.É. regarding this issue.
- 3) Residential units should be designed, orientated and located to limit the impacts of noise and vibration from transportation traffic and maintenance activities. The Applicant must take responsibility for specifying necessary mitigation measures where noise thresholds are expected to be exceeded. The noise assessment should consider a number of scenarios, including the following:
 - within the development with windows closed
 - within the development with windows open; and
 - exterior of development within private or communal gardens.

3.15. Third Party Observations

- 3.15.1. **Application** – There are 13 no observations recorded on the planning file from (1) Chris Doorly, (2) Aidan Lawlor, (3) Roderick & Patricia Murphy, (4) Ruth Conroy, (5) Senator Vincent Boyhan, (6) Sean Kelleher, (7) Ed & Sylvia Greevy, (8) Carl Morgenson on behalf of the residents of Clearwater Cove Management Company, (9) Lynn McKee & Paul O'Farrell, (10) Niamh Murphy, (11) Jane Lynch, (12) Councillor Mary Fayne and (13) Diarmuid O'Grada on behalf of RF Management.
- 3.15.2. The issues raised relate to excessive scale of development, inappropriate height, scale, bulk and massing, impacts on adjoining streets and buildings, density, scheme out of character with the receiving environment, visual impact to the coastline, misleading and inaccurate information, excessive height, inappropriate transition, flood risk, over reliance on pumping system, overbearing impact to protected structure, inappropriate quantum of uses in a NC area, loss of sunlight and daylight, light spillage, adverse impacts on conservation values, construction impact, traffic impact, inadequate car parking provision, devaluation of neighbouring properties, noise, inadequate private and communal open space, inappropriate housing mix, disruption to skyline and inappropriate materials and finishes.
- 3.15.3. **Further Information** - Following the submission of FI there are 6 no observations recorded on the planning file from (1) Clearwater Cove Management Company Limited

by Guarantee, (2) Lynn McKee, (3) Ed & Silvia Greevy, (4) Diarmuid O'Grada on behalf of RF Management, (5) Chris Doorly and (6) Councillor Mary Fayne.

3.15.4. The issues raised relate to a failure to address several of the concerns raised in previous submission, overdevelopment of the site, height of Block 1 will be detrimental to the facing apartments of De Vesce House, in terms of a significant loss of light and overlooking, the change of the corner block to a curve is meaningless, excessive in scale, height and massing, the proposed signalled pedestrian junction is in the wrong place, impact to De Vesce House, inaccuracy in the public notices, restricted site area, impact to Dun Leary House (Protected Structure), zoning transition, scale and bulk, recommended scheme is refused, cyclist access, waste storage and that the proposed development if granted would be breach of policies and objectives set down in the DLR County Development Plan Policy.

4.0 Planning History

4.1. It is noted that Dun Leary House was permitted to be demolished in 2003 by An Bord Pleanála (under Planning Reg. Ref. D03A/0291- An Bord Pleanála Ref. PL06D.204798). This building is now a Protected Structure (RPS No. 2131) under the Dun Laoghaire Rathdown County Council Development Plan 2022-2028.

4.2. Most recently, the site was subject to a Strategic Housing Development (SHD) (ABP312070-21) where the Board refused planning permission in 2024. The details of the case may be summarised as follows:

- **SHD ABP 312070 -21** - Ted Living Limited submitted an application for a Strategic Housing Development (SHD) to An Bord Pleanála ABP for the construction of 146 no. Build to Rent apartments in November 2021. A summary of the development lodged is provided below:
 - Build to Rent Strategic Housing Development consisting of the construction of a new development of 146 no. units (34 no. studio apartment units, 77 no. 1 bed apartment units and 35 no. 2 bed apartment units), and associated ancillary residential tenant amenities (c.468 m²) including a gym, atrium/reception area and sky lounge.

- A retail unit (c.290m²) addressing Old Dun Leary Road on the corner Cumberland Street was also proposed.
 - Overall heights ranging from 6 storeys (with set backs from 4th & 5th storey) addressing Dun Leary Hill, to 5 and 8 storeys (with set back from 7th storey) addressing Old Dun Leary Road and 6-7 storeys (with set backs at 8th storey) addressing Cumberland Street.
 - The refurbishment, partial removal and adaptation of a 4 storey building on site known as 'Dun Leary House' (a Protected Structure) - refurbishment, partial removal and adaptation of same to provide co-working office suites (c.247m²) at Levels 01,02 and 03. The works included partial removal of original walls and floors, removal of non original extensions to Dun Leary House,
- An Oral Hearing took place in June 2022 whereby the applicant presented an alternative proposal with a reduced overall GFA which scaled back the structure and reduced the number of residential units from 146 no. units to 139 no. units to reflect the concerns raised by DLRCC and ABP.
 - The Board refused permission in august 2024 for 2 no detailed reasons relating to (1) extensive works to Dun Leary House (Protected Structure) and form of new build at and immediately adjoining this Protected Structure would overwhelm the existing structure by reason of scale, form, mass and immediate proximity and (2) substandard form of new development by reason of proportion of units without private amenity space and proportion of single aspect units.

4.2.1. The following is a summary comparison of the SHD Scheme and current proposal (as amended).

Development Parameter	HD ABP 312070-21 (Alternative Proposal Presented at ABP Oral Hearing)	Current Submitted for Application Stage	Proposal for Planning
Application Type	Strategic Housing Development	Standard Planning Application	Section 34

Application Site (Gross Site Area)	0.55ha	0.74ha (0.3ha in applicant ownership; 0.44 ha controlled by DLR)
Application Site (Net Developable Site Area)	0.3ha	0.447ha
Development Type	Build to Rent	Build to Sell
No. of residential units	Total: 139 no. units Studio units 34 no (24.5 %) 1 Bed units: 30 no (47.5 %) 2 Bed (3 person) units: 4 no (2.9 %) 2 Bed (4 person) units: 35 no (25.2%)	Total: 88 no. units 26 no. 1 beds, 37 no. 2 beds (4 person), 24 no. 3 beds 22 no 1 bed (26%) 0 no 2 bed (3 person) (0%) 40 no 2 bed (4 person) (47%) 22 no 3 bed (26%)
Height	5-8 Storeys	3-8 Storeys
Dun Leary House	Co-working office suites	Co-working office suites

5.0 Policy Context

5.1. National Planning Policy

5.1.1. Project Ireland 2040 - National Planning Framework

- 5.1.2. The NPF comprises the Government's proposed long-term strategic planning framework to guide national, regional and local planning and investment decisions over the next 25 years. Part of the vision of the NPF is managing growth and targeting at least 40% of all new housing in existing built-up areas of cities, towns and villages

through infill and brownfield sites while the rest of new homes will be targeted on greenfield edge of settlement areas and within rural areas. The NPF also sets out a number of National Strategic Outcomes which include Compact Growth and Strengthened Rural Economies and Communities. These include:

- NSO 1 - Compact Growth
- NSO 7 - Enhanced Amenity and Heritage
- NPO 3a - Securing Compact & Sustainable Growth
- NPO 3c - Securing Compact & Sustainable Growth
- NPO 4 - Why Urban Places Matter (Community)
- NPO 5 - Why Urban Places Matter (Economy/Prosperity)
- NPO 6 - Why Urban Places Matter (The Environment)
- NPO 9 - Planning for Ireland's Urban Growth (Ireland's Towns)
- NPO 11 - Achieving Urban Infill/Brownfield Development
- NPO 13 - Performance-Based Design Standards
- NPO 32 - Housing
- NPO 33 - Housing (Location of Homes)
- NPO 34 - Housing (Building Resilience in Housing - Lifetime Needs)
- NPO 35 - Housing (Building Resilience in Housing - Density)

5.1.3. **Climate Action Plan 2024**

5.1.4. The Climate Action Plan 2024 sets out the measures and actions that will support the delivery of Ireland's climate action ambition. Climate Action Plan 2024 sets out the roadmap to deliver on Ireland's climate ambition. It aligns with the legally binding economy-wide carbon budgets and sectoral ceilings that were agreed by Government in July 2022. Ireland is committed to achieving climate neutrality no later than 2050, with a 51% reduction in GHG emissions by 2030. These legally binding objectives are set out in the Climate Action and Low Carbon Development (Amendment) Act 2021.

5.1.5. **Climate Action Plan 2025** builds upon last year's Plan by refining and updating the measures and actions required to deliver the carbon budgets and sectoral emissions ceilings and it should be read in conjunction with Climate Action Plan 2024.

5.1.6. **National Biodiversity Action Plan (NBPA) 2023-2030**

5.1.7. The 4th NBAP strives for a “whole of government, whole of society” approach to the governance and conservation of biodiversity. The aim is to ensure that every citizen, community, business, local authority, semi-state and state agency has an awareness of biodiversity and its importance, and of the implications of its loss, while also understanding how they can act to address the biodiversity emergency as part of a renewed national effort to “act for nature”. This National Biodiversity Action Plan 2023-2030 builds upon the achievements of the previous Plan. It will continue to implement actions within the framework of five strategic objectives, while addressing new and emerging issues:

- Objective 1 - Adopt a Whole of Government, Whole of Society Approach to Biodiversity
- Objective 2 - Meet Urgent Conservation and Restoration Needs
- Objective 3 - Secure Nature’s Contribution to People
- Objective 4 - Enhance the Evidence Base for Action on Biodiversity
- Objective 5 - Strengthen Ireland’s Contribution to International Biodiversity Initiatives

5.2. **National Guidance**

- Design Manual for Urban Roads and Streets (2013)

5.3. **Section 28 Ministerial Guidelines**

5.3.1. The following national policy, statutory guidelines, guidance and circulars are also relevant:

- Housing for All: A New Housing Plan for Ireland (2021)
- Rebuilding Ireland: Action Plan for Housing & Homelessness (2016)
- Appropriate Assessment Guidelines (2009)
- Architectural Heritage Protection Guidelines (2011)
- Childcare Facilities Guidelines (2020)

- Environmental Impact Assessment Guidelines (2018)
- Flood Risk Management Guidelines (2009)
- Regulation of Commercial Institutional Investment in Housing Guidelines (2021)
- Sustainable Urban Housing: Design Standards for New Apartments (2020)
- Urban Development and Building Heights Guidelines (2018)
- Best Practice Urban Design Manual (2009)
- Quality Housing for Sustainable Communities (2007)
- Circular Letter: NRUP 02/2021 (Residential Densities in Towns and Villages)
- Housing Circular 28/2021 (Affordable Housing Act 2021 - Amendments to Part V)
- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)¹
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020)
- Urban Development and Building Heights Guidelines for Planning Authorities (2018)
- Childcare Facilities Guidelines for Planning Authorities (2020)
- Guidelines for Planning Authorities on the Planning System and Flood Risk Management (2009)
- Part V of the Planning and Development Act 2000 Guidelines (2017)
- Local Area Plans Guidelines for Planning Authorities (2013)
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment (2018)

5.4. Regional Guidelines

5.4.1. Eastern and Midland Regional Assembly - Regional Spatial and Economic Strategy 2019-2031 (EMRA-RSES)

¹ The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) have been revoked.

- 5.4.2. The Strategy supports the implementation of Project Ireland 2040 and the National Planning Framework (NPF). The RSES provides a development framework for the region through the provision of a Spatial Strategy, Economic Strategy, Metropolitan Area Strategic Plan (MASP), Investment Framework and Climate Action Strategy. The Dublin MASP is an integrated land use and transportation strategy for the Dublin Metropolitan Area, which seeks to manage the sustainable and compact growth of the Dublin Metropolitan Area.
- 5.4.3. **RPO 3.2** Promote compact urban growth, targets at least 50% of all new homes to be built, to be within or contiguous to the existing built-up area of Dublin city and suburbs and a target of at least 30% for other urban areas.
- 5.4.4. **RPO 3.3** notes that Local authorities shall, in their core strategies, identify regeneration areas within existing urban settlements and set out specific objectives relating to the delivery of development on urban infill and brownfield regeneration sites and provide for increased densities as set out in the national policy.
- 5.4.5. **Regional Policy Objective 4.3** supports the *consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built-up area and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport.*
- 5.4.6. The site lies within the Dublin Metropolitan Area (DMA). The aim of the Dublin Metropolitan Area Strategic Plan is to deliver strategic development areas to ensure a steady supply of serviced development lands to support sustainable growth.
- 5.4.7. Section 5.3 identifies guiding principles for development of the MASP area including:
- Compact sustainable growth and accelerated housing delivery – To promote sustainable consolidated growth of the Metropolitan Area, including brownfield and infill development, to achieve a target to 50% of all new homes within or contiguous to the built-up area of Dublin City and suburbs, and at least 30% in other settlements. To support a steady supply of sites and to accelerate housing supply in order to achieve higher densities in urban built up areas, supported by improved services and public transport.*
- 5.4.8. **RPO 5.3** - *Future development in the Dublin Metropolitan Area shall be planned and designed in a manner that facilitates sustainable travel patterns, with a particular focus*

on increasing the share of active modes (walking and cycling) and public transport use and creating a safe attractive street environment for pedestrians and cyclists.

5.4.9. **RPO 5.4.** - *Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the ‘Sustainable Residential Development in Urban Areas’, ‘Sustainable Urban Housing: Design Standards for New Apartments’ Guidelines and ‘Urban Development and Building Heights Guidelines for Planning Authorities.*

5.4.10. **RPO 5.5** - *Future residential development supporting the right housing and tenure mix within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs and the development of Key Metropolitan Towns, as set out in the Metropolitan Area Strategic Plan (MASP) and in line with the overall Settlement Strategy for the RSES. Identification of suitable residential development sites shall be supported by a quality site selection process that addresses environmental concerns.*

5.5. Development Plan

5.5.1. The operative plan for the area is the **Dun Laoghaire Rathdown Development Plan 2022-2028**. The site is zoned **Objective NC** with the objective "*to protect, provide for and or improve mixed-use neighbourhood centre facilities*".

There is a Protected Structure known as Dun Leary House RPS 2131 located on the subject site which is subject to **Specific Local Objective SLO 37** that states as follows:

“That Dunleary House (Yellow Brick House) and associated boundary be retained in situ and renovated and ensure its rehabilitation and suitable reuse of the building which makes a positive contribution to the character and appearance of the streetscape at this location.”

5.5.2. The relevant Chapters of the Written Statement to this development include Chapter 2 – Core Strategy, Chapter 4 – Neighbourhood-People, Homes and Place, Chapter 8 – Green Infrastructure and Biodiversity, Chapter 10 – Environmental and Flood Risk, Chapter 11 – Heritage and Conservation, Chapter 12 – Development Management, Chapter 13 – Land Use Zoning and Chapter 14 – Specific Local Objectives.

- 5.5.3. **Policy Objective PHP18: Residential Density** - It is a Policy Objective to: Increase housing (houses and apartments) supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites having regard to proximity and accessibility considerations, and development management criteria set out in Chapter 12. It is policy to encourage higher residential densities provided that proposals provide for high quality design and ensure a balance between the protection of existing residential amenities and the established character of the surrounding area, with the need to provide for high quality sustainable residential development
- 5.5.4. **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.
- On all developments with a units per hectare net density greater than 50, the applicant must provide an assessment of how the density, scale, size and proposed building form does not represent over development of the site. The assessment must address how the transition from low density to a higher density scheme is achieved without it being overbearing, intrusive and without negatively impacting on the amenity value of existing dwellings particularly with regard to the proximity of the structures proposed. The assessment should demonstrate how the proposal respects the form of buildings and landscape around the site's edges and the amenity enjoyed by neighbouring uses.
 - On all developments with height proposals greater than 4 storeys the applicant should provide a height compliance report indicating how the proposal conforms to the relevant Building Height Performance Based Criteria "At District / Neighbourhood / Street level" as set out in Table 5.1 in Appendix 5.
 - On sites abutting low density residential development (less than 35 units per hectare) and where the proposed development is four storeys or more, an obvious buffer must exist from the rear garden boundary lines of existing private dwellings.
 - Where a proposal involves building heights of four storeys or more, a step back design should be considered so as to respect the existing built heights
- 5.5.5. **Policy Objective PHP27: Housing Mix** - It is a Policy Objective to encourage the establishment of sustainable residential communities by ensuring that a wide variety

of housing and apartment types, sizes and tenures is provided throughout the County in accordance with the provisions of the Housing Strategy and Housing Need Demand Assessment (HNDA) and any future Regional HNDA.

- 5.5.6. **Policy Objective PHP42: Building Design & Height** - It is a Policy Objective to: Encourage high quality design of all new development. Ensure new development complies with the Building Height Strategy for the County as set out in Appendix 5 (consistent with NPO 13 of the NPF).

5.5.7. **Appendix 5**

- 5.5.8. **Building Heights Strategy** - The Council policy in relation to building height throughout the County is detailed in three policy objectives as set out in the Building Height Strategy (BHS) (Appendix 5):

- Policy Objective BHS 1 – Increased Height.
- Policy Objective BHS2 – Building Height in areas covered by an approved Local Area Plan or Urban Framework Plan (UFP must form part of the County Plan).
- Policy Objective BHS 3 – Building Height in Residual Suburban Areas.

- 5.5.9. **Policy Objective BHS 1 Increased Height** - It is a policy objective to support the consideration of increased heights and also to consider taller buildings where appropriate in the Major Town Centres of Dún Laoghaire and Dundrum, the District Centres of Nutgrove, Stillorgan, Blackrock, and Cornelscourt, within the Sandyford UFP area, UCD and in suitable areas well served by public transport links (i.e. within 1000 metre/10 minute walk band of LUAS stop, DART Stations or Core/Quality Bus Corridor, 500 metre/5 minute walk band of Bus Priority Route) provided that proposals ensure a balance between the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity and the established character of the area. (NP0 35, SPPR 1& 3).

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 increase height and / or taller buildings in the areas mentioned above. In those instances, any such proposals must be assessed in accordance with the performance based criteria set out in table 5.1 which is contained in section 5. The onus will be on the applicant to demonstrate compliance with the criteria.

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

- 5.5.10. **Policy Objective BHS 2 – Building Height in areas covered by an approved Local Area Plan or Urban Framework Plan (UFP must form part of the County Plan)** - It is a policy objective to promote and support proposed heights as set out in any approved statutory Local Area Plans and as set out for certain areas in this County Development Plan (Sandyford Urban Framework Plan area, Dundrum Urban Framework Plan Area and Dun Laoghaire Urban Framework Plan 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 areas mentioned above on the basis of placemaking. In those instances, any such proposals must be assessed in accordance with the performance based criteria set out in table 5.1 which is contained in section 5. The onus will be on the applicant to demonstrate compliance with the criteria.

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

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

- 5.5.12. Table 15.1 Criteria for assessing proposals for increased height.

- At County Level
- At District/Neighbourhood/Street Level
- At site/building scale
- County Specific Criteria

- 5.5.13. **Section 12.3.3.1 Residential Size and Mix**

- 5.5.14. The finding of the Housing Strategy and HNDA have informed policy PHP27 in relation to mix (refer to Appendix 2 Housing Strategy and HNDA 2022 – 2028).
- 5.5.15. In order to demonstrate compliance with Policy Objective PHP27 and based on the findings of the Housing Strategy and HNDA, planning applications received for 50+ residential units either individually or cumulatively with lands located within the neighbourhood (10-minute walk) will be required to incorporate a variety and choice of housing units by type and size so as to meet the differing household need in the County. Council Part 8 or Part 10 residential schemes, may propose a different mix having regard to the specific needs of the Council Housing Department
- 5.5.16. The proposed provision of residential units (both houses and apartments), shall provide a mix that reflects existing, and emerging household formation, housing demand patterns and housing demand patterns and trends identified locally and/ or within the County. New residential communities (as set out in the Core Strategy and Figure 2.9 of the Core Strategy Map) shall ensure an appropriate mix including a proportion of larger units. Applications received in both new residential communities and within the residual built up area shall include:
- Details of existing and permitted unit types within a 10-minute walk of the proposed development.
 - A detailed breakdown of the proposed unit type and size including a percentage split between 1/2/3+ bed units which in the case of apartments (and duplexes) shall generally be in accordance with Table 12.1.

5.5.17. **Table 12.1**

Area	Threshold	Mix Requirement (Apartments and duplexes)	Studio/1/2 bed and 3+ bed Requirement (Apartments)
Existing Built-up area.	Schemes of 50+ units	Apartment Developments may include up to 80% studio, one and two bed units with no more than 30% of the overall	Minimum 20% 3+ bedroom units

		development as a combination of one bed and studios and no more than 20% of the overall development as studios	
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5.5.18. **Car Parking**

5.5.19. Car parking Table 12.5 Parking Zone 2

- Apartments
- One bed 1 space
- Two bed 1 space

5.5.20. **Section 12.4.5.2 Application of Standards** - In certain instances, in Zones 1 and 2 the Planning Authority may allow a deviation from the maximum or standard number of car parking spaces specified in Table 12.5 or may consider that no parking spaces are required. Small infill residential schemes (up to 0.25 hectares) or brownfield/refurbishment residential schemes in zones 1 and 2 along with some locations in zone 3 (in neighbourhood or district centres) may be likely to fulfil these criteria. In all instances, where a deviation from the maximum or standard specified in Table 12.5 is being proposed, the level of parking permitted and the acceptability of proposals, will be decided at the discretion of the Planning Authority, having regard to criteria as set out below:

- (i) **Assessment Criteria for deviation from Car Parking Standards (set out in Table 12.5)**
 - Proximity to public transport services and level of service and interchange available.
 - Walking and cycling accessibility/permeability and any improvement to same.
 - The need to safeguard investment in sustainable transport and encourage a modal shift.
 - Availability of car sharing and bike / e-bike sharing facilities.

- Existing availability of parking and its potential for dual use.
- Particular nature, scale and characteristics of the proposed development (as noted above deviations may be more appropriate for smaller infill proposals).
- The range of services available within the area.
- Impact on traffic safety and the amenities of the area.
- Capacity of the surrounding road network.
- Urban design, regeneration and civic benefits including street vibrancy.

5.5.21. **Bicycle Parking Table 12.8**

- Apartments: 1 per bedroom (long) and 1 per 2 units (short)
- Houses: 1 per unit (long) and 1 per 5 units (short)
- Retail: 1 per 5 staff (long) and 1 per 100sqm (short)
- Childcare: 1 per 5 staff (long) and 1 per 10 children (short)

5.5.22. **Public Open Space Requirements for Residential Developments**

- Table 12.8 - Residential Development in the existing built up area 15% of the site area.

5.5.23. It is acknowledged that in certain instances it may not be possible to provide the above standards of public open space. High density urban schemes and/or smaller urban infill schemes for example may provide adequate communal open space but no actual public open space. In these instances where the required percentage of public open space is not provided the Council will seek a development contribution under Section 48 of the Planning and Development Act 2000, as amended. The contribution in lieu to be paid for any shortfall in the quantum of public open space to be provided will be used for the provision of improved community and civic infrastructure and/or parks and open spaces, in the vicinity of the proposed development for use of the intended occupiers of same. On overall sites of less than 0.25 ha, the Council may also consider levying a contribution in lieu of public open space.

5.5.24. **Private Amenity Space – Quality Standards**

5.5.25. **Section 12.8.7.1 Separation Distances:**

Separation Distances A minimum standard of 22 metres separation between directly opposing rear first floor windows should usually be observed, for new developments.

In an exceptionally well-designed scheme providing an otherwise very high-quality living environment and that is in close proximity to existing public open spaces, the above standards may be relaxed.

Any relaxing of standards will be assessed on a case-by-case basis and should not be seen as setting a precedent for future development.

5.5.26. Apartment Development

5.5.27. Section 12.3.5.2 Separation Between Blocks

5.5.28. All proposals for residential development, particularly apartment developments and those over three storeys high, shall provide for acceptable separation distances between blocks to avoid negative effects such as excessive overlooking, overbearing and overshadowing effects and provide sustainable residential amenity conditions and open spaces.

5.5.29. A minimum clearance distance of circa 22 metres, in general, is required, between opposing windows in the case of apartments up to three storeys in height. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size, and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable. In all instances where the minimum separation distances are not met, the applicant shall submit a daylight availability analysis for the proposed development.

5.5.30. Map Objective on site 'to protect and preserve trees and woodlands'

5.5.31. **Section 12.8.11** - Decisions on preservation are made subject to full Arboricultural Assessment and having regard to other objectives of the Plan.

5.5.32. Chapter 8 Green Infrastructure and Biodiversity

5.5.33. **Section 8.7.1.1 Policy Objective GIB18: Protection of Natural Heritage and the Environment** - It is a Policy Objective to protect and conserve the environment including, in particular, the natural heritage of the County and to conserve and manage Nationally and Internationally important and EU designated sites - such as Special Protection Areas (SPAs), Special Areas of Conservations (SACs), proposed Natural Heritage Areas (pNHAs) and Ramsar sites (wetlands) - as well as non-designated

areas of high nature conservation value known as locally important areas which also serve as 'Stepping Stones' for the purposes of Article 10 of the Habitats Directive.

- 5.5.34. **Section 8.7.1.2 Policy Objective GIB19: Habitats Directive** - It is a Policy Objective to ensure the protection of natural heritage and biodiversity, including European Sites that form part of the Natura 2000 network, in accordance with relevant EU Environmental Directives and applicable National Legislation, Policies, Plans and Guidelines.
- 5.5.35. **Section 8.7.1.5 Policy Objective GIB22: Non-Designated Areas of Biodiversity Importance** - It is a Policy Objective to protect and promote the conservation of biodiversity in areas of natural heritage importance outside Designated Areas and to ensure that notable sites, habitats and features of biodiversity importance - including species protected under the Wildlife Acts 1976 and 2000, the Birds Directive 1979, the Habitats Directive 1992, Birds and Habitats Regulations 2011, Flora (Protection) Order, 2015, Annex I habitats, local important areas, wildlife corridors and rare species - are adequately protected. Ecological assessments will be carried out for all developments in areas that support, or have potential to support, features of biodiversity importance or rare and protected species and appropriate mitigation/avoidance measures will be implemented. In implementing this policy, regard shall be had to the Ecological Network, including the forthcoming DLR Wildlife Corridor Plan, and the recommendations and objectives of the Green City Guidelines (2008) and 'Ecological Guidance Notes for Local Authorities and Developers' (Dún Laoghaire-Rathdown Version 2014).
- 5.5.36. **Section 8.7.1.6 Policy Objective GIB23: County-Wide Ecological Network** - It is a Policy Objective to protect the Ecological Network which will be integrated into the updated Green Infrastructure Strategy and will align with the DLR County Biodiversity Action Plan. Creating this network throughout the County will also improve the ecological coherence of the Natura 2000 network in accordance with Article 10 of the Habitats Directive. The network will also include non-designated sites.
- 5.5.37. **Section 8.7.1.7 Policy Objective GIB24: Rivers and Waterways** - It is a Policy Objective to maintain and protect the natural character and ecological value of the river and stream corridors in the County and where possible to enhance existing channels and to encourage diversity of habitat and nature-based solutions that

incorporate biodiversity features. It is also policy (subject to the sensitivity of the riverside habitat), to provide public access to riparian corridors, to promote improved passive recreational activities.

5.5.38. Chapter 11 – Heritage and Conservation

5.5.39. Policy Objective HER2: Protection of Archaeological Material in Situ - It is a Policy Objective to seek the preservation in situ (or where this is not possible or appropriate, as a minimum, preservation by record) of all archaeological monuments included in the Record of Monuments and Places, and of previously unknown sites, features and objects of archaeological interest that become revealed through development activity. In respect of decision making on development proposals affecting sites listed in the Record of Monuments and Places, the Council will have regard to the advice and/ or recommendations of the Department of Culture, Heritage and the Gaeltacht (DCHG).

5.5.40. The Council will strictly control development proposals that could have a negative impact on the significance of archaeological sites and monuments, their settings and/or interpretation. Land uses shall not give rise to significant losses of the integrity, quality or context of archaeological material – except as may be conditioned or directed by the appropriate heritage agencies. This shall be achieved by the application of appropriate design standards and criteria

Policy Objective HER8: Work to Protected Structures - It is a Policy Objective to:

- (i) Protect structures included on the RPS from any works that would negatively impact their special character and appearance.
- (ii) Ensure that any development proposals to Protected Structures, their curtilage and setting shall have regard to the 'Architectural Heritage Protection Guidelines for Planning Authorities' published by the Department of the Arts, Heritage and the Gaeltacht.
- (iii) Ensure that all works are carried out under supervision of a qualified professional with specialised conservation expertise.
- (iv) Ensure that any development, modification, alteration, or extension affecting a Protected Structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout, and materials.

- (v) Ensure that the form and structural integrity of the Protected Structure is retained in any redevelopment and that the relationship between the Protected Structure and any complex of adjoining buildings, designed landscape features, or views and vistas from within the grounds of the structure are respected.
- (vi) Respect the special interest of the interior, including its plan form, hierarchy of spaces, architectural detail, fixtures and fittings and materials.
- (vii) Ensure that new and adapted uses are compatible with the character and special interest of the Protected Structure.
- (viii) Protect the curtilage of protected structures and to refuse planning permission for inappropriate development within the curtilage and attendant grounds that would adversely impact on the special character of the Protected Structure.
- (ix) Protect and retain important elements of built heritage including historic gardens, stone walls, entrance gates and piers and any other associated curtilage features.
- (x) Ensure historic landscapes and gardens associated with Protected Structures are protected from inappropriate development (consistent with NPO 17 of the NPF and RPO 9.30 of the RSES).

5.5.41. Chapter 12 Development Management - Open Space Quantity for Residential Development

5.5.42. Section 12.8.3.1 Public Open Space - Table 12.8 Public Open Space Requirements for residential developments

Location	Public Open Space Standards (minimum):
Residential Development in new residential communities as shown in the Core strategy – figure 2.9.	15% (of site area)
Residential Development in the existing built up area.	15% (of site area)

Institutional and Redevelopment of SNI use	25% (of site area)
--------------------------------------------	--------------------

5.5.43. **Section 12.8.3.2 Communal Open Space - Table 12.9 Communal Open Space Standards**

Unit Type	Minimum Area per Unit
Studio	4 sq. m
One Bed 5 sq. m	5 sq. m
Two bedrooms (3 bed) 6 sq. m	6 sq. m
Two bedrooms (4 bed) 7 sq. m	7 sq. m
Three bedrooms 9 sq. m	9 sq. m
Four +	12 sq. m

5.5.44. **Section 12.8.8 Financial Contributions in Lieu of Open Space** states that where the required open space standards cannot be achieved, the applicant shall provide a contribution in lieu of providing the full quantum of public open space.

5.5.45. **Chapter 5 Transport and Mobility**

5.5.46. **Section 5.6.2 Policy Objective T12: Footways and Pedestrian Routes** - It is a Policy Objective to maintain and expand the footway and pedestrian route network to provide for accessible, safe pedestrian routes within the County in accordance with best accessibility practice. (Consistent with NPO 27 and 64 of the NPF and RPO 5.3 of the RSES)

5.5.47. **Section 5.8.1 Policy Objective T23: Roads and Streets** - It is a Policy Objective, in conjunction and co-operation with other transport bodies and authorities such as the TII and the NTA, to secure improvements to the County road network – including improved pedestrian and cycle facilities, subject to the outcome of environmental assessment (SEA, EIA and AA), flood risk assessment and the planning process (RPO 8.10, RPO 8.16)

5.6. Interim Dun Laoghaire Urban Framework Plan (Appendix 17)

- 5.6.1. The subject site is located within the area covered by Interim Urban Framework Plan which sets out a vision for development and regeneration of Dún Laoghaire Town.
- 5.6.2. The subject site is marked as “opportunities/ potential development to be explored”. Furthermore, public realm on Cumberland Street and Old Dunleary Road are marked to be upgraded and pedestrian cycle permeability and linkage to be sought. The Plan does not detail a strategy for this area any further. Objectives 8 and 9 are relevant for the subject site:

“8. Provide a network of attractive and green urban spaces and public realm to enhance the user experience while also tacking climate action to create a low carbon, climate resilient and sustainable town.

9. Improve and enhance existing visual amenity and streetscape including lighting within the Interim Framework Plan area.”

- 5.6.3. It is submitted that the subject proposal for public realm improvement addresses objectives listed above.

5.7. Natural Heritage Designations

- 5.7.1. The proposed development site is not within a designated conservation area.

6.0 EIA Screening

- 6.1.1. 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 The Appeal

7.1. Grounds of Appeal

7.1.1. The third-party appeal has been prepared and submitted by Dr Diarmuid O Grada Planning Consultant on behalf of RF Management, Ulyssess House, Foley Street, Dublin 1. The issues raised may be summarised as follows:

7.1.2. **Context** - The receiving environment is sensitive in nature. This appeal is lodged on behalf of the aggrieved neighbours living on the west side i.e. the mature apartments of De Vesci House. These adjoining residents would suffer a very serious loss of amenity and privacy. The intended main block (Block 2) by reason of its intrusive height and bulk, would be overbearing and it would reduce the value of their homes. Concerns can be summarised as follows:

- There is uncertainty about the extent of the site and raises an issue about the applicant's legal estate and interest. A letter of comfort from some Council official is not adequate for the purpose. Exaggeration of the site area has implications for density, open space, car parking spaces etc.
- The proposal is promoted in the context of apartment schemes in the city centre and local residents believe it would be more suited to such an intensely urban context, away from this heritage seafront.
- The intended scheme takes little account of its surroundings, where it is closely adjoined by two ACAs. The architectural design is entirely out of place within this part of the heritage seafront at Dun Laoghaire.
- There is far too little shown of De Vesci House. The height of the scheme would be out of scale / proportion to its neighbours e.g. would be 2.5 storeys higher than the adjoining Clearwater scheme.
- The setbacks at upper levels are tokenistic and fail to resolve the fundamental issues of over height inconsistency and intrusion.
- The submitted drawings are difficult to read and to interpret. We invite the Board to find this is an instance where paper drawings should be lodged.

7.1.3. **Planning Authority Decision** - The Council's decision failed to address the important issues raised in the third-party observations. Most of the conditions are in standard

format dealing with matters of good housekeeping and they do not address the fundamental impact on third parties as follows:

- Condition No 7 requires adherence to the submitted landscaping plans. However, the scheme is entirely inadequate in the provision of public open space. Conditions Nos 28 / 29, require payment of very substantial financial contributions towards provision elsewhere of public open space and community facilities. These conditions reveal how substandard the scheme really is and permission should have been refused.
- Other conditions require all of the works, both on the public road and within the site, to be accrued out to the specifications of the Council. In our opinion that condition exposes the uncertainty as to the actual extent of the site used for the project.
- Condition No 16 sets out the permissible working hours for construction works, allowing noisy industrial type work to start in a primarily residential area at 7am.

7.1.4. **Development Plan** - It is recognised that the county's built heritage is one of the main attractions for visitors to Ireland and its conservation reinforces and promotes the tourism industry. The plan also stated that new development immediately adjoining an ACA must be appropriate in terms of design, scale, height, mass, density, building lines and materials. The subject scheme does not have adequate regard to that strong and distinctive heritage setting of Dun Laoghaire. It is apparent that any scheme must allow a transition in scale to retain the heritage setting of the protected structures, including that on the appclaiton site. In our opinion the current proposal fails in that regard.

7.1.5. **Planning History** - This property has an extensive planning history. More recent applications offer guidance as to the growing awareness of the heritage context that needs to be factored into any scheme. Reference is made to SHD Ref ABP-307445-20 where the report of the Council Chief Executive made the following points:

- The building height would create an imbalance in the streetscape. It does not respond to the character of its surrounds, and it would impose an inconsistent architectural style on a mature heritage precinct of national significance. It fails to contribute to the overall built (and natural) environment, nor does it make a positive contribution to the neighbourhood or streetscape.

- The Council was not satisfied that public transport within the surroundings was enough to justify a higher density.

7.1.6. **Council Planners Report** - Despite the length of the Case Planners report and acknowledging the multiple issues raises, it failed to properly address those issues of concern to the numerous observers and consequently we request the Board to set aside the decision of the Council.

7.1.7. **NC Zoning Objective** - This is a proposal for a very considerable scheme of apartments, with few token retail elements included. That scale and proportion of residential development, in our opinion, would represent excessive infringement of the Development Pan objective to provide NC use i.e. business / commercial use. Further there is a material deficit of public open space to serve that excessive residential proportion.

7.1.8. **Housing Mix** - Section 12.3.3.1 of the Development Plan states that 2-bedroom 3 person apartments shall not comprise more than 10% of any private residential scheme. However, the application as lodged, proposed 37 of the 88 units to comprise 2-bedroom units i.e. 42%. We believe that proportion would represent a material contravention of the Development Plan.

7.1.9. **Density** - The further information increased the non-residential floor area to 5%. The Council gave the density at 199 UPH and considered this to be acceptable. The appellant disagrees as a density based on the actual site area of 0.31 ha and making allowance for the retail element, amounts to 291 UPH. That is excessive within this heritage setting.

7.1.10. **Protected Structure** - Dunleary House was listed in the National Heritage Inventory (An Foras Forbatha 1981) where it was described as a:

“Two storey house over a basement, built of yellow brick, with a moulded terracotta base mould, red brick lintels to segmented-headed ground-floor window, red brick course over the first floor, a plaster cavetto cornice and an enclosed porch. The house probably dates form circa 1880”.

Under the planning code that listing extends to the curtilage of the protected structure. The Board is invited to carry out a close examination of the building and its surroundings to ascertain the extent / situation of the protected curtilage. That will, in

turn, invite the need to adjust the proposed layout so that each elevation of Dunleary House can be seen properly.

- 7.1.11. **Overshadowing** - The Council claims the proposal has made an ample effort to limit overshadowing of neighbouring apartments. We disagree especially as the proportion of proposed residential floor space exceeds the NC zoning objective, and on account of the excessive proximity, height and orientation.
- 7.1.12. **Scale and Bulk** - Rather than providing a balance the outsized main block would bring a dominating and unsettling intrusion to the seafront skyline seen from the public promenades of the west and east piers and the connecting waterfront. The texture and grain of Dun Laoghaire town centre are marked by its array of fine Victorian terraces, punctuated by the civic and public landmark buildings such as the County Hall, St Micheals and the Mariners Church. County Hall embodies the old courthouse and the town hall, both of which combine to mark the towns centre of gravity. They are the primary reference points. This project pays little regard to its heritage context. Over many decades both the Council and ABP on appeal have consistently implemented objectives that retain the harmony of the roof / parapet line of the Victorian seafront when viewed from the East Pier which forms the main promenade. That vista is a heritage emblem of the town and it must inform the assessment of any proposed substantial intervention.
- 7.1.13. **Archaeological Concerns** – There are inaccuracies in the Archaeological Report submitted with the application (site shape, extent of the site in the applicant's ownership). The appeal notes that the work only involved "*an examination of existing documentary and web sources and a non-intrusive walk over survey*" and that nothing new was learned. Section 1.5 conceded that much of the site i.e. the Tedcastle part, is covered with a concrete slab, that the greatest threat to unrecorded features would occur at the construction stage when the significantly likely impacts on any buried archaeology and heritage site would be direct, negative and permanent and that archaeological / materials matters would be sorted out during construction. This is unsatisfactory and an entirely inadequate response to the site conditions and the receiving environment.
- 7.1.14. **Skyline Context** – Dun Laoghaire is fortunate in having landmarks such as St Micheals Church, Mariners Church and the Lexicon as cultural landmark buildings that

provide reference points for consideration when proposals are put forward for material alterations to the skyline. The current proposal would rupture the heritage skyline, leaving the cultural assets of the town seriously degraded.

7.1.15. **Conclusion** – The Board is requested to refuse permission for the following two reasons as summarised:

- 1) The proposed development, by reason of its poor design quality, excessive height, incompatible scale, conflicting finishes and incompatible building line, would constitute an overly dominant and oppressive feature in this heritage streetscape and would seriously injure the visual amenities of the area.
- 2) The proposed development would result in overlooking, overshadowing and loss of privacy to adjoining properties and would seriously injure the amenities of property in the vicinity.

7.2. **Applicant Response**

7.2.1. The first party response to the appeal has been prepared and submitted by Brock McClure Planning & Development Consultants and may be summarised as follows. The response was prepared in consultation with the following consultants:

- 1) Micheal O’Boyle Architecture & Conservation
- 2) Mitchell & Associate
- 3) Archer Heritage Planning
- 4) MOLA Architects

7.2.2. The response has been considered under the following headings as summarised:

▪ **Planning History**

It is noted that the subject site has an extensive planning history within which a suitable proposal has evolved to the current form. Multiple interactions with both, the Planning Authority and ABP together with former decisions and various Inspector and Planners reports have been taken into consideration in progressing this current proposal and have in short framed the design proposed and granted under D24A/0484/WEB (current application). With regard to the most recent ABP decision relating to the appeal site reference is made to ABP 312070-21 where a decision was made to refuse permission on 7th August 2024 for a SHD comprising

146 Build to Rent apartments on the subject site. There were 2 no reason for refusal which related to matters of conservation and dual aspect. Both of these reasons have been comprehensively addressed in the current application. There is significant endorsement on the zoning, density and mix of uses in this recent decision at Board level and similar development parameters have been brought forward under the current proposal. In addition, the Planning Authority are now fully supportive of the current development option for this site.

- **Skyline Context**

The planning application pack, particularly the Architectural and Urban Design Statement and Planning Report have analysed existing baseline, key landmark buildings and protected views in the surrounding context. It is submitted that they have been carefully considered, and the site has been informed by these inputs. Verified views include long distance and medium distance views from both west and east pier to show an impact on seafront. Particularly long distance views 5 and 6 show an impact of the proposed development on skyline. The L&VIA concludes that there are no fundamental concerns in relation to key landmark buildings, protected structures and protected views in terms of impact from the proposed development and third party assertions in relation to impact to skyline are unsubstantiated.

- **Heritage Context**

It is submitted that the proposal has been informed by the existing surrounding context and also the local, regional and national planning context governing the site. The appeal site has the benefit of an NC neighbourhood centre zoning and is the last remaining site with such a designation within the wider Dun Laoghaire context. The proposed design represents a well-conceived and sensitively designed development that responds sensitively and positively to the physical, social and planning context within which it is proposed. In a broader context, the proposed buildings are designed to sit appropriately within the existing seafront in terms of scale, tone and finished details, particularly in the context of views from the East and West piers. It is also appropriately scaled in the local architectural context but will provide a sense of gateway or arrival to the town when entering from the Old Dun Leary Road. The impact of the proposed development on the

local landscape is therefore generally positive. Reference is made to the Verified views submitted with the application.

- **Protected Structure**

Careful attention has been given to matters raised during the planning process with an appropriate response to FI requested in relation to Dun Leary House. The presence of this Protected Structure on site has from the outset been the focal point and main consideration within the overall scheme and specifically in terms of how the layout and overall principle of development at this site has evolved. The proposed newbuild blocks will be detached and set back from Dun Leary House. This is a significant departure from and improvement on the previous application. The southern part of proposed Block 1, to the immediate north of the protected structure, has been revised and stepped back to reduce the impact of the scale, massing and height on Dun Leary House. These FI changes were also welcome in the Planning Authority Conservation report dated 9th January 2025. As stated in the Planners Report, the Planning Authority concurs with the Conservation Officer, that the modulation in massing and height to the rear of Block 1 makes a positive contribution to the relationship between the Protected Structure and the subject block. Dun Leary House has been proposed as a co-working space in the FI stage. This proposal contributed to activation of public realm and a delivery of a mixed used development on NC zoned lands and was perceived positively by the Planning Authority. The provisions for curtilage of a protected structure within the legislation are primarily concerned that manmade features of interest are appropriately protected. Given that there are no features of special interest within the former coal yard, the extent of the curtilage is of no great relevance in this case.

- **Scale & Bulk**

The presence of a Protected Structure on site was the starting point for the design layout with the design evolution ensuring that this structure remains the anchor and focal point of any redevelopment proposal for this site. Careful consideration was given to adjoining properties. For Block 1 and its relationship to Clearwater Cove separation distances of approx. 3m are observed at first to fifth floor levels, whilst sixth and seventh floor levels have setbacks allowing for a separation distance of 5.5m – 13.4m. There are no instances of directly overlooking windows proposed on this eastern elevation, which is a key point in the consideration of the

relationship of Block 1 to Clearwater Cove. Separation distances to De Vesci House and other properties in the area all exceed 16m in accordance with the Sustainable Residential Development and Compact Settlement Guidelines. It is submitted that the proposed development does not overlook any residential amenity in the surrounding area. The proposed height is compliant with both the Urban Development and Building Height Guidelines for Planning Authorities and the Development Plan contains a Building Height Strategy (appendix 5). The performance-based criteria as set out in Appendix 5 have been listed and addressed in Appendix 2 of the Planning Report submitted with the application. On the whole the Planning Authority have found favourably in relation to the scale and massing of the current proposal in terms of the relationship of the proposal to third parties noting specifically in their concluding comment of their report that *“it is considered that the proposed development would not adversely impact on the residential amenity of adjacent properties by reason of overshadowing or overbearing nor would it unduly impact on the setting of Dun Leary House (a Protected Structure).* This is a welcomed endorsement of the scheme as it related to third parties and the setting of Dun Leary House.

- **Ownership / Title**

The site consists of land in the applicants ownership (0.3ha) and lands controlled by DLRCC (0.44ha). Lands which as the subject of the proposed public realm works within the control of DLRCC include associated footpaths and carriageways of the Old Dun Leary Road, Cumberland Street and Dunleary Hill. A letter of consent from DLRCC has been obtained on 2nd July 2024. Attention is drawn to Section 34(13) of the Planning and Development Act 2000, which related as follows:

(13) A person shall not be entitled solely by reason of a permission under this section to carry out any development.

- **Basis for Density Calculation**

Appendix B of the Sustainable Residential Development and Compact Settlements Guidelines set out a methodology for measuring net site area and density for mixed use development. It is submitted the net developable area of 0.447 ha has been identified in accordance with the Guidelines. Subsequently, the density has been

calculated as follows which aligns with the requirements of Appendix B of the Guidelines:

Metrics	Quantity	Unit of Measurement
Residential GFA as a portion of development	94.41%	%
Site Area for Density purposes	0.422020969	Ha
Residential Density	199.0422422	Density / Hectare

▪ **E Planning vs Paper**

Planning applications online lodgement is a common practise in Ireland. All drawings are scaled, and site layout plan shows dimensions indicating distances from existing structures in accordance with Planning & Development Regulations 2001 (as amended).

▪ **Public Open Space**

The proposal is not reliant on adjoining gardens for public open space. A shortfall of public open space on this infill site is noted. The applicant welcomes Condition No 29 related to financial contribution in lieu. It is submitted that contributions in lieu is fully supported by the Development Plan and Policy and Objective 5.1 - Public Open Space of the Sustainable and Compact Settlements Guidelines for Planning Authorities (2024). It is submitted that there is a number of parks and public open spaces within 1.5km radius of the appeal site and listed in the response. The site is also proximate to the west pier of the harbour and the future coastal mobility route scheme which are additional amenities available to the site. The proposal is considered to align with requirement for public open space and the potential for the applicant to avail of a partial contribution in lieu.

▪ **Construction Hours**

Conditioning of working hours are considered to be standard. In compliance with Condition No 17 a detailed site specific Construction Management Plan will be submitted to the Planning Authority for written agreement. Condition No 17 also addresses noise which maximum level cannot exceed limits established by BS5228. It is submitted that the applicant will adhere to these conditions.

- **NC Zoning**

Compliance with the NC zoning has been raised as Item 1 in the FI request. In the response to this the scheme has been redesigned to provide for an increase from 120.5 sqm to 559.1 sqm of non-residential floor area which represents an increase from 1.22% to 5.59% of the overall GFA. It is submitted that the proposed commercial component of the development will contribute positively towards the NC Zoning and Section 7.5.4.1 Policy Objective RET7. The Planning Authority was also satisfied with the proposed revision and the further increase of commercial space. Subject to Condition No 2 of the notification of decision to grant permission issued by DLRCC to increase the floor area of Retail Unit 2, the proposed amendments represent an appropriate mix, range and type of uses and therefore, accords with the requirements of Section 7.5.4.1 Policy Objective RET7 Neighbourhood Centres of the County Development Plan 2022 – 2028.

- **Housing Mix**

As per Housing Quality Assessment submitted, there is no 2-bedroom 3 person apartments proposed in the scheme. The proposed unit mix at the FI Stage was as follows:

Total – 84 no units

- 22 no 1 bed (26%)
- 0 no 2 bed (3 person) (0%)
- 40 no 2 bed (4 person) (47%)
- 22 no 3 bed (26%)

The proposed unit mix is fully in compliance with the Development Plan and the Sustainable Urban Housing: Design Standards for New Apartments Guidelines (2023).

- **Overshadowing / Overlooking**

Daylight, Sunlight and Overshadowing Report submitted. Within this assessment impact on De Vesci Apartments, Salthill House and the top floor apartment at Clearwater Cove was assessed and that there is a negligible impact to the surrounding units.

- **Archaeological Concerns**

There is no specific condition in relation to archaeology listed in the Second Schedule save the general requirement to tie into the reports submitted with the application. In the Archaeological Assessment, monitoring of the groundworks have been recommended. The monitoring recommendation will cover any groundworks for the footpath upgrade and signal junction to any impact outside the core area is covered.

▪ **Conclusion**

The applicant welcomes the recent grant of permission issued by DLRCC for development on lands at the former Ted Castles site and Dun Leary House (a Protected Structure RPA 2131). The issues raised in the third party appeal are ill informed and unsubstantiated. The Board is asked to uphold the decision of DLRCC to grant planning permission.

7.3. Planning Authority Response

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

7.4. Observations

- 7.4.1. There are 3 no observations recorded on the appeal file from (1) Senator Victor Boyhan, (2) Ed & Silvia Greevy and (3) Chris Doorly.
- 7.4.2. The issues raised relate to impact of the scheme on existing residential amenities, failure to address appropriate scale or respect the pattern of existing development particularly at Old Dunleary and Cumberland Street, impact to Dun Leary House (Protected Structure), adequate provision of private and public open space, excessive height proposed, visual impact, overdevelopment, poor quality layout, conflict with the provisions of the current DLR Development Plan, proposed 8 storeys is oversized, aggressive and invasive, slight adjustments are unacceptable and a complete re-examination is required, impact to De Vesci house, traffic impact, no consideration for existing homeowners in the area, concerns raised in the various applications have not been addressed in a meaningful way, there is no major improvement or addition to the public realm and as there is a lot of details to be clarified it is submitted that 30

conditions is not an appropriate way of dealing with this. A well-considered residential development on this site is supported but the Board is requested to refuse permission for what is currently proposed.

7.5. Further Responses

7.5.1. None

8.0 Assessment

- 8.1. This assessment is based on the plans and particulars submitted to DLRCC on 4th July 2024 as amended by further plans and particulars submitted to DLRCC by way of further information on 12th December 2024 and 17th December 2024 (revised public notices) together with the submissions received in relation to the appeal.
- 8.2. I note that the appellant raises concerns that the submitted drawings are difficult to read and interpret online and that many of the issues raised submissions to DLRCC were not properly addressed.
- 8.3. Planning permission in Ireland is moving towards a paperless and environmentally friendly domain where access to planning applications is available 24/7. As pointed out by the applicant online lodgement is a common practise in Ireland and where all drawings are scaled, and site layout plan shows dimensions indicating distances from existing structures in accordance with Planning & Development Regulations 2001 (as amended). Further the digital application was accepted by DLRCC, and it is not for An Bord Pleanála to determine otherwise at this juncture. While I appreciate the documented difficulties encountered by the appellant it remains that this does not appear to have prevented the concerned party from making representations.
- 8.4. With regard to the assessment of the scheme by DLRCC S.37(1b) PDA requires that the Board determines the application the subject of the appeal as if it had been made to the Board in the first instance. This is often referred to as a de novo assessment. Therefore, having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report/s of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive planning issues in this appeal to be considered under the following general headings:

- Principle
- Protected Structure and Heritage Context
- Height
- Residential Amenity
- Public Open Space
- Condition No 15
- Legal Interest
- Archaeology
- Construction Hours
- Finishes
- Conditions

8.5. Principle

- 8.5.1. The operative plan for the area is the Dun Laoghaire Rathdown Development Plan 2022-2028. The site is zoned Objective NC with the objective "*to protect, provide for and or improve mixed-use neighbourhood centre facilities*". There is a Protected Structure known as Dun Leary House RPS 2131 located on the subject site which is subject to Specific Local Objective SLO 37 that requires that *Dunleary House (Yellow Brick House) and associated boundary be retained in situ and renovated and ensure its rehabilitation and suitable reuse of the building which makes a positive contribution to the character and appearance of the streetscape at this location.*"
- 8.5.2. I refer to Section 2.0 Proposed Development above for a detailed description of the scheme together with amendments received by way of further information. Section 2.8 above provides a summary of these key changes. The amended scheme a new 5-8 storey development in 2 no. Blocks with 84 no residential units (22 no. 1 beds, 40 no. 2 beds (4 person) and 22 no. 3 beds), 2 no retail units (Retail Unit A (140 sqm) and Retail Unit B (106 sqm)), refurbishment and change of use of Dun Leary House (Protected Structure) to a co-working space (293.1 sqm), together with shared internal residential amenity space and communal open space, public realm improvements on Old Dun Leary Road And Cumberland Street (including pedestrian crossings on all arms), landscaping, bicycle and car parking spaces.

- 8.5.3. Overall, I am satisfied that the proposed uses comply with the zoning objectives of the DLRDP and that no issues arise in this regard. This is subject to the further detailed consideration of the scheme below.
- 8.5.4. The site is also located within a transitional zone area being a Neighbourhood Centre zoned site adjacent to an “A” zoned site and therefore I refer to Section 13.1.2 Traditional Zoned Areas of the Development Plan where it states that *it is important to avoid abrupt transitions in scale and use in the boundary areas of adjoining land use zones* and that *in dealing with development proposals in these contiguous transitional zonal areas, it is necessary to avoid developments which would be detrimental to the amenities of the more environmentally sensitive zone such as zones abutting ‘residential areas’* and where *particular attention must be paid to the use, scale and density of development proposals in order to protect the amenities of these residential properties*. The impact to residential amenity is discussed separately in Section 7.8 of this report below.
- 8.5.5. The site directly abutting the appeal site to the east is a 6-storey apartment development called Clearwater Cove on lands zoned “A” where the objective is to *provide residential development and improve residential amenity while protecting the existing residential amenities* in the current Development Plan 2022 – 2028. I agree with the comments of the Case Planner that having regard to the nature and extent of “A” zoned lands to the east, the zoning objective for the appeal site as a Neighbourhood Centre, and the large residential component of the scheme it is considered that the principle of the development would be commensurate with the adjacent “A” zoning objective.
- 8.5.6. I am also satisfied no transitional impacts arise with the existing apartment development to the west of the appeal site having regard to the relatively wide public road and footpaths located between both that provides a relatively substantial setback between both sites. The impact to surrounding properties is discussed in further detail in Section 7.7 Height and Section 7.8 Residential Amenity of this report below.
- 8.5.7. In the consideration of the retail units proposed (as amended) in relation to the Neighbourhood Centre Zoning of the site I refer to Section 7.5.4.1 Policy Objective RET7 of the Development Plan that sets out the following:

It is a Policy Objective of the Council to support the development of the Neighbourhood Centres as the focal point of the communities and neighbourhoods they serve, by way of the provision of an appropriate mix, range and type of uses – including retail and retail services – in areas zoned objective ‘NC’ subject to the protection of the residential amenities of the surrounding area.

- 8.5.8. The Development Plan further states that the function of Neighbourhood Centres is to provide a range of convenient and easily accessible retail outlets and services within walking distance for the local catchment population and that, subject to the protection of residential amenities, a number of the larger Neighbourhood Centres are capable of being promoted as local mixed-use nodes accommodating a range of uses beyond simply retailing or retail services.
- 8.5.9. The scheme as lodged in July 2024 included a retail unit (108.5 sqm) and a public art display area (12 sqm). The revised proposal submitted by way of FI provides for a retail unit A (140 sqm) on the Old Dun Leary Road – Cumberland Street corner with an additional retail unit B (106 sqm) provided on the ground floor level with frontage onto Old Dun Leary Road. This provides for an increase from 120.5 sqm to 559.1 sqm of non-residential floor area which represents an increase from 1.22% to 5.59 % of the overall GFA. The amended scheme has introduced a curved design approach to address the Cumberland Street –Old Dun Leary Road and the increased retail floor area has resulted in the activation of street frontage along Cumberland Street and Old Dun Leary Street, a prominent urban corner. New public realm works are also proposed on the curved junction between Cumberland Street and Old Dun Leary Road (on the north-west corner of the site). The removal of the boundary wall on front of Block 1 at this location is discussed in Section 7.6 of this report below.
- 8.5.10. The Case Planner in their report acknowledged the uniqueness of the site, being in close proximity to the nearby centres of Monkstown (200m) and Dun Laoghaire (300m) and also the existing Neighbourhood Centre uses in operation to the north of the site (directly across the road) being a public house, café and petrol station / convenience store. Notwithstanding the location of the site relative to the foregoing uses I share the concerns raised by the Case Planner in that there is a further opportunity to increase the interaction with Old Dun Leary Road and that this can be achieved by relocating the proposed accessible car parking space at ground floor level in lieu of 2

no standard space and increasing the floor space of Retail Unit 2 in order to increase the glazing / active frontage to the façade along the street. DLRCC dealt with this by way of Condition as follows. Condition No 2 of the notification of decision to grant permission refers.

Prior to the commencement of development, the applicant shall submit the following for the written agreement of the planning authority prior to the commencement of development:

- a) Floorplan and Elevation drawings showing the relocation of the in-curtilage accessible car parking space in lieu of 2 no. standard car parking space and resulting increase in floorspace and shopfront glazing/fenestration to Retail Unit B.*
- b) Floorplan and Elevation drawings showing the inclusion of a projecting, angled (south facing) window to Bedroom 'L' in Unit A-6-8 at 6th floor level of Block 1.*

REASON: In the interests of the proper planning and sustainable development of the area

8.5.11. I agree with these amended and recommend that should the Board be minded to grant permission that a similar condition be attached. Condition No 2 in the Recommendation section of this report below refers. Subject to this condition I am satisfied that subject to the recommended changes above that the proposed commercial component of the development (as amended) will contribute positively towards the 'NC' zoning for the site and Section 7.5.4.1 Policy Objective RET7.

8.5.12. It is noted that the proposed revisions by way of FI have also led to the reduction of proposed car parking spaces from 17 no. to 11 no. as suggested by the Local Authority and that the foregoing recommended condition reduces car parking further to 9 no spaces. I am satisfied that this revised proposal remains in compliance with guidance offered by the Sustainable Residential Development and Compact Settlements Guidelines (2024) by way of SPPR 3 Car Parking. Notably, this specific planning policy requirement seeks to minimise, substantially reduce or wholly eliminate parking at key urban neighbourhood centre locations.

8.5.13. **Demolition** – The scheme proposes the demolition of an open fronted shed (367 sqm) and associated structures to the north and northeast of the site. The shed is not

considered to be of any particular architectural merit. Given the existing policies at both local and at national level in relation to intensification of use and density in built up areas, the retention of this building is not justified and demolition is considered acceptable.

8.5.14. **Density** – Concerns is raised in the appeal that any exaggeration of the site area can have implications for density measurement and that a density based on the actual site area of 0.31 ha and making allowance for the retail element, amounts to 291 UPH. That is considered to be quite excessive within this heritage setting.

8.5.15. As set out in section 12.3.3.2 of the Development Plan as a general principle, and on the grounds of sustainability, the objective is to optimise the density of urban development in response to type of site, location, and accessibility to public transport. In general, the number of dwellings (houses or apartments) to be provided on a site should be determined with reference to the current Development Plan and relevant Government Guidelines. The current Development Plan specifically refers to the 'Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities' (2009) and the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2020). Even though the Sustainable Residential Development in Urban Areas Guidelines (2009) have been revoked at a national level, because the Development Plan still includes them I have considered same and I am satisfied that there is no conflict between the revoked guidelines and the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) which are now in their place in the consideration of this proposed scheme (as amended).

8.5.16. To this end I refer to the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) as the most relevant Guidelines with which to assess the density of the scheme now before the Board particularly having regard to its location proximate to high quality and high frequency public transport routes (400m to Salthill DART Station and 850m to Dun Laoghaire DART station and an array of both existing and planned bus routes). Table 3.1 - Areas and Density Ranges Dublin and Cork City and Suburbs states that within *City - Urban Neighbourhoods* such as this site, that are described as *highly accessible urban locations with good access to employment, education and institutional uses and public*

transport it is a policy and objective of these Guidelines that residential densities in the range 50 dph to 250 dph (net) shall generally be applied.

8.5.17. Appendix B of the Sustainable Residential Development and Compact Settlements Guidelines set out a methodology for measuring net site area and density for mixed use development. Table 1 of the Appendix B lists areas included in net site area as follows.

- Local Streets as defined by Section 3.2.1 DMURS
- Private and semi-private open space
- Car parking, bicycle parking and other storage areas
- Local parks such as neighbourhood and pocket parks or squares and plazas
- All areas of incidental open space and landscaping

8.5.18. It is submitted that the net developable area of 0.447 ha has been determined in accordance with the Guidelines and includes Cumberland Street in calculations as it holds the definition of a local street in accordance with DMURs. I agree that the scheme will deliver a suite of public realm upgrades for this local street which further warrant its inclusion in net site area figures. The Planning Authority did not raise any issues with regard to the inclusion of Cumberland Street in the net area calculations. I consider its inclusion to be acceptable in this instance and that the net developable area of 0.447 is acceptable. The metrics pertaining to the scheme (as amended) may be summarised as follows:

Metrics	Quantity	Unit of Measurement
Net Site Area	0.447	m ²
Overall GFA (Dunleary House + Block 1 + Block 2)	10005.1	m ²
Residential GFA	9446	m ²
Non-Residential GFA	559.1	m ²
Non-Residential GFA	5.92%	%
Number of Units	84	Units

8.5.19. Appendix B: Measuring Residential Density of the Sustainable Residential Development and Compact Settlements Guidelines sets out the method for calculating residential densities within mixed use schemes whereby planning authorities shall exclude the % of non-residential uses in proportion to the net site area. Having regard to the foregoing metrics the density has been calculated as follows which aligns with the requirements of Appendix B of the Guidelines:

Metrics	Quantity	Unit of Measurement
Residential GFA as a portion of development	94.41%	%
Site Area for Density purposes	0.422020969	Ha
Residential Density	199.0422422	Density / Hectare

8.5.20. A residential density of 199 units (as amended) per hectare is proposed. This is based on the full extent of the net developable site area of 0.447 ha and a proposal for 84 residential units (as amended). I am satisfied that this proposal aligns with Table 3.1 of the Sustainable Residential Development and Compact Settlements Guidelines (2024).

8.5.21. Given the site's location, its proximity to high quality and high frequency public transport routes and to employment centres, as well as connectivity with higher-order urban services and facilities, I am satisfied that the site can sustainably support a higher-density development, such as is proposed. The density is appropriate given the location of this brownfield and infill development and the need to deliver sufficient housing units within Cities and Metropolitan (MASP) Areas, the need to ensure efficient use of land and the maximum use of existing public transport infrastructure.

8.5.22. **Housing Mix** – The appellant raises concern that Section 12.3.3.1 of the Development Plan states that 2-bedroom 3 person apartments shall not comprise more than 10% of any private residential scheme and that the application as lodged, proposed 37 of the 88 units to comprise 2-bedroom units i.e. 42%. It is submitted that this proportion would represent a material contravention of the Development Plan.

8.5.23. Section 12.3.3.1 Residential Size and Mix of the Development Plan states that applications received in both new residential communities and within the residual built

up area shall include *no more than 10% of the total number of units in any private residential development may comprise of two-bedroom three-person apartment types.*

Table 12.1 Apartment Mix Requirements provides that apartment developments of 50 plus units may include up to 80% studio, one and two bed units with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios with a minimum 20% 3+ bedroom units.

8.5.24. As per Housing Quality Assessment submitted, there is no 2-bedroom 3 person apartments proposed in the scheme. The proposed unit mix at the FI Stage was as follows:

Total – 84 no units (as amended)

- 22 no 1 bed (26%)
- 0 no 2 bed (3 person) (0%)
- 40 no 2 bed (4 person) (47%)
- 22 no 3 bed (26%)

8.5.25. Having regard to the findings of the Housing Strategy and HNDA the proposed provision of residential units in this planning application shall provide a good mix that reflects existing, and emerging household formation, housing demand patterns and trends identified locally and within the County. I am satisfied that the proposed unit mix (as amended) is fully in compliance with the Development Plan and that no matters relating to a material contravention of the Development Plan arise in this regard.

8.5.26. **Private Amenity Space** - As documented, in 2024 the Board refused permission for a SHD (146 BTR Units) for 2 no reasons (ABP312070-21 refers). The second reason identified the proportion of units without private amenity space as being a substandard form of new development.

8.5.27. Section 12.8.3.3 of the Development Plan sets out the private open space requirements for various housing types. With regard to this proposal, the private open space for Apartment Developments apply and are taken from the Sustainable Urban Housing: Design Standards for New Apartments (2023) as follows. Table 12.11 refers and defines minimum space specifically for balconies / winter gardens.

Type / No of Bedrooms	Minimum Square Metres
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Studio	4 sqm
One	5 sqm
Two (3 person)	6 sqm
Two (4 person)	7 sqm
Three	9 sqm
Four +	12 sqm

8.5.28. Private open space is delivered in the form of balconies / terraces throughout the residential element of the development (as amended) as follows. It is noted that the balconies were consolidated / recessed with the addition of privacy screens in the further information response. This will ensure no undue overlooking effects between respective apartment balconies can occur.

Block 1 (76 no units)

- 22 no 1 bed apartments - private amenity space between 5.4 sqm and 7 sqm.
- 38 no 2 bed (4 person) apartments - private amenity space between 7 sqm and 34 sqm
- 16 no 3 bed apartments - private amenity space between 9 sqm and 44.7 sqm

Block 2 (8 no units)

- 2 no 2 bed apartments - private amenity space of 8.4 sqm.
- 6 no 3 bed apartments - private amenity space between 13 sqm and 17.5 sqm

8.5.29. I am satisfied that the proposed apartments (as amended) include private open space in accordance with the requirements of Section 12.8.3.3 of the Development Plan and the Apartment Guidelines 2023 and Compact Settlement Guidelines 2024 and is therefore acceptable. I am satisfied that no issues arise with regard to the provision of private amenity space to apartments in this scheme (as amended).

8.5.30. **Dual Aspect** – As documented, the Board refused permission for a SHD (146 BTR Units) in 2024 for 2 no reasons (ABP312070-21 refers). The second reason identified the proportion of single aspect units proposed as being unacceptable. The Development Plan sets out that there shall generally be a minimum of 50% dual aspect apartments in a single scheme. Section 12.3.5.1 of Development

Management chapter in the County Development Plan explains Dual Aspect in Apartments. It is set out that:

“Dual aspect is defined having “openable windows on two or more walls, allowing for views in more than just one direction. The window may be opposite one another, or adjacent around a corner. The use of windows, indents or kinks on single external elevations, in apartment units which are otherwise single aspect apartments, is not considered acceptable and/or sufficient to be considered dual aspect and these units, will be assessed as single aspect units.”

8.5.31. Furthermore, the Sustainable Urban Housing Design Standards for New Apartments (2022) provides guidance with respect to the minimum number of dual aspect apartments that may be provided in any single apartment schemes as outlined in SPPR4, that being 33% for central / accessible locations and 50% for suburban / intermediate locations.

8.5.32. The scheme as amended provides for the following:

- 62% (52 no units) are dual aspect
- 38% (32 no units) are single aspect

8.5.33. The proposed development (as amended) delivers 62% new build dual aspect units, which accords with the relevant requirements and is therefore acceptable. I am satisfied that no issues arise with regard to the provision of dual aspect apartments in this scheme (as amended).

8.5.34. Save for the detailed assessment below I am satisfied that the requirements set out for the site in the current Development Plan, National Guidance and the relevant Section 28 Guidelines are addressed as follows.

- I am satisfied that roads have been designed to have regard to DMURS and residential development Guidelines (Section 28 Ministerial Guidelines) and Development Plan standards.
- The development has been designed to encourage active travel modes such as cycling and walking.
- Having regard to the individual apartment floor area, floor to ceiling heights, dual aspect ratios, units per core, internal storage, communal amenity space, private

amenity space, refuse storage, bicycle parking and storage and car parking I am satisfied that the scheme (as amended) complies with the requirements of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines (2022).

8.5.35. Overall, I am satisfied that the proposal has been designed in accordance with the provisions of the DLRCC Development Plan 2022 – 2028, National Guidance and the relevant Section 28 Guidelines. In general terms the scheme represents a positive and sustainable use of zoned, serviced and highly accessible lands. Accordingly, the principle of the scheme is acceptable at this location.

8.6. Protected Structure & Heritage Context

8.6.1. The appellant raises concerns in relation to the impact of the scheme on Dun Leary House (Protected Structure) and the extent of its curtilage and that the intended scheme takes little account of its surroundings, where it is closely adjoined by two ACAs.

8.6.2. In addition to the foregoing concerns, I would also draw the Boards attention to the recently decided (2024) SHD case in relation to this site; ABP312070-21 refers, where following an Oral Hearing in 2022, the Board refused planning permission for the development for 2 no reasons. Further details are provided in Section 4.0 Planning History of this report above. The refused scheme comprised 146 Build to Rent units in blocks ranging in height from 5 to 8 storeys together with the refurbishment, partial removal and adaptation of Dun Leary House to provide office suites. The works to Dun Leary House included partial removal of original walls and floors and removal of non-original extensions to Dun Leary House. The first reason for refusal is relevant to the assessment of the impact of the proposed scheme (as amended) now before the Board in relation to Dun Leary House. This reason for refusal and can be summarised as follows:

The proposed works would not constitute renovation and rehabilitation as required by Specific Local Objective 37 of the Development Plan 2022 – 2028 given the extensive works as originally proposed including the removal of the original fabric internally and the removal of roof form which was stated as essentially a partial façade retention. The alternative design presented at the

Oral Hearing would continue to propose a design and form of new build which would overwhelm Dun Leary House by reason of scale, form, mass and immediate proximity. The scheme would be contrary to the guidance set out in the Architectural Heritage Protection – Guidelines for Planning Authorities (2011) and would be inconsistent with Specific Local Objective 37 and Policy Objective HER8 of the Development Plan 2022 – 2028

- 8.6.3. Specific Local Objective 37 requires that Dunleary House (Yellow Brick House) and associated boundary be retained in situ and renovated and ensure its rehabilitation and suitable reuse of the building which makes a positive contribution to the character and appearance of the streetscape at this location.
- 8.6.4. Policy Objective HER8 Work to Protected Structures requires that such structures are protected from any works that would negatively impact their special character and appearance, all works are carried out under supervision of a qualified professional with specialised conservation expertise, ensure works affecting its setting sensitively sited and designed, and appropriate in terms of the proposed scale, mass, height, density, layout, and materials, ensure that the form and structural integrity of the Protected Structure is retained in any redevelopment, respect the special interest of the interior, ensure that new and adapted uses are compatible with the character and special interest of the building, protect the curtilage of protected structures and protect and retain important elements of built heritage
- 8.6.5. Any development proposals to Protected Structures, their curtilage and setting shall have regard to the 'Architectural Heritage Protection Guidelines for Planning Authorities' published by the Department of the Arts, Heritage and the Gaeltacht.
- 8.6.6. The site was used as a coal depot under the ownership of the Wallace family from the late-nineteenth century, and the yellow brick Dun Leary House was constructed by the Wallace family as a residence in c.1880-1900. The site continued to be used for the storage and supply of coal and fuel throughout most of the twentieth century. The house and yard was acquired by Tedcastle Ltd., Dublin-based oil and fuel importers in the late-1960's. Dun Leary House was refurbished as office accommodation by Tedcastles and a lean-to double-height conservatory extension was added to the north in the 1980's. It is documented that as part of this work, the late-nineteenth century house was extensively remodelled and its refurbishment was comprehensive

and that many of the nineteenth century cornices and fireplaces were replaced with period replicas. However, most of the internal partitions and loadbearing walls were undisturbed and the plan form of the building remains largely intact from the building's original construction. The former coal yard has been vacant since its closure by Tedcastles. The building was most recently in use as an office and a residential unit with 2 no. separate access points. It is stated that Dun Leary House is maintained by the applicants, who have ensured that the building remains occupied and is regularly inspected.

8.6.7. I note that this building was only relatively recently listed as a Protected Structure under the Dún Laoghaire Rathdown County Development Plan 2022-2028. While I agree with the applicant that this is a notable change in terms of the planning context associated with the site it remains that regard for this imposing detached two-storey late-nineteenth-century house occupying a prominent corner site on the approach to Dun Laoghaire from Monkstown (to the west) was and is, in my view, always necessitated. To this end the applicant has proposed the following works (as amended):

- the demolition of the late-twentieth century extension to the north of the house including the lean-to glazed staircase annex, demolition of the adjacent basement structure and part of the internal structure to the north east of the house (approx. 284.8 sq m);
- the refurbishment and internal / external alteration to the late-twentieth century north-east extension; the blocking up of an existing window opening and the creation of a new window opening on the east façade at lower ground floor level; the reinstatement of previously blocked door opening to the south porch (onto Dun Leary Hill); the creation of a new opening on the north side of a vaulted area under the west entrance steps; the demolition of some existing internal partitions and the construction of new partition walls at lower ground floor, ground floor and first floor levels and the creation of a new door opening through a masonry wall between the nineteenth century house and late-twentieth century north-east extension;
- the replacement of modern aluminium frame casement windows with replica timber sash windows; the reinstatement of a timber staircase within the interior of the nineteenth century house; and the conservation-led repairs to the roof, rainwater goods, external facades, boundary walls and railings of 'Dun Leary House'.

- 8.6.8. The revised proposals include for the removal of the curved boundary wall of the former coal yard and for the creation of retail and coffee shop space on the north-west corner of the site. In addition, it is proposed that the interior of the protected structure (Dun Leary House) is to be used as office space (co-working space) across its three floors. This is a change from the initial planning application, which proposed that the protected structure be refurbished as a large single dwelling, consistent with its nineteenth century layout.
- 8.6.9. It is stated that the conservation works to Dun Leary House will remain as previously described under this new use, to include the careful removal of the late-twentieth century glazed extension and the refurbishment of the protected structure as a prominent detached building on the site. The existing roof and chimney stacks will be retained. The separate entrance to the former coal yard public office (off Dun Leary Hill) will be reinstated to highlight the historic dual use of the protected structure. There was no change to the recommended mitigation measures outlined AHIA report submitted with the application together with the following additional measure whereby the vaulted area under west entrance steps is to be reinstated as a ventilated space that is open to the elements.
- 8.6.10. I have considered the information available on file, the relevant policy and objective requirements associated with this site together the recent refusal of planning at this site and taken together with the foregoing I am satisfied that:
- The 1980s extension, including the lean-to glazed staircase annex, is of no architectural significance or heritage value and is a somewhat incongruous presence on the streetscape of Cumberland Street. The demolition of this extension will have a positive impact on the presentation of the protected structure (Dun Leary House).
 - With regard to the internal works to Dun Leary House I consider the works proposed to be well considered and commensurate with protected status of this building and represent a significant departure from the radical intervention and loss of original fabric and roof form that was proposed under the previous scheme (SHD). However, I share the concerns raised by the DLRCC Conservation Officer in relation to the proposed new timber door at Ground Floor Level on the West Elevation. Given that this is an original door it should be retained as opposed to being replaced. I further agree that the conservation-led repairs to the roof,

rainwater goods, external facades, boundary walls and railings of 'Dun Leary House' are to be welcomed and all of which are acceptable in principle. However, no method statements or specifications have been submitted with the application. Again, I agree with the DLRCC Conservation Officer that these matters can be dealt with by way of suitably worded condition. This is discussed further in Section 7.6.11 below.

- The curved wall on the north-west corner of the site, forming the junction of Cumberland Street and Old Dun Leary Road, is to be removed. This change was requested in order to provide improved street activation at this prominent corner in line with the site's 'NC' zoning. The different materials in this wall which have been inserted as the use of the site has evolved, while giving the wall a somewhat disjointed appearance on this prominent corner, are of some interest in providing visual evidence of the evolution of the wall and the wider coal yard site over time. I agree with the applicant that the proposed loss of this wall, which is a feature of moderate significance within the site, will have a slight negative impact on the character of the protected structure. I further agree that the removal of the wall is compensated for by the significant gain to the public realm and street activation at this prominent corner within a 'NC' zoned area.
- The proposed restoration of the protected structure as office accommodation (co-working unit) under the revised proposals will provide a sustainable long-term future for the protected structure and remains a very positive component of the proposed development. this change of use improves the proportion of non-residential spaces for the scheme. This change also removes the requirement for extensive landscaping in the plaza, previously needed to provide private amenity space for the house, allowing the space to be re-imagined as a public open area. This House is proposed to be landscaped emphasising the character of the protected structure and to allow for structure to be perceived from public realm / open space.
- As per the original proposal as lodged in July 2024, Block 1 has been sufficiently set back from Dun Leary House by 10.7m with a careful additional setback incorporated to the upper levels of Block 1 at sixth and seventh floor levels. Block 2 by comparison is a 5-storey block appearing as 3 storeys as it reads from Dun Leary Hill, which makes an appropriate transition of scale for development within

the context of Dun Leary House. Furthermore, the amended plans introduced additional setbacks at 5th, 6th and 7th floor level. Additional setbacks also respond to the proposed height of Block 2 and create a transition between the southern and northern portion of the site in terms of height. In addition, there is a maximum height of 4 storeys now proposed at the Block 1 and Block 2 elevations directly opposing Dun Leary House and this reads as 3 storeys along Dun Laoghaire Hill due to level changes and lower ground floor levels that are not visual from this street elevation.

8.6.11. Notwithstanding the foregoing I also refer to the report(s) of the DLRCC Conservation Officer. This section has no objection to the development as amended, subject to conditions relating to Dun Leary House (Protected Structure). Conditions No 3, 4 and 5 of the notification of decision to grant permission reflects this and can be summarised as follows:

3	Dun Leary House (details to be agreed) a) Retention in situ of the original timber panelled door and leaded glass overlight on the West Elevation. b) Details of new timber staircase and balustrade design
4	Dun Leary House - detailed method statement to include full specification and details of materials and methods to be agreed
5	Dun Leary House – all works to be carried out under the professional supervision of an appropriately qualified architect.

8.6.12. These conditions are considered to be prudent, reasonable and the type of condition that one would expect to be attached to such a scheme. Further, I agree with the detailed nature of Condition No 3 requiring the details of the original timber panelled door and leaded glass overlight on the West Elevation together with the details of the new timber staircase and balustrade design to be agreed. Should the Board be minded to grant permission it is recommended that a similar condition be attached. Condition no 3 as set out in the recommendation below refers.

8.6.13. There will always be tension between the necessity to protect Dun Leary House in situ and to ensure any rehabilitation works make a positive contribution to the character and appearance of the streetscape with the requirement to deliver a high density

mixed use development on the adjoining site that does not overwhelm Dun Leary House by reason of scale, form, mass and immediate proximity (relevant Development Plan Policy and Objectives refer). Having regard to the foregoing I am satisfied that the scheme now before the Board, as amended) comprises a sensitive renovation and rehabilitation of Dun Leary House as required by Specific Local Objective 37 of the Development Plan 2022 – 2028 and that the design, scale, form, mass and immediate proximity of the proposed five to eight storey mixed use development in 2 blocks adjoining Dun Leary House to the north is consistent with the guidance set out in the Architectural Heritage Protection – Guidelines for Planning Authorities (2011) and would be inconsistent with Specific Local Objective 37 and Policy Objective HER8 of the Development Plan 2022 – 2028

- 8.6.14. With regard to the concerns raised in relation to the “curtilage” of the Dun Leary House and that close examination of the building and its surroundings to ascertain the extent / situation of the protected curtilage is necessitated is noted. In this regard I refer to the Architectural Heritage Protection Guidelines for Planning Authorities (2011). The Guidelines note that curtilage is not defined by legislation, but for the purposes of the guidelines it can be taken to be the parcel of land immediately associated with that structure and which is (or was) in use for the purposes of the structure.
- 8.6.15. The subject site was used as a coal depot under the ownership of the Wallace family from the late-nineteenth century, and the yellow brick two storey over basement Dun Leary House was constructed by the Wallace family as a residence in c.1880-1900. The 25” Ordnance Survey map of 1900-10, shows the house with outbuildings and coal storage sheds on the east side of the coal yard, and a large ‘Gas Works’ to the immediate east of the site. The front door to the house was off Cumberland Street (to the west) with a separate entrance (off Dun Leary Hill) to the south, providing direct access to an office, and private gardens on a mid-level terrace to the north. The dual function of the building contributes to the distinctive character and architectural form of Dun Leary House, with a separation of public and private somewhat similar to the purpose-built bank buildings of the late-nineteenth and early-twentieth century. The appeal site represents the western most point of the former industrial lands associated with the storage and distribution of gas and coal in the nineteenth and twentieth centuries.

- 8.6.16. It is evident that while the former coal yard was historically associated with Dun Leary House, the now protected structure was for the most part a family home and had a completely separate use. This is reflected in the specific wording of Specific Local Objective 37 that refers to “*Dunleary House (Yellow Brick House) and associated boundary*” only and where same is to be *retained in situ and renovated and ensure its rehabilitation and suitable reuse of the building*. No reference is made to the former coal yard to the north or any other parcel of land associated with the house. I am satisfied having regard to the Architectural Heritage Protection Guidelines for Planning Authorities (2011) together with Specific Local Objective 37 as set out in the current Development Plan that the curtilage of Dun Leary House extends to *Dunleary House (Yellow Brick House) and associated boundary* only. The impact to this Protected Structure (and associated boundary) is a pertinent concern in the consideration of this scheme and has been discussed in the foregoing section of this report. I am satisfied that no issues arise with regard to the extent of curtilage in this case.
- 8.6.17. With regard to the consideration of the scheme in relation to its surroundings and in particular where it is closely adjoined by two ACAs, the Board will note that matter is referenced throughout my assessment of the scheme here. While the site is not located within a designated ACA the site is immediately adjacent to two Architectural Conservation Areas – Monkstown ACA (to the west) and Vesey Place, De Vesci Terrace, and Willow Bank ACA (to the south). As stated in the Architectural Heritage Impact Assessment Report, while Dun Laoghaire Harbour is not an ACA, it is an area of considerable architectural significance and heritage value. The East and West Piers, Traders Wharf, the Coal Harbour and Coal Quay are all included on the Record of Protected Structures. Therefore, the visual impact of the proposed development on the harbour and the neighbouring ACAs requires careful consideration. I also refer to the LVIA submitted with the application in this regard and in particular Verified View 19 which assesses an impact on the Protected Structure of Longford Terraces to the ACA within which they lie, namely Vesey Place, De Vesci Terrace, and Willow Bank ACA (to the south) and also Verified View 21 which assesses an impact from the main road (R119). While Verified View 21 is at a slightly different location and angle to that referenced by the third party, I agree with the applicant that the location was selected is the most appropriate location for the assessment.

- 8.6.18. The existing site is an underutilised, largely unoccupied brownfield site zoned for development and marked as “*opportunities/ potential development to be explored*” in the Development Plan 2022 - 2028 and Interim Dun Laoghaire Urban Framework Plan (Appendix 17 of the Development Plan) respectively. A development (as amended) of appropriate density, scale and mix of uses has been brought forward that aligns with the requirements of the Development Plan, relevant ministerial guidance and within the locational context of the site proximate to local public transport. Matters of height are discussed separately in Section 7.8 of this report below where it was concluded that the proposed height was acceptable. I am satisfied that the scheme before the Board, as amended, responds sensitively and positively to the physical, social and planning context within which it is proposed. I further agree with the applicant that in a broader context, the proposed buildings are designed to sit appropriately within the existing seafront in terms of scale, tone and finished details, particularly in the context of views from the East and West piers. It is also appropriately scaled in the local architectural context but will provide a sense of gateway or arrival to Dun Laoghaire when entering from the Old Dun Leary Road.
- 8.6.19. The scheme delivers an appropriate development of an appropriate scale in a manner which complements the existing urban landscape and public realm. Overall, the impact of the proposed development on the local landscape is considered to be generally positive and that it will not detract from the adjacent two Architectural Conservation Areas – Monkstown ACA (to the west) and Vesey Place, De Vesci Terrace, and Willow Bank ACA (to the south).

8.7. Height

- 8.7.1. The appellant submits that the height of the scheme would be out of scale and proportion with its neighbours (Clearwater) and that the set back at upper levels are tokenistic and does not resolve the fundamental issue of excessive height at this location. It is further submitted that the height proposed would create an imbalance in the streetscape and would alter the skyline.
- 8.7.2. The Development Plan 2022 - 2028 contains a Building Height Strategy (Appendix 5), which is the relevant planning context for the assessment of the proposed height in this case. The Building Height Strategy implements the relevant policies and

objectives of the Urban Development and Building Height Guidelines (2018). The Building Height Strategy specifically outlines that the performance criteria outlined in Table 5.1 satisfactorily incorporates the criteria associated with SPPR 3 and Section 3.2 of the Guidelines.

8.7.3. The Council policy in relation to building height throughout the County is detailed in three policy objectives as set out in the Building Height Strategy (BHS) (Appendix 5):

- Policy Objective BHS 1 – Increased Height.
- Policy Objective BHS2 – Building Height in areas covered by an approved Local Area Plan or Urban Framework Plan (UFP must form part of the County Plan).
- Policy Objective BHS 3 – Building Height in Residual Suburban Areas.

8.7.4. Policy Objective BHS 1 Increased Height is particularly relevant in this case where it is a policy objective to support the consideration of increased heights and also to consider taller buildings in suitable areas well served by public transport links (i.e. within 1000 metre/10 minute walk band of LUAS stop, DART Stations or Core/Quality Bus Corridor, 500 metre/5 minute walk band of Bus Priority Route) provided that proposals ensure a balance between the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity and the established character of the area. (NP0 35, SPPR 1& 3).

8.7.5. Policy Objective BHS2 supports increased height in areas covered by an approved Local Area Plan or Urban Framework Plan (UFP) and where the UFP must form part of the County Plan. The Dun Laoghaire Urban Framework Plan as set out in Appendix 17 of the Development Plan refers. The appeal site is identified as an opportunity site offering potential for development. Policy Objective BHS2 supports increased height and taller buildings where the proposal is assessed in accordance with the performance-based criteria set out in Table 5.1 of the Building Height Strategy.

8.7.6. Traditional building height within the area are typically 2-4 storeys, with some post war developments of about 4-5 storey. As documented by both the appellant and the applicant, generally only the spires of St Michael's Church and Mariner's Church, the Lexicon and the tower of the County Hall rise above this urban skyline. However more recent schemes extend up to a maximum of 7 storeys such as those at Cualanor and Honey Park- on the former Dun Laoghaire golf course. The applicant submits that the following set a precedent for increased height in the wider areas

- c. 20m - West Pier Business Campus further to the west
- c. 30m - Dlr Lexicon Building
- 7-8 storey - Harbour Square
- 7-8 storey - The Anchorage, Residential Development
- 4-8 storey – Permitted St. Michael’s Hospital Car Park Mixed Use Development (D21A/1041 / PL06D.314309 granted on 09/05/24)

8.7.7. Building heights in the immediate vicinity of the site are as follows:

- 6-7 storey - Clearwater Cove Apartments to the east of the site
- 5-6 storey – Da Vesci House Apartments to the west of the site
- 2-3 storey buildings and a single storey service station – to the north west

8.7.8. The proposed development generally ranges from 6 to 8 storeys for Block 1 and 4 to 5 storeys for Block 2 with the greatest height addressing Old Dunleary Road and Cumberland Street with the lower rise blocks framing the protected structure Dun Leary House. The further information submitted introduced additional setbacks at 5th, 6th and 7th floor level with a maximum height of 4 storeys now proposed at the Block 1 and Block 2 elevations directly opposing Dun Leary House so that it reads as 3 storeys along Dun Laoghaire Hill due to level changes.

8.7.9. I refer to the details of the scheme as amended by further information, the Case Planners assessment of same together with the applicant’s assessment of the scheme in accordance with the performance based criteria set out in table 5.1 as set out in the Planning Application Report in assessing the scheme as follows:

Criteria For All Such Proposals	Assessment
At County Level	
Proposal assists in securing objectives of the NPF, in terms of focusing development in key urban centres, fulfilling targets in relation to brownfield, infill development and	The site is an infill brownfield site on zoned lands in the proximity of high frequency public transport (DART/Bus) and the local services and amenities offered by Dun Laoghaire and Monkstown. The site maximises the use of a serviced brownfield site and would contribute to the delivery of compact growth.

delivering compact growth	No issues arise in this regard.
Site must be well served by public transport - i.e. within 1000 metre/10minute walk band of LUAS stop, Dart Stations or Core/Quality Bus Corridor, 500 metre/5 minute walk band of Bus Priority Route - with high capacity, frequent service and good links to other modes of public transport	<p>The site is well served by public transport with the site located c.400m from Salthill/Monkstown Dart station and c.850m from Dun Laoghaire Dart Station. The frequency is 96 services Mon-Fri each direction. The site also avails of a number of bus services from bus stops located within c. 25m and 100 m (services including the 7, 7A and 58 ranging from frequency of 36 to 58 services each direction Mon-Fri). The site is c. 250 from York Road bus corridor with services including the 46A, 63 and 111. The 46A qualifies as a high frequency service with a service every 10 min Mon-Fri.</p> <p>No issues arise in this regard as the site is well served by public transport.</p>
Proposal must successfully integrate into enhance the character and public realm of the area, having regard to topography, cultural context, setting of key landmarks. In relation to character and public realm the proposal may enclose a street or cross roads or public transport interchange to the benefit	The LVIA concludes that the proposed buildings are designed to sit appropriately within the existing seafront in terms of scale, tone and finished details, particularly in the context of views from the East and West piers. The design of the scheme (as amended) together with the public realm works proposed and acceptable design intervention for Dun Leary House (Protected Structure) will deliver an appropriate development of an appropriate scale in a manner which complements the existing urban landscape and public realm. The impact of the proposed development on the local landscape is therefore generally positive.

of the legibility, appearance or character of the area.	No issues arise in this regard as the scale of the scheme (as amended) will benefit of the legibility, appearance or character of the area.
Protected Views and Prospects: Proposals should not adversely affect the skyline, or detract from key elements within the view whether in foreground, middle ground or background. A proposal may frame an important view.	<p>Table 8.1 of the Development Plan outlines the views and prospects to be preserved. The proposed development does not interfere with any of the relevant views.</p> <p>No issues arise in this regard</p>
Infrastructural carrying capacity of area as set out in Core Strategy of CDP, relevant Urban Framework Plan or Local Area Plan.	No issues arise in relation the infrastructural carrying capacity of the area.
At District / Neighbourhood / Street Level	
Proposal must respond to its overall natural and built environment and make a positive contribution to the urban neighbourhood and streetscape.	<p>The proposal has been assessed using the 12 criteria as set out in Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities' (2009) as follows:</p> <p>Context - Having regard to the zoning of the site and the evolving nature of the area, the proposed development provides a suitable transition for the development proposed.</p>

	<p>Connections – This is a neighbourhood centre site which is close to a range of services and facilities and is also well connected to public transport services. The site layout also delivers a permeable urban grain for pedestrians and cyclists with clear access to the coastal mobility route.</p> <p>Inclusivity – The proposed development delivers on an appropriate mix of units that would add to the existing housing stock. There is provision made for universal design of apartments with 5 no. units delivered at level 07.</p> <p>Variety – The proposal delivers a suitable mix of uses that will integrate with the immediate surroundings and wider context at Monkstown and Dun Laoghaire. Importantly, the site is transitional in nature with residential development located on the west, north and east boundaries.</p> <p>Efficiency - The proposed higher density is a more efficient use of this serviced and zoned underutilised site that is in close proximity to high-capacity public transport nodes.</p> <p>Distinctiveness – The design and elevational treatment of the proposed scheme together with the appropriate set back from Dun Leary House (as amended) responds well to the character of the area, the existing building lines and the Protected Structure on site. The proposal would form a landmark feature which would positively contribute to the character and identity of the neighbourhood.</p> <p>Layout - The layout involves 2 separate buildings framed around a Protected Structure which respects the surrounding building lines. The increased height</p>
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	<p>and density would be suitably distanced from neighbouring users.</p> <p>Public Realm - The suite of public realm upgrades proposed will benefit the wider area and improve the connectivity of the site.</p> <p>Adaptability – Climate Change has been factored into the design. Five universally designed units are proposed at Level 07. Units are also in excess of minimum size requirements and allow for adaptability where required. Proposals for Dun Leary House also ensure the future proofing of the building in terms of use.</p> <p>Privacy and Amenity – Specific concerns raised in the appeal in relation to public open space provision being insufficient and are discussed separately below in Section 7.8.</p> <p>Parking – Car parking proposed (as amended) is appropriate for this site given the planning context to reduce and eliminate parking at sites proximate to public transport.</p> <p>Detailed Design - The detailed design, layout and works to Dun Leary House (Protected Structure) makes a positive contribution to the locality.</p> <p>Save for the concerns raised in relation to the inadequate quantitative provision of open space (discussed separately below in Section 7.8) no issues arise in relation the schemes contribution to the urban neighbourhood and streetscape</p>
Proposal should not be monolithic and should	It is evident that careful consideration has been given to ensure that a monolithic appearance is avoided.

<p>avoid long, uninterrupted walls of building in the form of slab blocks.</p>	<p>The variation in scale and massing from Dun Leary House at 3 storeys to Block 2 (5 storeys) to the increased height of Block 1 (8 storeys) all assist with the massing of the scheme while also ensuring that long uninterrupted walls are avoided. The changes in height on the site (as amended) avoid the feel of a monolithic one-dimensional development.</p> <p>No issues arises in this regard.</p>
<p>Proposal must show use of high quality, well considered materials.</p>	<p>The external materials to Dun Leary House (Protected Structure) will be maintained. Proposed materials are set out in the Design Statement and Building Lifecycle Report and are considered acceptable. Specific concerns raised in the appeal in relation to conflicting finishes are discussed separately below in Section 7.13 of this report.</p> <p>Save for the concerns raised in relation to conflicting materials (discussed separately below in Section 7.13) no issues arise in relation to materials.</p>
<p>Proposal where relevant must enhance urban design context for public spaces and key thoroughfares and marine or river/stream frontage.</p>	<p>The scheme proposes local public realm improvements to include the provision of footpath upgrades, a signalised junction on Old Dun Leary Road and Cumberland Street (including pedestrian crossings on all arms), landscaping, bicycle and car parking spaces on Cumberland Street and new public lighting.</p> <p>No issues arise in this regard.</p>

Proposal must make a positive contribution to the improvement of legibility through the site or wider urban area. Where the building meets the street, public realm should be improved.	<p>The proposal includes appropriate and active ground level uses at key locations, as well as significant public realm improvements. Legibility through the site will be delivered by way of a comprehensive landscape plan and a series of permeable connections through the site.</p> <p>No issues arise in this regard.</p>
Proposal must positively contribute to the mix of uses and /or building/dwelling typologies available in the area.	<p>The proposed mix of uses and building/dwelling typologies are acceptable at this location having regard to the zoning objectives for the site. The proposed development contributes positively to the mix of uses and dwelling typologies in the area. The residential unit mix of units proposed (as amended) is acceptable.</p> <p>No issues arise in this regard.</p>
Proposal should provide an appropriate level of enclosure of streets or spaces.	<p>The proposed blocks would provide a suitable level of enclosure for the proposed internal areas of communal open space and indeed the surrounding street.</p> <p>No issues arise in this regard.</p>
Proposal should be of an urban grain that allows meaningful human contact between all levels	<p>The site addresses 3 no. streets providing for active urban frontages enhanced by proposed public realm improvement works that allows meaningful human contact between all levels of buildings and the street or spaces. Well-designed residential amenity on Level</p>

of buildings and the street or spaces.	<p>00 and 01 including landscape communal open space and improved public realm will facilitate human contact.</p> <p>No issues arise in this regard.</p>
Proposal must make a positive contribution to the character and identity of the neighbourhood.	<p>The proposal represents a significant transformation of the underutilised brownfield corner site without negatively detracting from Dun Leary House (Protected Structure). Active frontages of the proposed blocks addressing 3 no. streets enhanced by public realm improvements will complete an existing neighbourhood centre and create an attractive space for both, local residents and visitors.</p> <p>Save for the concerns raised in relation to active frontages and the interaction with Old Dun Leary Road (discussed separately in Section 7.5 above) no issues arise in relation to the scheme's contribution to the character and identity of the neighbourhood.</p>
Proposals must respect the form of buildings and landscape around the sites edges and the amenity enjoyed by neighbouring properties.	<p>The height, scale and massing of the scheme (as amended) responds to the immediate site context without negatively detracting from Dun Leary House (Protected Structure). As discussed in Section 7.8 of this report below the established levels of adjoining residential amenity at Clear Water Cove and De Vesci House are maintained. Established building lines are carried forward into the site.</p> <p>No issues arise in this regard.</p>

At Site/Building Scale	
Proposed design should maximise access to natural daylight, ventilation and views and minimise overshadowing	<p>This matter is discussed in further detail in Section 7.8 below. The units within the new scheme (as amended) are considered to comply with the BRE Guidelines. Further the Daylight Sunlight and Overshadowing Assessment submitted with the scheme confirms that there are to be an acceptable level of access to natural daylight and that overshadowing is minimised on adjacent properties with the proposed development.</p> <p>No issues arise in this regard.</p>
Proposal should demonstrate how it complies with quantitative performance standards on daylight and sunlight as set out in BRE guidance "Site Layout Planning for Daylight and Sunlight" (2nd Edition). Where a proposal does not meet all the requirements, this must be clearly identified and the rationale for any alternative, compensatory design solutions must be set out. On relatively unconstrained sites	<p>The Internal Daylight analysis confirms that the majority of spaces not only meet but greatly exceed the recommendations outlined within the Third Edition (2022) methodology, 98.5% for Criterion 1 and 92.5% for Criterion 2 within the proposed development has been achieved. Sunlight analysis has shown that excellent levels of amenity sunlight will be achieved within the proposed development. At least 2 hours of sunlight are achieved on March 21st on the majority of the amenity spaces provided and thus complying with BRE Guidelines. “</p> <p>It is concluded that all indoor and outdoor spaces within the development as proposed conform with BRE requirements as set out in the ‘Site Layout Planning for Daylight and Sunlight (2002)’.</p> <p>No issues arise in this regard.</p>

requirements should be met.	
Proposal should ensure no significant adverse impact on adjoining properties by way of overlooking overbearing and/or overshadowing.	<p>This matter is discussed in further detail in Section 7.8 below. The scheme (as amended) ensures properties both within the scheme and adjoining properties at Clearwater Cove and De Vesci Apartment will have no undue impact in terms of overbearing or overlooking or over shadowing.</p> <p>No issues arise in this regard.</p>
Proposal should not negatively impact on an Architectural Conservation Area (ACA) or the setting of a protected structure	<p>I refer to Section 7.6 above. The site includes the two-storey over lower ground floor Dun Leary House, a Protected Structure (RPS no. 2131. The subject site is immediately adjacent to two Architectural Conservation Areas – Monkstown ACA (to the west) and Vesey Place, De Vesci Terrace, and Willow Bank ACA (to the south). The scheme does not negatively impact on any ACA.</p> <p>The conservation-led retention and refurbishment of Dun Leary House is an objective of the proposed development. The proposed restoration of the protected structure will provide a sustainable long-term future for the protected structure. There will be no significant impact as a result of the scale, massing and height of the proposed development (as amended) on the character and setting of Dun Leary House.</p> <p>No issues arise in this regard.</p>

<p>Proposals must demonstrate regard to the relative energy cost of and expected embodied and operational carbon emissions over the lifetime of the development. Proposals must demonstrate maximum energy efficiency to align with climate policy. Building height must have regard to the relative energy cost of and expected embodied carbon emissions over the lifetime of the development</p>	<p>The Climate Action / Energy and Energy Sustainability Report submitted with the application concludes that a holistic sustainable approach been adopted by the design team for the proposal.</p> <p>The proposed residential development will comply with residential Part L 2022 (Dwellings), as well as targeting an A2/A3 BER, while the proposed non-residential areas, consisting of common areas, will comply with non- residential Part L 2022 (Buildings other Than Dwellings).</p> <p>No issues arise in this regard</p>
<p>County Specific Criteria</p>	
<p>Having regard to the County's outstanding architectural heritage which is located along the coast, where increased height and/or taller buildings are proposed within the Coastal area from Booterstown to Dalkey the proposal should protect the</p>	<p>The site is located in a coastal area of the County. I refer to the LVIA. Views (1-7) confirm that there is no undue impact from the 2 piers in Dun Laoghaire and the design response to scale and building mass ensure that the scheme (as amended) assimilates into its urban coastal context. As set out in the LVIA the proposed buildings are designed to sit appropriately within the existing seafront in terms of scale, tone and finished details, particularly in the context of views from the East and West piers. The impact of the proposed</p>

particular character of the coastline. Any such proposals should relate to the existing coastal towns and villages as opposed to the coastal corridor.	<p>development on the local landscape is therefore generally positive.</p> <p>No issues arise in this regard.</p>
Having regard to the high quality mountain foothill landscape that characterises parts of the County any proposals for increased heights and/or taller building in this area should ensure appropriate scale, height and massing so as to avoid being obtrusive.	<p>I refer to the LVIA where long distance views show that the proposed development will not have any negative impact and will be not obtrusive in the wider context.</p> <p>No issues arise in this regard..</p>
Additional specific requirements (Applications are advised that requirement for same should be teased out at pre planning's stage).	<p>It is submitted that items raised in pre-planning consultation have been addressed (PAC/LRD1/022/23 refers). Key points of feedback related to the careful consideration of the conservation of Dun Laoghaire House, visual appearance in terms of scale and massing, open space, separation distances and transport.</p> <p>No issues arise in this regard.</p>
Specific assessments such as assessment of microclimatic impacts such as down draft.	<p>Given the heights proposed, the scheme is not considered to have microclimatic impacts such as down drafts.</p>

	No issues arise in this regard.
Potential interaction of building, materials and lighting on flight lines in locations in proximity to sensitive bird/bat areas.	<p>Suitable bird nesting habitat on the site can be found in scrub vegetation. The bat report concludes that the existing buildings on site provide roost potential therefore mitigation measures during construction phase were proposed. Impacts to Natura 2000 sites in Dublin Bay are not predicted to occur.</p> <p>No issues arise in this regard.</p>
Assessment that the proposals allows for the retention of telecommunications channels, such as microwave links.	<p>The Telecommunication Impact Assessment Report submitted with the application concludes that the development will not impact any telecommunications channels and no mitigation measures are required.</p> <p>No issues arise in this regard.</p>
An assessment that the proposal maintains safe air navigation.	<p>It is stated that the applicant has engaged with the Irish Aviation Authority to ensure that safe air navigation space can be maintained. Given the modest heights proposed in this development it is not anticipate that this will be an issue.</p> <p>No issues arise in this regard.</p>
Relevant environmental assessment requirements, including SEA, EIA schedule	An Appropriate Assessment Screening Report, an Ecological Impact Assessment and an Environmental Impact Assessment Screening Report accompany this

information if required AA and Ecological Impact Assessment, as appropriate.	<p>planning application. These matters are dealt with separately below.</p> <p>No issues arise in this regard.</p>
Additional criteria for larger redevelopment sites with taller buildings.	<p>The site area is not considered large in nature and established height in the immediate context of the site reaches to 7 storeys and the current proposal increases on this local context for height by 1 storey.</p> <p>No issues arise in this regard.</p>
Proposal should make a positive contribution to place making, incorporating new streets where appropriate, using massing and height to achieve densities but with variety and scale and form to respond to scale of adjoining development.	<p>The proposed massing and height of the scheme with additional setbacks as provided for in the further information deliver legibility to both the street and wider public realm in this gateway location while avoiding overbearing of adjoining properties. A positive contribution is enhanced by proposed public realm improvements.</p> <p>No issues arise in this regard.</p>
For larger unconstrained redevelopment sites BRE standard for daylight and sunlight/any forthcoming standards on daylight sunlight should be met.	<p>As above, the scheme performs satisfactorily in this regard.</p> <p>No issues arise in this regard.</p>

8.7.10. Having regard to the performance-based criteria as set out above I am satisfied that the proposed height is compliant with both the Urban Development and Building

Height Guidelines for Planning Authorities and the Building Height Strategy (Appendix 5) as set out in the DLR Development Plan 2022 – 2028. I am satisfied that the proposed development (as amended) in respect of height, scale and massing would not appear overbearing or visually dominant relative to adjoining properties including Dun Leary House (Protected Structure) and the wider skyline of the area.

8.8. Residential Amenity

- 8.8.1. The appellant raises concerns with the relationship of the proposed scheme to adjoining properties including De Vesci House having regard to the siting, design and layout of the development. It is submitted that the proposed development would result in overlooking, overshadowing and loss of privacy to adjoining properties and would seriously injure the amenities of property in the vicinity.
- 8.8.2. De Vesci House is an established residential development to the west of the appeal site, a wide public road separates both sites. Clearwater Cove is also an established residential scheme to the east of the appeal site. As discussed above the proposed height of the scheme is compliant with both the Urban Development and Building Height Guidelines for Planning Authorities and the Development Plan contains a Building Height Strategy (Appendix 5). However, having regard to the urban nature of the site and proximity to existing residential developments it is necessary to ensure that new housing integrates well and that the safety and amenity of residential and other sensitive occupiers of adjacent properties is safeguarded to a reasonable extent from loss of residential amenity such by way of overshadowing and overlooking.
- 8.8.3. With regard to overshadowing, I refer to the Daylight, Sunlight & Overshadowing Assessment submitted where the impact of the amended scheme on De Vesci Apartments, Salthill (house) and the top floor apartment at Clearwater Cove was assessed. The sensitive receptors identified for this study are windows of habitable rooms facing the site where the occupants have a reasonable expectation of daylight.
- 8.8.4. In order to demonstrate that the surrounding properties classified as impacted by the proposed development will continue to receive good levels of daylight, a more detailed assessment on internal daylight levels (beyond the VSC analysis outlined in the previous section) has been carried out. This method considers the amount of sky visible from the vertical face of the window and also the window size, room size and

room use. It gives guidance as to the qualitative and quantitative change in daylight. As set out in the Assessment this step is not typically recommended for assessing the impact to adjacent properties as there is generally not enough information of the surrounding properties available. However, it is stated that internal information for the adjacent properties was found in the original planning applications for adjacent properties. Accordingly the following conclusions were reached in the assessment:

Overshadowing - The overshadowing images have shown that there is a negligible impact to the surrounding units when the proposed schemes are assessed on the 21st March test day.

Impact to neighbouring properties - All adjacent properties (apart from one bedroom space) selected for analysis have achieved the minimum Lux level target set out as per the BR209 guidelines. Therefore, it can be shown that excellent levels of daylight will still be achieved once the proposed development is constructed.

- 8.8.5. It is also submitted that when a comparison between the previous scheme design for the Tedcastle site is made against the redesigned scheme, and the current design, less impact to adjacent properties is also noted. A smaller scheme footprint, and recessed terraces/ upper floors all assist in reducing impacts noted to adjacent properties. The lux level analysis shows that the adjacent properties will still achieve excellent levels of daylight in the majority of surrounding properties once the proposed development is built.
- 8.8.6. Results from this additional internal daylight assessments have confirmed that sufficient daylight levels can still be maintained achieved with the adjacent spaces considered impacted by the proposed development. Having regard to the information available I am satisfied that the selected apartments assessed under the lux method have shown that the units in questions will achieve acceptable levels of daylight once the Ted Castles development is in place.
- 8.8.7. With regard to overlooking I refer to SPPR 1 - Separation Distances of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) where it states that:

When considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving

habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained. Separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces

- 8.8.8. For Block 1 and its relationship to Clearwater Cove to the east separation distances of approx. 3m are observed at first to fifth floor levels, whilst sixth and seventh floor levels have setbacks allowing for a separation distance of 5.5m – 13.4m. I have considered the internal layout and elevational treatment of the scheme in relation to Clearwater Cove and I am satisfied that there are no instances of directly overlooking windows proposed on this eastern elevation of Block 1. Separation distances to De Vesci House and other properties in the area all exceed 16m in accordance with the Sustainable Residential Development and Compact Settlement Guidelines.
- 8.8.9. I am satisfied that the applicant has designed suitable privacy measures into the scheme in terms of setback, internal layout and elevational treatment to prevent undue overlooking of habitable rooms and private amenity spaces. Further, I agree with the Case Planner that the proposed development would not adversely impact on the residential amenity of adjacent properties by reason of overshadowing or overlooking.

8.9. Public Open Space

- 8.9.1. The appellant raises concerns that the scheme is entirely inadequate in the provision of public open space and that Conditions Nos 28 / 29, that require payment of very substantial financial contributions towards provision elsewhere of public open space and community facilities reveal how substandard the scheme really is. Submitted that permission should have been refused.
- 8.9.2. Condition No 28 of the notification of decision to grant permission is a standard Section 48 Development Contribution requiring the payment of a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority namely *Community & Parks facilities & Recreational* amenities in this case. The matter of the application of the DLRCC Development Contribution Scheme is addressed in Section 7.15 Conditions of this report below. Condition No

28 of this recommendation refers. No issues arise with the application of the standard Section 48 Development Contribution in this case.

8.9.3. Condition No 29 of the notification of decision to grant permission issued by DLRCC requires the payment of a financial contribution in lieu of open space as per Section 12.8.8 of the DLR CDP 2022-2028. Section 12.8.8 Financial Contributions in Lieu of Open Space of the Development Plan states that where the required open space standards cannot be achieved, the applicant shall provide a contribution in lieu of providing the full quantum of public open space. This will take the form of a contribution towards capital investment in improving the urban realm by creating and/or upgrading local parks and spaces and revenue costs for the maintenance of these spaces.

8.9.4. It is submitted that public open space in the form of an Upper Courtyard at the First floor Level – 150 sqm has been proposed at the FI stage. This public open space is directly accessible from Cumberland Street and contributes towards animation of urban frontage with a connection created between external and internal spaces, retention of existing historic wall and fixed seating. However, notwithstanding the provision of this public open space it remains that there is a clear and documented deficiency in the provision of public open space within the proposed scheme. I refer to the report of the DLRCC Parks and Landscape Services where it states that:

..... the proposed, public realm upgrade within the redline boundary is noted but the scheme does not include a provision of public open space within the blue line, ownership boundary. Section 12.8 of the DLR CDP 2022-2028, states that 15 % of a new residential development site should be allocated to public open space. The area of land within the ownership of the applicant is 0.3 Ha and there is 0% provision of open space. Section 12.8.8 sets out the calculation for a financial contribution in lieu of public open space. This calculation is €7,500,000 per Hectare.

8.9.5. The foregoing comments are taken from the only DLRCC Parks and Landscape Services report on the planning file. While this report was written prior to the submission of the FI and the revised public open space (150 sqm) the overall recommendation remains valid as there is still a significant shortfall. The FI was reflected in the wording of Condition No 29.

- 8.9.6. The applicant in their response to the appeal acknowledges the shortfall in public open space and welcomes Condition No 29 related to financial contribution in lieu.
- 8.9.7. Seeking a financial contribution within the terms of Section 48 of the Planning and Development Act 2000 (as amended) in lieu of provision within an application site is supported by the DLRCC Development Plan and Policy and Objective 5.1 - Public Open Space of the Sustainable and Compact Settlements Guidelines for Planning Authorities (2024) where it states that

In some circumstances a planning authority might decide to set aside (in part or whole) the public open space requirement arising under the development plan. This can occur in cases where the planning authority considers it unfeasible, due to site constraints or other factors, to locate all of the open space on site. In other cases, the planning authority might consider that the needs of the population would be better served by the provision of a new park in the area or the upgrade or enhancement of an existing public open space or amenity. It is recommended that a provision to this effect is included within the development plan to allow for flexibility. In such circumstances, the planning authority may seek a financial contribution within the terms of Section 48 of the Planning and Development Act 2000 (as amended) in lieu of provision within an application site

- 8.9.8. Having regard to the restricted nature of the site together with the policy requirements to provide a higher density development at this location given its proximity to high frequency public transport, employment centres and local facilities and services I consider the provision of public open space in line with documented standards would, on balance be unfeasible. The site is also proximate to the west pier of the DLR harbour and the future coastal mobility route scheme (segregated cycle lane which follows the coast road from Dun Laoghaire north to Blackrock and south to Sandycove) and a number of parks and public open spaces. The applicant has set out the following within 1.5km radius of the appeal site:

- Peoples Park
- Moran Park
- Crosthwaite Park
- Vesey Public Park

- Sea Point Park
- Cualanor Park
- Royal Terrace Square
- Abbot Garden
- The Dillon Garden
- Belgrave Square
- Apna Park
- Myrtle Square & Convent Lane

8.9.9. Having regard to the foregoing and taken together with the recommendation and support of the Planning Authority for the application of such a financial condition I am satisfied that the proposed scheme (as amended) in terms of the provision of public open space is acceptable subject to the payment of a Financial Contributions in Lieu of Open Space. Condition No 26 of the recommendation below refers.

8.10. **Condition 15**

8.10.1. The appellant raises concerns that conditions of the notification of decision to grant permission issued by DLRCC exposes the uncertainty as to the actual extent of the site as such conditions require all of the works, both on the public road and within the site, to be accrued out to the specifications of the Council. While the appellant has not specified which condition they are referring to it would appear that their comments align with Condition No 15 of the Notification decision to grant permission issued by DLRCC as follows:

The Applicant shall ensure that all proposed works, both on the public road and within the site (i.e. road carriageways, kerbs (which must be insitu), footpaths, street lighting, signs, etc) are designed and constructed, at the Applicant's own expense, to meet Dún Laoghaire-Rathdown County Council's 'Taking-in-Charge Development Standards Guidance Document' (June 2022) requirements and 'Taking In Charge Policy Document (May 2022)': and all to the satisfaction of the Planning Authority (Municipal Services Department).

Reason: *In the interests of the sustainable development of the area.*

8.10.2. It is noted that the applicant has discussed and agreed the proposed public realm works with DLRCC and that they in turn have furnished the applicant with a letter of consent in relation to public realm proposal lands and for the inclusion of the said lands in this application and that copy of same was submitted with the application.

8.10.3. In this context and having regard to Condition No 15 above I consider same to be reasonable and necessary. While I note the Boards standard condition in this regard, I consider that a more detailed condition such as that outlined above is necessary given the particular nature of the development as described in the public notices as follows:

*Significant **Public Realm improvements** are also delivered and include the provision of footpath upgrades, a signalised junction on Old Dun Leary Road and Cumberland Street (including pedestrian crossings on all arms), landscaping, bicycle and car parking spaces on Cumberland Street and new public lighting.*

8.10.4. Accordingly, it is recommended that should the Board be minded to grant permission that the foregoing condition as set forth by DLRCC be attached. Condition No 16 as set out in the recommendation below refers.

8.11. Legal Interest

8.11.1. I note the concerns raised by the applicant regarding the applicant's legal estate and interest in the site and that a letter of comfort from a Council official is not adequate in these circumstances as any exaggeration of the site area has implications for density, open space, car parking spaces etc.

8.11.2. As set out previously the appeal site comprises lands in the ownership of the applicant Ted Living Limited (0.3 ha) and lands which are the subject of the proposed public realm works, which are within the control of Dun Laoghaire Rathdown County Council (0.44ha). A letter of consent from DLRCC dated 2nd July 2024 has been submitted.

8.11.3. In terms of the legal interest, I am satisfied that the applicants have provided sufficient evidence of their legal intent to make an application. Any further legal dispute is considered a Civil matter and are outside the scope of the planning appeal.] In any case, this is a matter to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act.

8.12. Archaeology

8.12.1. The appellant raises concerns that there are inaccuracies in the Archaeological Report submitted with the application and that overall the examination of the site is unsatisfactory and an entirely inadequate response to the site conditions and the receiving environment.

8.12.2. I refer to the Ted Castles Site Archaeology and Cultural Heritage Report submitted with the application. There are no Record of Monuments and Places (RMP) sites in or adjacent to the subject site. I note that this study has employed a variety of sources in conjunction with nonintrusive walkover survey in order to assess the cultural heritage risk associated with the project. The following conclusions are presented in order to ascertain any likely significant potential direct and indirect impacts which the proposed development may have:

- The application area is moderate in scale, occupying an area of circa 0.74 hectares on the edge of Dún Laoghaire harbour.
- The site has been extensively levelled with large quantities of fill material and the site survey confirmed that much of the site is covered in a concrete slab.
- There are no recorded monuments situated within the site boundary.
- There are relatively few recorded monuments located in the wider study area, there are no Zones of Archaeological Interest as defined under the Dún Laoghaire-Rathdown County Development Plan 2022-2028.
- No potential archaeological features were recorded in aerial photos of the subject site.
- No potential archaeological features were recorded in historic mapping of the subject site.

8.12.3. These factors indicate that there is a low potential for the survival of buried archaeological remains at this site. The report concludes that the fill material and concrete slab within the site renders it unsuitable for further assessment in the form of geophysical survey or test trenching. It is therefore recommended that groundworks associated with the development be monitored by a suitably qualified archaeologist.

8.12.4. The greatest threat to unrecorded, buried archaeological sites/ features occur during the construction stage and include all ground disturbance works undertaken at this

stage (excavations and other groundworks including the provision of access roads and service trenches), movement of machines and storage of material in sensitive areas. In the absence of suitable mitigation measures, significant likely impacts on any buried archaeology and heritage sites would be direct, negative and permanent.

- 8.12.5. To this end I agree with the findings of the Archaeology and Cultural Heritage Report and recommend that should the Board be minded to grant permission that a standard condition be attached requiring the developer to engage a suitably qualified licence eligible archaeologist (licensed under the National Monuments Acts) to carry out pre-development archaeological testing and to submit an archaeological impact assessment report for the written agreement of the planning authority, following consultation with the National Monuments Service, in advance of any site preparation works or groundworks. Condition No 20 as set out in the recommendation below refers.

8.13. Construction Hours

- 8.13.1. The appellant raises concerns that the permissible working hours for construction works in Condition No 16 of the notification of decision to grant permission issued by DLRCC allows noisy industrial type work to start in a primarily residential area at 7am. The hours set out in Conditions No 16 are considered to be standard working hours with no works taking place on Sundays and public holidays. These hours of working are the same as the Boards standard condition in this regard.
- 8.13.2. Taken together with the requirement for the submission of a Public Liaison Plan and appointment of a Liaison Officer by way of condition (discussed in Section 7.15 below) and the requirement to submit and agree a Construction and Environmental Management Plan (CEMP), also by way of condition, I am satisfied that the hours of construction as set out are reasonable and acceptable for the duration of the construction timeframe (18 to 24 months). Condition no 12 as set out in the recommendation below refers and sets out the Boards standard condition in this regard with deviation from these times only in exceptional circumstances and only where prior written approval has been received from the planning authority.

8.14. Finishes

8.14.1. I note that the appellant makes references to conflicting finishes and cites this as part of a wider reason for refusal. I have considered the plans and particular submitted and I consider the finishes proposed to be acceptable at this location. However, in the interest of clarity it is recommended that a standard condition be attached requiring the details of the materials, colours and textures of all the external finishes to be agreed prior to commencement of development. Condition No 24 as set out in the recommendation below refers.

8.15. Conditions

8.15.1. I refer to Section 3.0 Planning Authority Decision of this report above where the decision of the local authority to grant permission subject to 30 no conditions are summarised together with the FI requested, internal reports and those of prescribed bodies. Many of the conditions attached reflect the particular requirements of these reports and those of the Case Planner. While some of the conditions as recommended can be dealt with by way of standard Board condition (compliance with plans and particulars submitted, surface water, mobility plan, taking in charge, CEMP, bond, Part V, development contributions etc) other conditions of specific note have been discussed in the foregoing assessment above. Other conditions are discussed as follows:

8.15.2. **Water Services Drainage Planning** – This section has no objection to the development, as amended, subject to detailed surface water and drainage conditions. Conditions No 10 and 11 of the notification of decision to grant permission reflects this and summarised as follows:

10	The allowable outflow to be revised in line with the requirements of Appendix 7: Stormwater Management Policy
11	Details of the bund within the courtyard area to be provided.

8.15.3. These conditions area considered reasonable and necessary. It is recommended that should the Board be minded to grant permission that the standard Board conditions in this regard be attached requiring the details for the disposal of surface water from the site be subject to written agreement of the planning authority. Condition No 4 as set out in the recommendation below refers.

8.15.4. **E.H.O.** - This section has no objection to the development, as amended, subject to several conditions including a requirement to appoint a Community Liaison Officer. Conditions No 20 of the notification of decision to grant permission reflects this and summarised as follows:

20	Public Liaison Plan to be implemented and to include the appointment of a Liaison Officer.
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8.15.5. Having regard to the concerns raised in the appeal with regard to working hours for construction (discussed above) together with the location of the scheme proximate to established residential developments and the projected construction timeframe of between 18 to 24 months I consider it reasonable that the developer implements a Public Liaison Plan and appointment a Liaison Officer as a single point of contact to engage with the local community and respond to concerns. Condition No 24 as set out in the recommendation below refers.

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

9.0 AA Screening

9.1. An AA Screening exercise has been completed. See Appendix 3 of this report for further details.

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

9.3. This conclusion is based on:

- Objective information presented in the applicant's reports;
- The limited zone of influence of potential impacts;

- Standard construction and operational surface water pollution controls that would be employed regardless of proximity to a European site and the effectiveness of same;
- Distance from European Sites;
- The limited potential for pathways to any European site; and
- The nature and extent of predicted impacts, which would not affect the conservation objectives of any European Sites.

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

10.0 Recommendation

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

11.0 Reasons and Considerations

11.1. Having regard to the following:

- 1) the location of the site in the established urban neighbourhood of Dun Laoghaire Rathdown which is zoned Objective NC in the Dun Laoghaire Rathdown Development Plan 2022-2028 which seeks to *"to protect, provide for and or improve mixed-use neighbourhood centre facilities"* and where residential and retail development is a permitted use
- 2) the policies and objectives of the Dun Laoghaire Rathdown Development Plan 2022-2028 including the criteria set out in Table 5.1 as contained in Section 5 of the Development Plan and also Appendix 5 Building Heights Strategy of the Development Plan.
- 3) Housing for All – A New Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage (2021)

- 4) Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in January, 2024,
- 5) Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of Housing, Planning and Local Government in March, 2018,
- 6) Urban Development and Building Heights, Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December, 2018
- 7) Design Manual for Urban Roads and Streets (DMURS) (2013)
- 8) Architectural Heritage Protection- Guidelines for Planning Authorities 2011
- 9) The Planning System and Flood Risk Management Guidelines for Planning Authorities issued in November, 2009 (including the associated Technical Appendices),
- 10)the targets and objectives of the National Biodiversity Action Plan (NBPA) 2023-2030,
- 11)the Climate Action Plan 2024
- 12)the nature, scale and design of the proposed development
- 13)the availability in the area of a wide range of social, community, transport and water services infrastructure,
- 14)the pattern of existing and permitted development in the area,
- 15)the submissions and observations received in connection with the planning application and the appeal, and

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or the amenities of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development, would not impact negatively on Dunleary House, a Protected Structure and would be acceptable in terms of traffic and pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

- 1) The development shall be carried out in accordance with the plans and particulars lodged with the application as amended by the documents/drawings received by the Planning Authority on the 12th of December 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

- 2) Prior to the commencement of development, the applicant shall submit the following for the written agreement of the planning authority prior:
 - a) Floorplan and Elevation drawings showing the relocation of the in-curtilage accessible car parking space in lieu of 2 no. standard car parking space and resulting increase in floorspace and shopfront glazing/fenestration to Retail Unit B.
 - b) Floorplan and Elevation drawings showing the inclusion of a projecting, angled (south facing) window to Bedroom 'L' in Unit A-6-8 at 6th floor level of Block 1.

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

- 3) All works to Dun Leary House are to be carried out under the professional supervision of an appropriately qualified architect with specialised conservation expertise who shall manage, monitor and implement the works and to certify upon completion that the specified works have been carried out in accordance with good conservation practice.

Prior to the commencement of development on Dun Leary House, a Protected Structure, the applicant shall submit the following for written agreement with the of the Planning Authority (Conservation Officer):

- a) Revised proposals which will allow for the retention in situ of the original timber panelled door and leaded glass overlight on the West Elevation.
- b) Detailed drawings of the proposed new timber staircase and balustrade design
- c) Detailed method statement covering all works proposed to be carried out to the interior and exterior including a full specification, including details of materials and methods, to ensure the development is carried out in accordance with good conservation practice.

Reason: In order to safeguard the special architectural or historical interest of the building.

- 4) The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: In the interest of public health.

- 5) Prior to the commencement of development the developer shall enter into a Connection Agreement (s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.

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

- 6) Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

- 7) Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the

commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of the agreed landscaping plan. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interest of amenity and public safety.

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

Reason: In the interests of visual and residential amenity.

- 9) The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development. Prior to commencement of any development on the overall site, details of the first phase shall be submitted to, and agreed in writing with, the planning authority.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

- 10) Prior to the opening / occupation of the development, a Mobility Management Plan (MMP) shall be submitted to and agreed in writing with the planning authority. This shall provide incentives to encourage the use of public transport, cycling and walking by residents / occupants / staff employed in the development. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

Reason: In the interests of encouraging the use of sustainable modes of transport. the proper planning and sustainable development of the area.

- 11) A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase

controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

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

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

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

- 13) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and waste shall be managed in accordance with the agreed plan. This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

- 14) Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and

all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of reducing waste and encouraging recycling.

- 15) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interest of sustainable transport and safety.

- 16) The Applicant shall ensure that all proposed works, both on the public road and within the site (i.e. road carriageways, kerbs (which must be insitu), footpaths, street lighting, signs, etc) are designed and constructed, at the Applicant's own expense, to meet Dún Laoghaire-Rathdown County Council's 'Taking-in-Charge Development Standards Guidance Document' (June 2022) requirements and 'Taking In Charge Policy Document (May 2022)': and all to the satisfaction of the Planning Authority (Municipal Services Department).

Reason: In the interests of the sustainable development of the area.

- 17)(a) The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, and kerbs, and the underground car park shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS).

(b) Footpaths shall be dishd at road junctions in accordance with the requirements of the planning authority. Details of all locations and materials to be used shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

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

18)(a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. The clearly identified car parking spaces shall be assigned permanently for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.

(b) A number of parking spaces shall be reserved for persons with physical disabilities which shall not be less than the dimensions set out in the document Building for Everyone: A Universal Design Approach (The Centre for Excellence in Universal Design CEUD). Details to be agreed with the Planning Authority prior to commencement of work on site.

(c) A minimum of one car parking space per five car parking spaces shall be equipped with one fully functional EV charging point in accordance with Section 12.4.11 Electrically Operated Vehicles of the current DL RCC County Development Plan. All proposed residential car parking spaces should be constructed to be capable of accommodating future electric charging points for electrically operated vehicles (ducting, mini-pillars etc.) without the requirement for future excavations/intrusive works.

(d) Prior to the occupation of the development a Car Park Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent reservation of the designated residential parking spaces and shall indicate how these and other space within the development shall be assigned, segregated by use and how the car park shall be continually managed.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units (and the remaining development) and also to prevent inappropriate commuter parking.

19)The landscaping scheme as submitted to the planning authority shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of [five] years from the completion of the development [or

until the development is taken in charge by the local authority, whichever is the sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

20)The developer shall engage a suitably qualified licence eligible archaeologist (licensed under the National Monuments Acts) to carry out pre-development archaeological testing in areas of proposed ground disturbance and to submit an archaeological impact assessment report for the written agreement of the planning authority, following consultation with the National Monuments Service, in advance of any site preparation works or groundworks, including site investigation works/topsoil stripping/site clearance/dredging/underwater works and/or construction works. The report shall include an archaeological impact statement and mitigation strategy. Where archaeological material is shown to be present, avoidance, preservation in-situ, preservation by record [archaeological excavation] and/or monitoring may be required. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer. No site preparation and/or construction works shall be carried out on site until the archaeologist's report has been submitted to and approval to proceed is agreed in writing with the planning authority. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any subsequent archaeological investigative works and/or monitoring following the completion of all archaeological work on site and the completion of any necessary post-excavation work. All resulting and associated archaeological costs shall be borne by the developer.

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

21)The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted

to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

22)Proposals for an apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

23)The Applicant and the developments Contractor shall develop and implement a Public Liaison Plan for the duration of the works, covering the following.

- a) Appointment of a Liaison Officer as a single point of contact to engage with the local community and respond to concerns.
- b) Keeping local residents informed of progress and timing of particular construction activities that may impact on them.
- c) (c)Provision of a notice at the site entrance identifying the proposed means for making a complaint.
- d) Maintenance of a complaints log recording all complaints received and follow up actions.

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

24)Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in

writing with the planning authority in relation to the provision of housing on the land in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Bord Pleanála for determination.

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

25) Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure that the public road is satisfactorily reinstated, if necessary.

26) The developer shall pay to the Planning Authority a financial contribution in lieu of the provisions of public open space within the site, as provided for under Sections 12.8.3 and 12.8.8 of the Dun Laoghaire Rathdown Development Plan 2022-2028 and Objective 5.1 - Public Open Space of the Sustainable and Compact Settlements Guidelines for Planning Authorities (2024), and in accordance with the terms of the Development Contribution Scheme made under Section 48 of the Planning and Development Act 2000, as amended. The amount of contribution shall be agreed between the Planning Authority and the developer or, in default of such an agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of

development or in such phased payments as the Planning Authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should pay a financial contribution in lieu of the provision of public open space within the site as a result of the infill nature and restricted size of site, and to comply with applicable development plan policy.

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

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

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

Mary Crowley

Senior Planning Inspector

13th May 2025

13.0 Appendix 1 - EIA Pre-Screening – Form 1

An Bord Pleanála Case Reference	ABP-321765 - 25		
Proposed Development Summary	Construction of a five to eight storey development in 2 blocks and the change of use and refurbishment of existing three-storey 'Dun Leary House' (a protected structure) to provide for 84 residential units, a retail unit and all associated site works (as amended by further information)		
Development Address	Former Ted Castles Site and Dun Leary House (a protected structure), Old Dun Leary Road, Cumberland Street, Longford Place and Dun Leary Hill, Dun Laoghaire, Co. Dublin		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	Class 10(b)(i) 'Construction of more than 500 dwellings units' 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'	Proceed to Q3.
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			

Yes			EIA Mandatory EIAR required
No	X		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	84 no residential units (as amended by FI) 0.74 ha site area	Preliminary examination required (Form 2)

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

Inspector: _____

Date: _____

14.0 Appendix 2 - EIA Preliminary Examination – Form 2

An Bord Pleanála Case Reference	ABP-321765 - 25
Proposed Development	Construction of a five to eight storey development in 2 blocks and the change of use and refurbishment of existing three-storey 'Dun Leary House' (a protected structure) to provide for 84 residential units, a retail unit and all associated site works (as amended by further information)
Development Address	Former Ted Castles Site and Dun Leary House (a protected structure), Old Dun Leary Road, Cumberland Street, Longford Place and Dun Leary Hill, Dun Laoghaire, Co. Dublin
<p>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.</p>	
<p>Characteristics of proposed development</p> <p>(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 the construction of 84 no residential apartment units (as amended by FI) and associated works on serviced zoned lands.</p> <p>The nature and scale of the proposed development reflects the surrounding pattern of development and it is not considered to be out of character with the existing and emerging surrounding pattern of development.</p> <p>Construction materials will be typical of an urban environment and any construction impacts would be local and temporary in nature and the implementation of a Construction Environmental</p>

	<p>Management Plan will satisfactorily mitigate potential impacts.</p> <p>Operational waste will be managed via a Waste Management Plan.</p> <p>The site is not at risk of flooding.</p> <p>There are no SEVESO/COMAH sites in the vicinity of this location.</p> <p>The development has a relatively modest footprint and does not require the use of substantial natural resources or give rise to significant risk of pollution or nuisance.</p> <p>The development, by virtue of its type and scale, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</p>
<p>Location of development</p> <p>(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 reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The site is not located within a designated ACA, however the site is immediately adjacent to two ACAs – Monkstown ACA (to the west) and Vesey Place, De Vesci Terrace, and Willow Bank ACA (to the south). There is a protected structure within the site boundary; <i>Dunleary House (Yellow Brick House)</i> (Record of Protected Structures (RPS) no. 2131). The impact of the scheme on the adjoining ACAs and the proposed works to Dun Leary House has been considered in the foregoing assessment. Given the planning policy for the area, the proposed development is considered to be in accordance with best practice and no significant effects are predicted.</p> <p>An Archaeology and Cultural Heritage study has been undertaken at the site and concluded that</p>

	<p>there is a low potential for the survival of buried archaeological remains at the site. Disturbance of recorded and unrecorded archaeological features as a result of construction stage excavation and groundworks, which will be mitigated by a range of measures including the retention/protection of important features, further archaeological testing and monitoring, and the recording of archaeological remains. No significant effects are predicted.</p> <p>The site is not located within or directly adjacent to any Natura 2000 site i.e., Special Area of Conservation (SAC) or Special Protection Areas (SPA).</p> <p>The development will implement SUDS measures to control surface water run-off.</p> <p>The site is not at risk of flooding.</p> <p>The site is served by a local urban road network. There are sustainable transport options available to future residents. No significant contribution to traffic congestion is anticipated.</p> <p>Impacts on water quality will be mitigated by standard good practice construction stage measures and the operational surface water drainage system.</p>
<p>Types and characteristics of potential impacts</p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact,</p>	<p>Having regard to the nature of the proposed development, its location relative to sensitive habitats/ features, likely limited magnitude and spatial extent of effects, and absence of in</p>

transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.		
Conclusion			
Likelihood of Significant Effects	Conclusion in respect of EIA		Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.		Yes
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.		No
There is a real likelihood of significant effects on the environment.	EIAR required.		No

Inspector: _____ **Date:** _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)

15.0 Appendix 3 - AA Screening Determination

Screening for Appropriate Assessment Screening Determination

1. Description of the project

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

I refer to Section 1.0 and 2.0 of this report above where the site location and proposed development are described.

The appeal site, the former Ted Castles Site, with a site area of 0.74 hectares is a large brownfield site located in Dún Laoghaire, County Dublin adjacent to the West Pier of Dun Laoghaire Harbour. The internal surface of the site is largely concrete with intermittent hard-core and small areas of green to the west and south where the yard has been levelled into Dunleary Hill leaving a very substantial drop from the road surface to the yard area (approximately 8m). The boundary wall to the east of the site is a substantial rubble granite wall to a height of approx. 2m. In the southwest corner of the site is a three-storey Dunleary House (Protected Structure) a small car parking area and terrace area to the south which slopes down to the reduced yard level.

The development (as amended) will consist of the construction of a new 5-8 storey development in 2 no. Blocks (Block 1 and Block 2) and the change of use and refurbishment of existing 3 storey (over adjacent basement/lower ground floor level) 'Dun Leary House' (a Protected Structure) to provide for 84 no. residential units (22 no. 1 bed units; 40 no. 2 bed units; 22 no. 3 bed units), residential amenity space; 1 no. retail unit with associated outdoor seating area; and a public art display area. The scheme was amended by way of further information whereby the total number

of units proposed was reduced to 84. Further details are provided in Section 2.7 above.

Foul Water Management - Foul effluent from the proposed development will be sent to the wastewater treatment plant at Ringsend in Dublin. Emissions from the plant are currently not in compliance with the Urban Wastewater Treatment Directive. The Ringsend plant is licenced to discharge treated effluent by the EPA (licence number D0034-01) and is managed by Irish Water. It treats effluent for a population equivalent (P.E.) on average of 1.65 million however weekly averages can spike at around 2.36 million. This variation is due to storm water inflows during periods of wet weather as this is not separated from the foul network for much of the older quarters of the city, including at the subject site. The Annual Environmental Report for 2022, indicated that there were a number of exceedances of the emission limit values set under the Urban Wastewater Treatment Directive and these can be traced to pulse inflows arising from wet weather. In April 2019 Irish Water was granted planning permission to upgrade the Ringsend plant. This will see improved treatment standards and will increase network capacity by 50%.

Surface / Storm Water - A new surface water drainage system is to be installed and which will be entirely separate from the foul sewer. This has been designed on the basis of SUDS principles and includes green roofs, rain gardens, tree pits and filter drains leading to an attenuation storage tank. The ultimate discharge will be to an existing surface water sewer. Given that the existing development site is predominantly composed of hard surfacing, these measures will result in a net improvement to surface water run-off characteristics.

Water Supply - Water supply for the development will be via a mains supply. The existing connection to the 100mm diameter uPVC water main on Old Dun Leary Road will be utilised. Irish Water has confirmed the feasibility of this connection, based on a pre-connection enquiry that was submitted to Irish Water to assess the capacity available in the network, subject to a valid connection agreement. The Irish Water confirmation of feasibility has been included with the application.

The site is not located within any Natura 2000 site (SAC or SPA) but is close to two such areas. This part of Dun Laoghaire is close to the pier walls and is entirely composed of artificial surfaces, albeit adjacent to the coastal waters of Dublin Bay/the Irish Sea. There are no water courses in the vicinity of the development site. The Brewery Stream flows to the west and this short water course is culverted in sections, including under roads and houses.

Flood Risk – A Flood Risk Assessment (FRA) was carried out for the proposed development. The site was assessed in accordance with the OPW Flood Risk Management Guidelines. The site is not at risk of flooding and there is no increased risk to any nearby properties or developable land. The flood risk associated with flooding due to coastal wave overtopping was deemed to be mitigated due to finished floor levels, overland flow routes and the site being on the periphery of the affected areas at higher levels. The FRA concludes that the development is deemed appropriate.

Preliminary Construction Management Plan – Details of the construction phase as well as environmental pollution control measures are presented in the Preliminary Plan submitted with the application. The applicant submits that this document will be reviewed and updated / revised as necessary throughout the construction phases. The development will have an estimated site programme of build over 18 – 24 months. The Preliminary Plan describes the proposed stages of work in detail, starting with pre-commencement activities, followed by enabling works, development of site compound, phased based construction, traffic management, civil activities and landscaping. Environmental control measures are provided with regards to noise, dust, light, litter (waste) and control measures to prevent impacts upon soils, ground water and surface water.

Baseline Ecology – The development site is predominantly composed of buildings and artificial surfaces – BL3. There is a large covered shed to the north-east while a residential home is located in the north-east corner. Vegetation in these areas is minimal and ruderal in nature e.g. Red Valerian *Centranthus ruber*, Butterflybush

Buddleja davidii, Bramble *Rubus fruticosus* agg. and Pineappleweed *Matricaria discoidea*. In some marginal areas it is dense and has developed into scrub – WS1. To the south of the site, and east of the residential home there is a bank with Ivy *Hedera helix*, New Zealand Broadleaf *Grisilinea littoralis*, and a large Sycamore *Acer pseudoplatanus*. These are habitats of very low biodiversity value.

The site is not located within any Natura 2000 site (SAC or SPA) but is close to two such sites; South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay SAC. Habitats on the development site are not associated with any habitats or species which are qualifying interests for any Natura 2000 site.

This part of Dun Laoghaire is close to the pier walls and is entirely composed of artificial surfaces, albeit adjacent to the coastal waters of Dublin Bay/the Irish Sea. There are no water courses in the vicinity of the development site. The Brewery Stream flows to the west and this short water course is culverted in sections, including under roads and houses.

There are no habitats on site which are examples of those listed in Annex II of the Habitats Directive. There are two plant species which are listed as alien invasive on Schedule 3 of SI No. 477 of 2011: Three-cornered Garlic *Allium triquetrum* and Spanish Bluebell *Hyacinthoides hispanica*. There are no water courses, bodies of open water or habitats which could be considered wetlands on site.

The habitats are not suitable for regularly occurring populations of wetland/wading/wintering birds which may be qualifying interests of Natura 2000 sites in Dublin Bay. These species are predominantly associated with coastal and intertidal habitats while certain species, most notably the Lightbellied Brent Goose, are known to feed on amenity grasslands away from the coast. These habitats are not present on the development site.

No bat roosts were noted within the site. Bat activity was present, in particular, shortly after sunset and overnight, but limited activity was present prior to sunrise. No bats which are on listed on Annex 2 of the EU's Habitats Directive were recorded on site.

Water Framework Directive - The coastal waters of the Irish Sea south of Dublin Bay (water body code: IE_EA_100_0000) have been assessed as 'high status' under the WFD for the 2016-21 reporting period. This classification indicates that water quality is of a sufficient standard to meet the requirements of the WFD. Future developments must not jeopardise this status. Near the outfall from the Ringsend wastewater treatment plant, the lower Liffey Estuary (water body code: IE_EA_090_0300) has been assessed by the Environmental Protection Agency (EPA) as 'moderate status'. The coastal water beyond the estuary (Dublin Bay, water body code: IE_EA_090_0000) is assessed as 'good status'. The Tolka Estuary (water body code: IE_EA_090_0200) is 'poor status' and so is unsatisfactory.

The submitted AA Screening information report does not identify specific consultations with prescribed bodies but does refer to a desktop review of published documents and information. There are no submissions received from any prescribed bodies recorded on the planning file that refer to matters relation to AA.

2. Potential impact mechanisms from the project

The potential for significant effects that may arise from the Proposed Development was considered through the use of key indicators:

- Habitat loss or alteration.
- Habitat/species fragmentation.
- Disturbance and/or displacement of species.
- Changes in population density.
- Changes in water quality and resource.

The site is not within or adjoining any Natura 2000 sites and I do not consider that there is potential for any direct impacts such as habitat loss, direct emissions, or species mortality/disturbance.

There is potential for significant effects from the proposed development at construction and operational stage in respect of the following:

Construction Phase

- Uncontrolled releases of silt, sediments and/or other pollutants to air due to earthworks.
- Surface water run-off containing silt, sediments and/or other pollutants into nearby waterbodies.
- Surface water run-off containing silt, sediments and/or other pollutants into the local groundwater.
- Waste generation during the Construction Phase comprising soils, construction and demolition wastes.
- Increased noise, dust and/or vibrations as a result of construction activity.
- Increased dust and air emissions from construction traffic.
- Increased lighting in the vicinity as a result of construction activity.

Operational Phase

- Surface water drainage from the Site of the Proposed Development.
- Foul water from the Proposed Development leading to increased loading on wastewater treatment plant
- Increased lighting in the vicinity emitted from the Proposed Development; and
- Increased human presence in the vicinity as a result of the Proposed Development

Having regard to the nature of the site and its distance and lack of connectivity with Natura 2000 sites, I do not consider that there would be any other potential impact mechanisms.

3. European Sites at risk

The site is not located within or adjacent to any European site and will not result in

any direct loss of, or impact on, habitats in such sites.

In assessing the zone of influence of this project upon Natura 2000 sites the following factors must be considered:

- Potential impacts arising from the project
- The location and nature of Natura 2000 sites
- Pathways between the development and the Natura 2000 network

It has already been stated that the site is not located within or directly adjacent to any Natura 2000 site. For projects of this nature an initial 15km radius is normally examined. This is an arbitrary distance however and impacts can occur at distances greater than this. There are a number of Natura 2000 sites within this radius as follows:

- 1) Baldoyle Bay SAC (000199) c11km north
- 2) Baldoyle Bay SPA (004016) c11km north
- 3) North Bull Island SPA (004006) c6.5km north
- 4) North Dublin Bay SAC (000206) c6.5km north
- 5) South Dublin Bay and River Tolka Estuary SPA (004024) c200m north
- 6) South Dublin Bay SAC (000210) c200m north
- 7) Howth Head Coast SAC (000202) c8.5km north-east
- 8) Howth Head Coast SPA (004113) c8.5km north-east
- 9) Rockabill to Dalkey Island SAC (003000) c8km east
- 10) Dalkey Islands SPA (004172) c4.5km south-east
- 11) Ireland's Eye SPA (004117) c13km north-east
- 12) Ireland's Eye SAC (002193) c13km north-east
- 13) Knocksink Wood SAC (000725) c10km south-west
- 14) Ballyman Glen SAC (00713) c9km south
- 15) Wicklow Mountains SAC (002122) c11km south-west
- 16) Wicklow Mountains SPA (004040) c11km south-west
- 17) Bray Head SAC (00714) c14km south-east
- 18) North-West Irish Sea SPA (004236) c6.8km north-east

In relation to the foregoing European Sites, with the exception of North-West Irish Sea SPA (004236), South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024) and North Bull Island SPA (004006) the following can be concluded:

- There is no hydrological connection.
- There is no potential for direct or indirect effects. No complete impact source-pathway-receptor chain was identified during the Screening Assessment.
- Hydrologically these sites are not linked to the proposed development and will not be affected by emissions or drainage effects from the construction or operation of the proposed development.
- The intervening distances between the site and the SAC are sufficient to exclude the possibility of significant effects on the SAC arising from: emissions of noise, dust, pollutants and/or vibrations emitted from the site during the Construction Phase; increased traffic volumes during the Construction and Operational Phase and associated emissions; potential increased lighting emitted from the site during Construction and Operational Phase; and increased human presence at the site during Construction and Operational Phase.
- The intervening distance between the site and the SPA is sufficient to exclude the possibility of significant effects on the SPA arising from: emissions of noise, dust, pollutants and/or vibrations emitted from the site during the Construction Phase: increased traffic volumes during the Construction and Operational Phase and associated emissions; potential increased lighting emitted from the site during Construction and Operational Phase: and increased human presence at the site during Construction and Operational Phase The site does not provide significant ex-situ habitat for QI/SCI species within the site of the proposed development.

No complete impact source-pathway-receptor chain was identified during the Screening Assessment. Therefore, significant effects on the European Sites identified above resulting from the proposed development can be excluded and they are therefore 'screened out' with the exception of North-West Irish Sea SPA

(004236), South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024) and North Bull Island SPA (004006). In relation to these 5 no sites the source – pathway – receptor may be summarised as follows:

- Weak hydrological pathway via contaminated surface water discharge during the construction and operational phase and an indirect hydrological connection via treated foul water discharge from the Ringsend WWTP into Dublin Bay during the Operational Phase.

These are not deemed to be impact pathways capable of facilitating likely significant effects to these sites and no further direct or indirect effects are foreseen.

These designated sites are buffered from the appeal site by urban infrastructure. The Conservation Objectives and QIs for these sites are as follows:

1) North-West Irish Sea SPA

The North-west Irish Sea candidate SPA is an important resource for marine birds. This SPA extends offshore along the coasts of counties Louth, Meath and Dublin, and is approximately 2,333km² in area. It is ecologically connected to several existing SPAs providing supporting habitat for foraging and other maintenance behaviours for seabirds that breed at colonies on the north-west Irish Sea's islands and coastal headlands, and for seabirds outside of the breeding period also. The site is designated for 21 marine bird species including non-breeding and breeding populations.

The non-breeding species include Red throated Diver, Great northern Diver, Common Scoter, Black headed gull, common Gull Great Black-backed Gull, and Little Gull.

Breeding seabirds include: Fulmar, Manx Shearwater, Cormorant, Shag, Lesser Black-backed Gull, Herring Gull, Kittiwake, Roseate Tern, Common Tern, Artic Tern, Little Tern, Guillemot, Razorbill, Puffin.

Conservation objectives to main or restore favourable conservation condition for these species is defined by the following targets:

- Population trends are stable or increasing / no significant decline
- Spatial distribution: Sufficient number of locations, area, and availability (in terms of timing and intensity of use) of suitable habitat to support the population
- Forage distribution extent and abundance : Sufficient number of locations, area of suitable habitat and available forage biomass to support the population target
- Disturbance across the site: The intensity, frequency, timing and duration of disturbance occurs at levels that do not significantly impact the achievement of targets for population size and spatial distribution
- The number, location, shape and area of barriers do not significantly impact the site population's access to the SPA or other ecologically important sites outside the SPA.

2) South Dublin Bay SAC

This intertidal site extends from the South Wall at Dublin Port to the West Pier at Dun Laoghaire, a distance of c. 5 km. At their widest, the intertidal flats extend for almost 3 km. The seaward boundary is marked by the low tide mark, while the landward boundary is now almost entirely artificially embanked. Several permanent channels exist, the largest being Cockle Lake. A small sandy beach occurs at Merrion Gates, while some bedrock shore occurs near Dun Laoghaire. A number of small streams and drains flow into the site. The proximity of the site to Dublin City results in it being a very popular recreational area. It is also important for educational and research purposes.

The site possesses a fine and fairly extensive example of intertidal flats. Sediment type is predominantly sand, with muddy sands in the more sheltered areas. A typical macro-invertebrate fauna exists. It has the largest stand of *Zostera* on the east coast. Supports part of the important wintering waterfowl populations of Dublin Bay. Regularly has an internationally population of *Branta bemicila hortae*, plus nationally important numbers of at least a further 6 species, including *Limosa lapponica*.

Regular autumn roosting ground for significant numbers of *Sterna* terns, including *S. dougallii*. The scientific interests of the site have been well documented.

Qualifying Interests - (1140) Mudflats and sandflats not covered by seawater at low tide; (1210) Annual vegetation of drift lines; (1310) *Salicornia* and other annuals colonising mud and sand; (2110) Embryonic shifting dunes

3) North Dublin Bay SAC

The North Bull Island sand spit is a relatively recent depositional feature, formed as a result of improvements to Dublin Port during the 18th and 19th centuries. It is almost 5km long and 1km wide and runs parallel to the coast between Clontarf and Sutton. The sediment which forms the island is predominantly glacial in origin and siliceous in nature. Between the island and the mainland there occurs two sheltered intertidal areas which are separated by a solid causeway constructed in 1964. The seaward side of the island has a fine sandy beach. A substantial area of shallow marine water is included in the site. The interior of the island is excluded from the site as it has been converted to golf courses. The proximity of the North Bull Island to Dublin City results in it being a very popular recreational area. It is also very important for educational and research purposes. Nature conservation is a main land use within the site.

The site possesses an excellent diversity of coastal habitats. The North Bull Island dune system is one of the most important systems on the east coast and is one of the few in Ireland that is actively accreting. It possesses extensive and mostly good quality examples of embryonic, shifting marram and fixed dunes, as well as excellent examples of humid dune slacks. Both Atlantic and Mediterranean salt marshes are well represented and a particularly good marsh zonation is shown. The salt marshes grade into mudflats and sandflats, some of which are dominated by annual *Salicornia* species. *Petalophyllum ralfsii* occurs at its only known station away from the western seaboard. The site has five Red Data Book vascular plant species and four Red Data Book bryophyte species. This is one of the most important sites for wintering waterfowl in Ireland, with internationally important populations of *Branta bernicla horta*, *Calidris canutus* and *Limosa lapponica*, plus nationally important numbers of a further 14 species. 20% of the national total of *Pluvialis squatarola* occurs here.

Formerly it had important colony of *Sterna albifrons*. North Dublin Bay is nationally important for three insect species. The scientific interests of the site have been well documented and future prospects are good owing to the various designations assigned to site.

Qualifying Interests - [1140] Tidal Mudflats and Sandflats. [1210] Annual Vegetation of Drift Lines; [1310] *Salicornia* Mud; [1330] Atlantic Salt Meadows; [1410] Mediterranean Salt Meadows; [2110] Embryonic Shifting Dunes; [2120] Marram Dunes (White Dunes); [2130] Fixed Dunes (Grey Dunes)*; [2190] Humid Dune Slacks; [1395] Petalwort (*Petalophyllum ralfsii*)

4) South Dublin Bay and River Tolka Estuary SPA

This site comprises a substantial part of Dublin Bay. It includes virtually all of the intertidal area in the south bay, as well as much of the Tolka Estuary to the north of the River Liffey. A portion of the shallow bay waters is also included. In the south bay, the intertidal flats extend for almost 3 km at their widest. The sediments are predominantly well-aerated sands. The sands support the largest stand of *Zostera noltii* on the East Coast. Several permanent channels exist, the largest being Cockle Lake. A small sandy beach occurs at Merrion Gates, while some bedrock shore occurs near Dun Laoghaire. The landward boundary is now almost entirely artificially embanked. Sediments in the Tolka Estuary vary from soft thixotropic muds with a high organic content in the inner estuary to exposed, well aerated sands off the Bull Wall. The proximity of the site to Dublin City results in it being a very popular recreational area. It is also important for educational and research purposes.

The site possesses extensive intertidal flats which support wintering waterfowl which are part of the overall Dublin Bay population. It regularly has an internationally important population of *Branta bernicla hrota*, which feeds on *Zostera noltii* in the autumn. It has nationally important numbers of a further 6 species: *Haematopus ostralegus*, *Charadrius hiaticula*, *Calidris canutus*, *Calidris alba*, *Calidris alpina* and *Limosa lapponica*. It is an important site for wintering gulls, especially *Larus ridibundus* and *Larus canus*. South Dublin Bay is the premier site in Ireland for *Larus melanocephalus*, with up to 20 birds present at times. Is a regular autumn roosting

ground for significant numbers of terns, including *Sterna dougallii*, *S. hirundo* and *S. paradisaea*

Qualifying Interests - [A046] Light-bellied Brent Goose *Branta bembicila hrota*; [A130] Oystercatcher *Haemalopus ostralegus*; [A137] Ringed Plover *Charadrius hiaticula*; [A141] Grey Plover *Pluvialis squatarola*; [A143] Knot *Calidris canutus*; [A144] Sanderting *CaMns alba*; [A149] Dunlin *Calidris alpina alpina*; [A157] Bar-tailed Godwit *Limosa lapponica*; [A162] Redshank *Thinga tetanus*; [A179] Black-headed Gull *Chroicocephalus ridibundus*; [A192] Roseate Tern *Sterna Oougallu*; [A193] Common Tern *Sterna hirundo*; [A194] Arctic Tern *Sterna paradisaea*; [A999] Wetlands

5) North Bull Island SPA

The North Bull Island sand spit is a relatively recent depositional feature, formed as a result of improvements to Dublin Port during the 18th and 19th centuries. It is almost 5km long and 1km wide and runs parallel to the coast between Clontarf and Sutton. The sediment which forms the island is predominantly glacial in origin and siliceous in nature. A well-developed dune system runs the length of the island, with good examples of embryonic, shifting marram and fixed dunes, as well as excellent examples of humid dune slacks. Extensive salt marshes also occur. Between the island and the mainland occur two sheltered intertidal areas which are separated by a solid causeway constructed in 1964. The seaward side of the island has a fine sandy beach. A substantial area of shallow marine water is included in the site. Part of the interior of the island has been converted to golf courses. The proximity of the North Bull Island to Dublin City results in it being a very popular recreational area. It is also very important for educational and research purposes. Nature conservation is a main land use within the site.

The site is among the top ten sites for wintering waterfowl in the country. It supports internationally important populations of *Branta bembicila hrota* and *Limosa lapponica* and is the top site in the country for both of these species. A further 14 species have populations of national importance, with particular notable numbers of *Tadorna tadorna* (8.5% of national total), *Anas acuta* (11.6% of national total), *Pluvialis squatarola* (6.9% of national total), *Calidris canutus* (10.5% of national total). North

Bull Island SPA is a regular site for passage waders such as *Philomachus pugnax*, *Calidris ferruginea* and *Tringa erythropus*. The site supports *Asio flammeus* in winter. Formerly the site had an important colony of *Sterna albifrons* but breeding has not occurred in recent years. The site provides both feeding and roosting areas for the waterfowl species. Habitat quality for most of the estuarine habitats is very good. The site has a population of the rare *Petalophyllum ralfsii* which is the only known station away from the western seaboard as well as five Red Data Book vascular plant species and four bryophyte species. It is nationally important for three insect species. Wintering bird populations have been monitored more or less continuously since the late 1960s, and the other scientific interests of the site have also been well documented. Future prospects are good owing to various designations assigned to site.

Qualifying Interests - [A046] Light-bellied Brent Goose *Branla bemicla hrota*: [A048) Shelduck *Tadoma ladoma*, [A052] Teal *Anas crecca*: [A054] Pintail *Anas acuta*; [A056] Shoveler *Anas clypeata*; [A130] Oystercatcher *Haemalopus ostralegus*; [A140] Golden Plover *Pluvialis apricaria*; [A141] Grey Plover *Pluvialis squalarola*; [A143] Knot *Calidhs canutus*; [A144] Sanderling *Calidhs alba*; (A149) Dunlin *Calidhs alpina alpina*: (A156) Black-tailed Godwit *Limosa limosa*; [A157) Bar-tailed Godwit *Limosa lapponica*. [A160] Curlew *Numenius arquala*. (A162] Redshank *Thnga tetanus*: [A169] Turnstone *Arenaha interpres*; [A179] Black-headed Gull *Chroicocephalus ndibundus*; [A999] Wetlands

4. Likely significant effects on the European site(s) ‘alone’

Taking account of baseline conditions and the effects of ongoing operational plans and projects, the following considers whether there is a likely significant effect ‘alone’ from the proposed development at construction and operational stage in respect of the following. These criteria are considered to satisfactorily capture the potential effects of the proposed development on European sites

- Habitat loss or alteration
- Habitat/species fragmentation

- Disturbance and/or displacement of species
- Changes in water quality and resources
- Changes in population density

Habitat Loss or Alteration - The proposed development is not located within or immediately adjacent to any European sites. The intervening land in each case is occupied by the Dun Laoghaire Harbour area and artificial/highly modified habitats. Because of the distance separating the development site and these Natura 2000 sites there is no pathway for loss or disturbance of habitats listed in table 1 or other semi-natural habitats that may act as ecological corridors for important species associated with the qualifying interests of the Natura 2000 sites. Therefore, there is no potential for direct habitat loss or alteration to occur as a result of the construction or operation of the proposed development.

Habitat Fragmentation - As the Proposed Development does not have the potential to directly cause habitat loss or alteration, it likewise will not result in direct habitat fragmentation.

Changes in Water Quality and Resource

- **Surface Water** – As the site is already predominantly composed of hard standing, there can be negligible impact to the quantity or quality of surface water run-off from the site. The site will be served by the public surface water sewer system. In addition, the proposed development incorporates comprehensive SUDS measures to treat and attenuate surface water runoff to further reduce the already negligible potential for surface water impacts. No potential for impacts to water quality and resource exists for European sites from surface water runoff or drainage from the Proposed Development.
- **Foul Water** - The proposed development will be served by separate foul water and surface water sewers during its Operational Phase. There is a weak indirect hydrological pathway between the site and European sites in Dublin Bay via this sewerage network, which will eventually be processed and treated at Ringsend WWTP prior to discharge to Dublin Bay. The potential for foul waters generated at the proposed development to reach these European sites and cause significant

effects, during the Construction and Operational Phases, is deemed to be negligible due to the following reasons:

- Ongoing upgrade works to Ringsend WWTP which will increase the capacity of the facility from 1.6 million Population Equivalent (PE) to 2.4 million PE.
- Effects on marine biodiversity and the European sites within Dublin Bay from the current operation of Ringsend WWTP are unlikely
- The main area of dispersal of the treated effluent from Ringsend WwTP is in the Tolka Basin and around North Bull Island. South Dublin Bay is unaffected by the effluent from the plant.
- The increase of the PE load at the facility as a result of the proposed development, is considered to be an insignificant increase in terms of the overall scale of the facility.

Disturbance and/or Displacement of Species - No likely significant effects associated with disturbance or displacement of SCI species are likely to occur. There are no sources of light or noise over and above that this is already experienced in this built-up, urbanised location. Further the site of the proposed development does not provide any significant suitable ex-situ habitat for SCI species of any nearby SPAs and no likely significant effects associated with disturbance or displacement of SCI species are likely to occur.

Changes to Population Density - For the reasons outlined above, the proposed development does not have the capacity to cause any significant changes in the population density of any species within any European Site.

Construction Phase - The construction phase will be temporary. The development proposes a range of measures as outlined in the Preliminary Construction Management Plan. As outlined above these mainly relate to the management of soils, excavations, hydrology & hydrogeology, traffic, accidents/spills/leaks, water utilities, and dust. Consistent with my assessment above I would accept that the potential for significant surface water effects during the construction phase would be satisfactorily addressed by these measures.

Operational Phase - For the operational stage, the surface water drainage network has been designed in accordance with SuDS principles. Consistent with my assessment above I would accept that the potential for significant surface water effects to downstream sensitivities during the operational phase is negligible considering the inclusion of suitable SuDS measures and a petrol interceptor.

It is my view that these are best practice standard construction management and surface water management measures which have not been designed or intended to avoid or reduce any harmful effects of the project on a European Site. The measures are otherwise incorporated into the applicant's Preliminary Construction Management Plan and other elements of the documentation and drawings submitted, and I do not consider that they include any specific measures that would be uncommon for a project of this nature. Therefore, I am satisfied that these measures can be considered in the AA Screening process.

I therefore conclude that the proposed development would have no likely significant effect 'alone' on any qualifying features of the

- 1) North-West Irish Sea SPA (004236)
- 2) South Dublin Bay SAC (000210)
- 3) North Dublin Bay SAC (000206)
- 4) South Dublin Bay and River Tolka Estuary SPA (004024)
- 5) North Bull Island SPA (004006).

5. Likely significant effects on the European site(s) 'in-combination with other plans and projects'

Having regard to the foregoing, I consider that the potential for in-combination effects is limited to the cumulative impact of Surface / Storm Water Drainage and WWTP capacity associated with other developments in the area.

As there are no pathways connecting the project site to surrounding Natura 2000 sites and as the project will not result in significant negative impacts it will not have

the potential to combine with other projects in the surrounding area to result in cumulative significant effects to the local environment or Natura 2000 sites occurring in the wider surrounding area.

I conclude that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (Stage 2) under Section 177V of the Planning and Development Act 2000 **is not required**. No further assessment is required for the project.

6. Overall Conclusion- Screening Determination

In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude that that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

It is therefore determined that Appropriate Assessment (Stage 2) [under Section 177V of the Planning and Development Act 2000] is not required.

This conclusion is based on:

- Objective information presented in the applicant's reports;
- The limited zone of influence of potential impacts;
- Standard construction and operational surface water pollution controls that would be employed regardless of proximity to a European site and the effectiveness of same;
- Distance from European Sites;
- The limited potential for pathways to any European site; and
- The nature and extent of predicted impacts, which would not affect the conservation objectives of any European Sites.

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