



An  
Coimisiún  
Pleanála

## Inspector's Report ABP-322319-25

<b>Development</b>	Demolition of existing derelict structures on site; construction of 10 apartments in two three-storey blocks and all associated site works.
<b>Location</b>	Altis, Avondale Road, Killiney, Co. Dublin, A96 AX02
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D24A/0635/WEB
<b>Applicant</b>	Brinnin Holdings Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	First and Third Party
<b>Appellants</b>	(1) Brinnin Holdings Ltd. (2) Beech Court Residents Association.
<b>Observers</b>	None

**Date of Site Inspection**

2<sup>nd</sup> of July 2025

**Inspector**

Siobhan Carroll

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## **1.0 Site Location and Description**

- 1.1. The site of the proposed development is located on the southern side of Avondale Road, Killiney, Co. Dublin. Avondale Road runs from the junction with the Graduate Roundabout north-east to the roundabout at the junction with Glenageary Road Upper/Albert Road Upper/Killiney Road.
- 1.2. The appeal site is located 67m to the east of the Graduate Roundabout. The surrounding area is predominantly residential, it is characterised by dormer and two-storey detached dwellings. Avondale Road contains predominately gable fronted detached dormer dwellings. Beech Court housing estate containing thirty detached dwellings adjoins the appeal site to the east and south. More recent residential development in the immediate area includes the Hayfield apartment scheme which is located on the western side of Church Road (R118) and is situated circa 150m to the west of the appeal site.
- 1.3. Killiney Shopping Centre a neighbourhood centre is located 170m to the north of the site. It contains an extensive mix of retail and commercial premises including a supermarket, Public House, Post Office, financial institution, café, restaurant, pharmacy and hairdressers. Church Road (R118) is served by the no. 7, 7a, 7b, 45a and 111 bus routes. The site is located 1.9km from Glenageary Dart Station and 2.2km from the N11 Quality Bus Corridor.
- 1.4. The site has a stated area of 0.134 hectares. It contains a derelict dwelling which has a floor area of 199sq m. The property is served by an existing gated vehicular entrance. The site it is extensively overgrown with dense undergrowth and mature trees. The northern roadside boundary with Avondale Road is formed by a low stone with wooden fence and extensive mature deciduous trees and hedge cover. The eastern site boundary adjoins the properties no's 1-4 Beech Court. The southern boundary adjoins the rear garden of no. 6 Beech Court. The western boundary adjoins the property Laragh which contains a detached dormer dwelling.

## **2.0 Proposed Development**

- 2.1. Permission is sought for a development comprising;
  - (a) demolition of existing derelict structures on site,

- (b) replacement with the construction of 10 no. new 1,2 & 3 bed apartments in 2 no. three storey blocks, with 8 no. carparking spaces,
- (c) provision of bin storage area and construction of single storey bike storage,
- (d) relocation and widening of existing vehicular entrance including the construction of a new stone wall and piers and internal access road all in accordance with DMURS,
- (e) alterations and repairs to existing front boundary wall including new metal railing atop existing wall with mature planting inside,
- (f) construction of new masonry boundary wall to west side in place of existing panel fence,
- (g) new connections to all public utilities including water, wastewater, gas, electrical and telecoms,
- (h) provision of surface water attenuation and disposal in accordance with SuDS,
- (i) new hard and soft landscaping including planting of mature trees and
- (j) all ancillary site development works required.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. Dún Laoghaire Rathdown County Council decided to grant permission by Order dated 21<sup>st</sup> of March 2025, subject to 22 no. conditions.

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

- 3.2.1. Planning Reports
- 3.2.2. Further Information was sought by the Planning Authority in relation to the following;
  - 1. The Applicant shall submit revised plans and particulars which demonstrate the proposals accordance with the minimums set out under the following sections of the Dún Laoghaire Rathdown Development Plan 2022-2028: a) 12.3.5.3 regarding the quantum, allocation and form of both the Internal and External storage space provision for each of the proposed

apartment units within the development. b) 12.8.3.3 (ii) regarding the quantum of area dedicated as a respective Private Open Space for each of the apartment units.

2. The Applicant shall submit revised plans and particulars: a) Ensuring their respective floor areas of each of the units matches that of the floor area stated in the Housing Quality Assessment. b) Exploring alternative treatments to the East and West elevations of both the North and South blocks in an effort to minimise any perceivable overbearance effects to the adjacent residential properties. c) Omitting the proposed repositioning of the Historic Mile Marker stone into the new granite front boundary wall.
3. In consideration of the anticipated outcomes under Section 12.3.1.1 Design Criteria and Policy Objective BHS3 of the Building Height Strategy: Appendix 5 of the County Development Plan 2022-2028, the Planning Authority have concerns that the bulk and mass of the proposed Southern Apartment Block will result in significant overbearance and overlooking effects to the adjacent residential properties. The Applicant is requested to explore revising the southern block to be a 2 storey structure: a) substituting the respective 3-bedroom duplexes for a respective 1-bedroom apartment in an effort to minimise any perceivable overbearance effects to the adjacent residential properties. b) exploring alternative fenestration treatment/design/ orientation to the 1st floor apartment units of the southern block in an effort to minimise any perceivable overlooking effects to the adjacent residential properties.
4. The Applicant shall submit updated plans and particulars allocating the proposed Public Open Space provision to the front as Communal Open Space considering that the proposed Public Open Space cannot be absorbed into the public realm due to the retention of most of the existing wall along the front boundary, and the Planning Authority consider this area to the front being repurposed as Communal Open Space will improve the quality of the onsite residential amenity for the developments' future residents aligning with the anticipated outcomes under the Apartment Guidelines 2023 and those under sections 12.3.1.1 Design Criteria, 12.8.2

Open Space Categories for Residential Development, and 12.8.3.2 Communal Open Space of the County Development Plan 2022-2028.

5. The Applicant shall submit a Landscape Design Rationale together with comprehensive, detailed Landscape Design and Maintenance Proposals, all prepared by a qualified Landscape Architect. The proposals shall include: a) A Preliminary Landscape Masterplan - with cross- sections (where applicable) - showing all external spaces, including play spaces, and proposed lighting, boundary treatments, along with any small structures and other hard and soft landscape elements. b) Outline details of Soft Landscape Design to include a detailed Planting Plan and Planting Schedule - c) Outline plans and details of Hard Landscape Design for boundary treatments, seating, kerbs, edges, surfaces, lighting, and showing civil engineering elements (e.g. retaining structures, attenuation tanks, existing and proposed underground utilities, services, drainage and ancillary infrastructure as it relates to landscape).
  6. The Applicant shall submit revised drawings and details which demonstrate: a) a separate segregated pedestrian access onto the public footpath on Avondale Road or b) the proposed front boundary wall/piers to be reduced to a height of 1.1m for a minimum length of 1m either side of the proposed rearranged vehicular entrance.
  7. The Applicant is requested to submit revised drawings and details which demonstrate the provision of: a) a minimum of 21 No. cycle parking spaces incorporating the preferred “Sheffield” type stand. The drawings shall demonstrate that appropriate cover to all cycle parking and that the dimensions and layout fully accord with the NTA’s Cycle Design Manual and DLRCC’s Standards for Cycle Parking and associated Cycling Facilities for New Developments (January 2018). b) cargo bike parking.
- Construction Environmental Management Plan
8. Due to the proximity of the subject site to the Graduate Roundabout, the Planning Authority have concerns that the construction phase may result in adverse impacts upon the receiving road network and on the host environment. The Applicant is requested to submit a detailed Construction



Environmental Management Plan to reduce any adverse impacts from construction on the host environment and health and control any temporary emissions during the demolition and construction phase to prevent nuisance or adverse health effects. The Plan shall address, in full, the items below: a) A Construction Traffic Management Plan detailing how it is intended to avoid conflict between construction traffic/activities and traffic/road users, particularly pedestrians and cyclists, on public roads with site accesses and site perimeter public roads, during construction works. b) The Full and comprehensive Construction Traffic Management Plan, shall be produced by a competent designer in accordance with Chapter 8 of the Traffic Signs Manual, including construction vehicular access to site in particular, to avoid conflict between construction traffic/activities and traffic/road users, particularly pedestrians and cyclists, on public roads with site accesses and site perimeter public roads and the surrounding public road network, during construction works. c) An access route to site for construction traffic/vehicles to be agreed with DL RCC Traffic Section, Municipal Services Department. d) How/where it is intended to provide a site compound including materials storage and staff welfare facilities. e) How it is intended to provide for site delivery vehicles manoeuvres, in that vehicles should enter and exit the site/compound/materials storage area in a forward direction. f) Where it is intended to provide for site staff car parking during construction in that it is not acceptable to have long term site staff car parking on the nearby public road network. g) How it is intended to provide suitable facilities for vehicle cleansing and wheel washing on site. h) Proposed measures to minimise/eliminate nuisance caused by noise and dust, proposed working hours and measures to minimise/prevent transfer of dirt to the public road with associated measures to clean the public roads / gullies etc in the vicinity of the site and continuing replacement of roads line markings resulting therefrom. i) Pest Control Management j) Excessive noise & vibration, k) Environmental monitoring plan, l) Emissions to Surface and / or Ground Water m) A Resource & Waste management plan shall be submitted to ensure compliance with the EPA's Best Practice Guidelines

for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects 2021. n) A procedure for dealing with complaints from third parties arising from the construction process.

9. The Applicant has not demonstrated that the proposed development meets the requirements of Appendix 7.2: Green Roof Policy of the County Development Plan 2022-2028, such that all developments with a total roof area greater than 300 square metres require a green roof (note that the percentage coverage required depends on the type of green roof proposed). The Applicant is requested to demonstrate by calculation and by representation on a drawing that the proposed green roof extents are in accordance with the Council's Green Roof policy. The Applicant shall also provide details of maintenance access to the green roofs and should note that, in the absence of a stairwell type access to the roof, provision should be made for alternative maintenance and access arrangements such as external mobile access that will be centrally managed. A detailed cross section of the proposed build-up of the green roof should be provided, including dimensions. The Applicant should demonstrate that the green roof is designed in accordance with BS EN 12056-3:2000 and The SUDS Manual (CIRIA C753).
10. The Applicant has proposed a surface water outfall discharge rate for the site of 2 l/s. The discharge rate for the site must be limited to QBAR (which was calculated as 0.5 l/s in submitted details) or 2l/s/ha, whichever is greater, subject to the orifice size of the flow control device not being less than 50mm in diameter. The Applicant is requested to apply an appropriate outfall discharge rate for the site and recalculate the attenuation volume using the revised discharge rate. This may lead to an increase in attenuation storage volume required. Note that in the interest of clarity where the calculated QBAR rate for the site is less than 2 l/s/ha then a minimum value of 2 l/s/ha should be applied, not a flat rate of 2 l/s, subject to the orifice size of the flow control device not being less than 50mm in diameter i.e. the outfall discharge rate should be calculated based on the lowest flow rate achievable for a 50mm Unit Outlet Diameter

on the proposed flow control device using an appropriate method such as the Hydro International online Optimum Design Tool.

11. The Applicant should demonstrate that the hardstanding/footpaths shown are cambered to infiltrate into the green areas or areas of permeable paving.

3.2.3. Planning Report dated 21/3/2025 – Following the submission of a response to the further information the Planning Authority were satisfied with the details provided and permission was recommended.

3.2.4. Other Technical Reports

3.2.5. Drainage Planning Report dated 24/9/2024 – Further Information requested.

3.2.6. Drainage Planning Report dated 13/3/2025 – No objections subject to conditions.

3.2.7. Transportation Planning Report dated 30/9/2024 – Further Information requested.

3.2.8. Transportation Planning Report dated 5/3/2025 – No objections subject to conditions.

3.2.9. EHO Report dated 20/9/2024 – Further Information requested.

3.2.10. Environmental Enforcement Report dated 1/10/2025 – Further Information requested.

3.2.11. Parks & Landscape Services Department Report dated 11/9/2024 – Further Information requested.

3.2.12. Conditions

3.2.13. Condition no. 8 – (a) The external finishes of the proposed development shall be as per the submitted drawings, unless otherwise agreed in writing with the Planning Authority. (b) All bathroom/ensuite windows shall be fitted with permanent obscure glazing. The use of film is not acceptable. (c) The applicant shall ensure that apartments 2,3 and 5 shall be provided with a minimum balcony/terrace area of 7sqm, and a minimum width of 1.5m. Reason: In the interest of visual amenity and residential amenity.

3.2.14. Condition no. 12 - The developer shall lodge to Dún Laoghaire Rathdown County Council the total sum of €150,750.00 (€7,500,000 x 0.0201) as a contribution in lieu of not providing the 15% public open space requirement.

**Reason:** It is considered reasonable that the payment of a contribution be required in respect of the provision of the Community & Parks facilities & Recreational amenities benefiting development in the area of the Planning Authority and that is provided, or that is intended will be provided, by or on behalf of the Local Authority.

### 3.3. Prescribed Bodies

- None

### 3.4. Third Party Observations

- 3.4.1. The Planning Authority received 7 no. submissions/observations in relation to the planning application. The main issues raised are similar to those set out in the third party appeal.

## 4.0 Planning History

- 4.1.1. Reg. Ref. D24A/0157 - Permission was refused for the A) Demolition of existing derelict structures on site. B) Replacement with construction of 5 new four-bedroom three storey dwellings in two alternate types. C) Relocation and widening of existing vehicular entrance including construction of new stone wall and piers and internal access road all in accordance with DMURS. D) Alterations and repairs to existing front boundary wall including new metal railing atop existing wall with mature planting. E) Construction of new masonry boundary wall to west side in place of existing panel fence. F) New connections to all public utilities including water, wastewater, gas, electrical and telecoms. G) Provision of surface water attenuation and disposal in accordance with SuDS. H) New hard and soft landscaping including planting of mature trees and I) All ancillary site development works required.

Permission was refused for the following reasons;

1. The subject site contains large mature trees, both to the front and rear. The 2022-2028 County Development Plan contains an objective to protect and preserve trees at this location, while Section 12.8.11 of the 2022-2028 County Development Plan outlines the requirements in respect of existing trees where new developments are proposed. No arboricultural assessments were submitted as part of the application documentation and noting the proposed

development layout, the Planning Authority is concerned that the proposal has not been designed to protect or preserve the trees and the amenities afforded to them. The Planning Authority has concerns that their removal would be injurious to the amenities and character of area. The proposed development fails to accord with Section 12.8.11 of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 and would be injurious to the amenities of the area. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. The subject site is located in close proximity to both existing bus services and planned significant bus service improvements under the NTA's BusConnect programme. The site is also close to existing Neighbourhood Centre services and schools and at a location, where it is a policy objective of the Council to 'increase housing supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites having regard to the proximity and accessibility considerations' -PHP 18 Residential Density of the County Development Plan. In addition, the Sustainable Residential Development and Compact Settlement Guidelines (2024) indicate recommended density ranges as set out in Section 3.3 of the Guidelines, which promote seeking higher residential densities, especially at locations accessible to existing or planned quality public transport services. Having regard to the number of units proposed in this application, it is considered that the proposed development constitutes an unacceptably low density of development within this location which would constitute an unsustainable use of this accessible and fully serviced site and, as such, would contravene Policy PHP18 Residential Density of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 and would also be contrary to the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024). Therefore, the proposed development, would set an undesirable precedent for other similar developments and would be contrary to the proper planning and sustainable development of the area.

- 4.1.2. Reg. Ref. D21A/1011 – Permission was granted on the site for the demolition of the existing buildings on site, to be replaced with a detached two-storey five bedroom house. The works will also include ancillary single-storey accommodation for a two

car garage and gym, associated site works including drainage, landscaping, site services, and upgrades to the entrance driveway. This permitted development was not carried out.

#### Adjacent Site

- 4.1.3. Reg. Ref. D23A/0059 – Permission was granted at no. 1 Beech Court for a development in the side garden comprising a new two-storey three-bedroom dwelling.

## **5.0 Policy Context**

### **5.1. Project Ireland 2040 - National Planning Framework – First Revision – April 2025**

- 5.1.1. The NPF includes a Chapter, No. 6 entitled ‘People, Homes and Communities’. It sets out that place is intrinsic to achieving good quality of life.
- 5.1.2. National Policy Objective 7 seeks to “deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements and ensure compact and sequential patterns of growth.”
- 5.1.3. National Policy Objective 8 seeks to “deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints and ensure compact and sequential patterns of growth.”
- 5.1.4. National Policy Objective 43 seeks “to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.”
- 5.1.5. National Policy Objective 45 seeks to “increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration, increased building height and more compact forms of development.”

## 5.2. Section 28 Ministerial Guidelines

- 5.2.1. The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.
- Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (2024)
  - ‘Design Manual for Urban Roads and Streets’ (DMURS) (2019)
  - ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’) (2009)
  - ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ (2023)
  - Urban Development and Building Heights – Guidelines for Planning Authorities (2018)
- 5.2.2. On the 8<sup>th</sup> of July 2025 the Design Standards for Apartments, Guidelines for Planning Authorities (2025) was issued by the Department of Housing, Local Government and Heritage.
- 5.2.3. Circular Letter: NPS 04/2025 issued by the Minister on the 10<sup>th</sup> of July 2025 advises that the Design Standards for Apartments, Guidelines for Planning Authorities (2025) are applicable to any application for planning permission and to any subsequent appeal or direct application to An Coimisiún Pleanála submitted after the issuing of the Guidelines, i.e. from 9th July 2025.
- 5.2.4. The revocation of the ‘Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities’, 2023 (and all preceding updates) does not apply to current appeals or planning applications, i.e. that were subject to consideration within the planning system on or before the 8th of July 2025. These will be considered and decided in accordance with the ‘Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities’, 2023, or as set out below, where applicable.

### **5.3. Climate Action Plan 2025**

- 5.3.1. The Climate Action Plan 2025 (CAP25) is the third annual update to Ireland's Climate Action Plan. It should be read in conjunction with Climate Action Plan 2024.
- 5.3.2. The purpose of the Climate Action Plan is to lay out a roadmap of actions which will ultimately lead us to meeting our national climate objective of pursuing and achieving, by no later than the end of the year 2050, the transition to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy. It aligns with the legally binding economy-wide carbon budgets and sectoral emissions ceilings that were agreed by Government in July 2022.

### **5.4. National Biodiversity Action Plan 2023-2030**

- 5.4.1. Ireland's 4th National Biodiversity Action Plan (NBAP) sets the national biodiversity agenda for the period 2023-2030 and aims to deliver the transformative changes required to the ways in which we value and protect nature.
- 5.4.2. The targets set out in the Plan are in the context of five objectives that lay out a clear framework for our national approach to biodiversity.
- 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.

### **5.5. Dún Laoghaire Rathdown Development Plan 2022-2028**

- 5.5.1. The appeal site at Altis, Avondale Road, Killiney, Co. Dublin is located on lands zoned Objective 'A' which has the objective: "to provide residential development and improve residential amenity while protecting the existing residential amenities". 'Residential' development is permitted in principle under this land use zoning objective.



- 5.5.2. Chapter 3 refers to the matter of Climate Action. It sets out the detailed policy objectives in relation to climate and the role of planning in climate change mitigation, climate change adaptation and the transition towards a more climate resilient County.
- 5.5.3. Chapter 4 refers to Neighbourhood – People Homes and Place
- 5.5.4. Policy Objective PHP18 - Residential Density: Seeks to increase housing 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. Additionally, this policy objective seeks to encourage higher residential densities on the proviso 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.
- 5.5.5. Policy Objective PHP20 - Protection of Existing Residential Amenity: Seeks 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.
- 5.5.6. Policy Objective PHP27 - Housing Mix: Seeks 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.
- 5.5.7. Policy Objective PHP42 - Building Design & Height: Seeks to encourage high quality design of all new development. It seeks to ensure new development complies with the Building Height Strategy for the County as set out in Appendix 5 in a manner consistent with NPO 13 of the NPF.
- 5.5.8. Chapter 5 refers to the matter of Transport and Mobility. It seeks the creation of a compact and connected County, promoting compact growth and ensuring that people can easily access their homes, employment, education and the services they require by means of sustainable transport.
- 5.5.9. Chapter 12 refers to Development Management

- 5.5.10. Section 12.3.4 refers to Residential Development – General Requirements
- 5.5.11. Dún Laoghaire-Rathdown County Council – Development Contribution Scheme 2023-2028 Section 48, Planning & Development Act, 2000, (as amended)

## **5.6. Natural Heritage Designations**

- 5.6.1. Rockabill to Dalkey Island SAC (Site Code 003000) is circa 2.8km to the north-east of the appeal site.
- 5.6.2. Dalkey Island SAC (Site Code 004172) is circa 4.8km to the north-east of the appeal site.
- 5.6.3. South Dublin Bay SAC (Site Code 000210) is 8.4km to the north of the development site.
- 5.6.4. South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) is located 7.4km to the north of the development site.

## **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. A third party appeal was submitted by Marston Planning Consultancy on behalf of Beech Court Residents Association. The issues raised are as follows;
- It is submitted that the proposed development by nature of its scale, density, design and layout at this location amounts to a haphazard form of

development that would be seriously injurious to the amenities of the area and particularly to the owners of the houses to the east, south and west of the proposed development site.

- The proposed development is contrary to section 12.3.7.7 of the Dún Laoghaire Rathdown Development Plan 2022-2028 which refers to infill development. It is considered that the design of the scheme has failed to adequately respect the position, orientation and residential amenity of the appellant's homes.
- The proposed layout provides for the southern block being located to the southern boundary by circa 4.9m. The level of overbearance of the southern block and the northern block is considered high particularly to no. 1 and no. 2 Beech Court and the dwelling 'Laragh'.
- Concern is expressed that it will not be possible to retain two ash trees that sit along the southern boundary of the site as the southern block will be constructed within the majority of the root protection area.
- It is requested that the Commission question the ability to retain any trees given the root protection areas of all trees. It is highlighted that the application site is subject to an objective under the County Development Plan "to protect, and preserve trees and woodlands". Section 12.8.11 of the Development Plan refers to Existing Trees and Hedgerows it advises that new developments shall also have regard to objectives to protect and preserve trees and woodlands. Whilst a tree survey has been undertaken it is not accompanied by a Tree Protection Plan and a Tree Constraints Plan which it is considered would be appropriate in this instance.
- The Development Plan is clear in stating under section 9.3.1.3 and section 12.8.11 that the Council will seek to preserve trees, groups of trees and/or woodlands that form significant features in the landscape and/or are important in setting the character, amenity or ecology of an area.
- It is submitted that the tree and woodland zoning objective relates to the application site and that this objective seeks to retain the site and surrounding areas intrinsic wooded nature and character.

- The proposed scheme would result in the removal of all but one tree and therefore must warrant a refusal of permission.
- It is highlighted that the one tree is detailed in the assessment has been indicated as being category B and is proposed to be removed. The Parks Department of the Council were of the opinion that this tree should be retained.
- No ecological impact assessment of the trees or of the house was undertaken to establish whether they are suitable or in use as bat roosts.
- It is submitted that the scale and position of the two apartment blocks despite the reduction of the southern block to being two-storey would be highly overbearing when viewed from the neighbouring property. The proposed blocks are located at the closest point 0.8m from the boundary to the east and west. The height of the northern block has increased under the current application compared with the previously refused application.
- The most significant and negative impact will be to the house no. 6 Beech Court to the south where there are bedroom windows located just over 4m from the shared boundary. The southern block despite being reduced to two-storeys in height includes bedroom windows with 4.2m and 4.8m from the southern boundary that will overlook the rear garden of no. 6 Beech Court.
- It is considered that the impact of the position of the block within 3m of the eastern elevation of 'Laragh' would result in a loss of sunlight and daylight. The fact that 'Laragh' is on lower ground and single storey this would further accentuate the overbearing impact of the southern block despite it being two-storey.
- It is submitted that the degree of overshadowing and overbearing nature of the proposal would be contrary to policy objective PHP20 of the Development Plan. It is requested that the Commission overturn the decision of the Council and refuse permission.
- Regarding overlooking the southern block has been relocated from being 9.1m away from the southern boundary under the previous refused application to being 4.23m under the current application. It continues to

include two rear facing windows at first floor level that will overlook the houses to the rear/south of the site.

- It is stated that the applicants argue that this will be partly mitigated by the two trees on the boundary, however those trees will be removed by the proposed development.
- With the removal of the trees there is clear potential that the degree of overlooking will have a profound negative impact on the residential amenity of no's 5 & 6 and 7 Beech Court with the rear elevation of no. 6 being 14m away from the rear elevation of the apartment block. This is less than the separation distance allowed under the Compact Settlement Guidelines.
- It is submitted that the application provides an inadequate buffer as is required under policy PHP20 of the Development Plan.
- The scheme includes balconies and terraces to the south of the northern block and to the north of the southern block at first and second floor level. At the nearest point these are within 14m of each other. Inadequate consideration has been given in relation to this design.
- The above ground floor terraces and balconies indicate that a 1.8m high obscure glass screen will be placed on the eastern or western side of the balcony in order to avoid overlooking to the nearest residential properties. There is a lack of clarity on their position. The proposed screens do not appear to extend for the full depth of the balconies as detailed on the elevation of the northern block. Even if the screen was extended along the entire eastern side of these terraces and balconies there would remain overlooking of no. 3 and no. 4 Beech Court. The ground floor of the northern block which has an overall height of 9.87m to the east and 10.345m to the west it is 0.78m above ground level. Therefore, the ground floor apartments will also generate overlooking into the neighbouring properties.
- The proposed development of 10 no. apartments will be served by 6 no. car parking spaces and 2 no. disabled spaces. The proposed redesigned entrance includes a right of way to the front of the property 'Laragh'. The entrance is located 64m from the Rochestown Roundabout junction and

opposite the right turning lane off Avondale Road onto Ballinclea Road. There is also a steeply sloping cycle path and footpath.

- The road experiences existing traffic queuing and the proposed intensification of the access will result in a greater proliferation of car trips in and out of the site which would result in a traffic hazard.
- The lack of car parking in the scheme has the potential to generate overflow car parking in Beech Court and Killiney Shopping Centre. It is submitted to the car parking strategy proposed by the applicant and approved by the Council is flawed.
- The Council concluded that the site was suitable for a reduction in car parking from the standard car parking standards under section 12.4.5.2 of the Development Plan.
- Under Table 12.5 of the Plan there is a requirement under Zone 3 within which area the site is located as detailed on the parking zones map of the Development Plan. The parking requirement in Zone 3 is to provide one car parking space for every one bed and two bed apartment and two spaces for a three bed unit. There is also a need to provide one visitor space and disabled space. There is therefore a requirement for the proposed scheme to be served by a standard of 12 car parking spaces.
- In relation to Zone 3 it covers the majority of the county and there is not an excellent access to public transport where it is available. The County Development Plan states that there is a need to provide visitor parking at a rate of one per ten spaces.
- In relation to the deviation from the standard number of car parking specified in Table 12.5 the provision for the Council to do this is not disputed. However, regard must be had to a whole range of criteria as set out under section 12.4.5.2 (i) of the Development Plan. Two of the key criteria are proximity to public transport and existing availability of car parking.
- It is stated that Dart stations are significantly greater than a 10 minute walk from the site, with Killiney Station being 36 minutes walk and Glenageary

Station being 27 minutes walk. It is stated that there is no existing provision of available car parking.

- In relation to bus service, the no. 59 serves Avondale Road and operates one per hour. There are other buses serving Thomastown Road these are infrequent being twice hourly. Buses also serve Rochestown Avenue these range in terms of destination.
- The critical consideration for the Commission is whether there is capacity as is proposed under the application to reduce the level of car parking in this location by such a degree below the Development Plan standard requirement.
- It is submitted that the evidence before the Commission that a reduction in car parking will result in overspill car parking in an area where there is no capacity to absorb such car parking without resulting in a traffic hazard.
- It is respectfully submitted that the Commission refuse permission for the reasons set out in the appeal.

## **7.2. Applicant Response**

7.2.1. A response to the third party appeal has been received from Kiaran O'Malley & Co. Ltd. Town Planning Consultants on behalf of the applicant Brinnin Holdings Ltd. The issues raised are as follows;

- The Commission is invited to reject the grounds of the third party appeal and confirm the decision of the local authority but without a public open space contribution as per the first party appeal.
- In relation to the nature and extent of the development the proposed layout approved by the Council retains the trees and the applicant is amenable to the attachment of a condition requiring a tree protection plan for submission prior to commencement of development. This should fully allay the appellant's concerns.
- Regarding the matter of negative impact on residential amenity and tree loss it is highlighted that a tree constraint plan was submitted with the further information response. It is confirmed that the applicant has no objection to the submission of a tree protection plan prior to commencement of the

development. Condition no. 14 of the Council's decision requires the retention of a qualified and registered or chartered Landscape Architect as landscape consultant for the full duration of the development works to ensure implementation of the landscape proposals including the retention of trees at the southern boundary.

- It is highlighted that the separation distance between the southern block and no. 6 Beech Court is stated as 18.533m on the plans lodged with the further information. It is highlighted that this exceeds the current standard of 16m per Sustainable Residential Settlement Guidelines.
- The South Block is two-storeys height, it is submitted that while the separation distance is 4.2m to the rear boundary the retention of the existing trees is proposed and there is a separation distance of 18.5m to the rear of the dwelling no. 6 Beech Court and given the nature of the bedroom use, the Commission is invited to agree that no material overlooking or loss of amenity would arise at no. 6 Beech Court. There is also a large shed and trees in the rear garden at no. 6 Beech Court.
- A recent application at the property Beech Court Reg. Ref. 025B/0150/WEB provides drawings of the property. They illustrate that there is only a single first floor rear bedroom window facing towards the proposed South block. Using the dimensions stated on the site layout plan at no. 6 Beech Court the first floor window to window separation exceeds the new guidelines standard of 16m.
- There is no requirement for an ecological impact assessment at this site or a bat assessment.
- The suggestion that the two-storey building heights of the South block could constitute an overbearing impact at any of the appellants properties is not accepted. It is highlighted that the majority of the properties are all higher than the South block.
- The design of the southern block includes a setback in the floor plan as per the site layout plan. It is submitted that the block is more than sufficiently set back from the side boundaries to 'Laragh' to the south-west and no. 4 Beech



Court to the north-east to avoid any overbearing impact from a two-storey building.

- Having regard to its orientation and low building height any impact on daylight and sunlight at 'Laragh' from the two-storey South block will be minimal or imperceptible. It is stated in the third party appeal that 'Laragh' is a single storey building, however it is a high pitched dormer dwelling.
- It is submitted that the proposal does not contravene policy PHP20.
- It is highlighted to the Commission that this is a proposal for a two and three-storey residential development and that the density of the proposal is in response to the previous refusal on this site on the basis of unsustainable density.
- Regarding the extent of screening at the eastern terrace of unit no. 6 in the North block, it will extend along the whole of the side of the balcony to avoid any potential for overlooking at no's 2 and 3 Beech Court. It is noted that balcony screens are common on infill proposals as they ensure protection of amenity and privacy within development proposals and at adjoining properties.
- Regarding the matter of traffic hazard it is noted that Ballinclea Road/Avondale Road has a 50kph speed limit and it is subject to traffic calming measures including speed ramps and a 3.5 tonne weight limit on vehicles. The roads surrounding the appeal site have footpaths and cycle paths. The area is very well served by public transport including the 7, 7A, 7B, 7E, 45A, 45B and 111 bus routes all within 220m. Also, the site is in close proximity to Killiney Shopping Centre. It is highlighted that there are further services imminent as part of the Bus Connects bus plan including the B4(Spine/Branch Route), L11, L22 (Local Routes) and P11 (Peak Time).
- The existing and future bus services will link the residents of the proposed scheme with the Luas at Brides Glen, the existing QBC and approved Bus Connects at the N11 and the Dart and approved Bus Connects at Blackrock. The public transport linkages will provide access to significant employment

centres at Cherrywood and Blackrock and further afield at Bray, Sandyford, Dundrum and Dublin City Centre.

- It is the prevailing policy to shift people from unsustainable use of the private car. For this to be achieved and be successful it is necessary to limit access to off street car parking and also provide more sustainable alternatives.
- The appeal appears to apply SPPR3 from the Compact Settlement Guidelines as opposed to the Apartment Guidelines of 2023. In both these documents the accessible locations definition includes “within 5 minutes walking distance of high frequency (min 10 minutes peak hour frequency) bus service.
- As the Guidelines also have regard to planned high frequency services, which was also reference in the Council’s refusal that should also be the same for assessing accessibility in terms of apartment schemes.
- The planned P11 peak route will replace the existing 7b route, it will operate 6 trips per the evening peak hour, which will be a high frequency service. The route will serve Blackrock, Dublin City Centre and Blanchardstown. The route will be within 500m from the appeal site and therefore is compliant with the accessible locations criteria.
- Paragraph 4.21 of the Apartment Guidelines 2023 states “the default policy is for car parking provision to be minimised substantially reduced or wholly eliminated in certain circumstances” i.e. at accessible locations. 8 no. car parking spaces are proposed at this location and safe and secure bicycle parking is proposed.
- The applicant has no control over car parking at Beech Court. Car parking could be controlled through the provision of double yellow lines and parking enforcement. Killiney Shopping Centre undertakes its own car parking management, and it is highlighted that there is no appeal from the shopping centre owners or occupants in respect of the proposal.
- Therefore, the first party do not agree that the proposed scheme provides an under provision of car parking or that it would create a traffic hazard. It is submitted that the traffic generated by the proposed development would be

very low in absolute terms and significantly less than at Beech Court. It is stated that the sightlines at the proposed access are excellent.

- The proposed car parking provision complies with the national and county level policy having regard to the sites accessible location in respect of existing and planned future public transport.
- In conclusion the proposed development is in direct response to the previously refused scheme on the site. The Council decision cited unsustainable and unacceptable low density having regard to proximity and accessibility considerations including both existing bus service and planned significant bus service improvements under the NTA's BusConnects.
- The Planning Authority in their assessment of the scheme accepted that the site is also close to existing neighbourhood centre services and schools at a location where it is a policy objective of the Council to increase housing supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites having regard to the proximity and accessibility considerations.

### 7.3. First party appeal

7.3.1. A first party appeal has been submitted by Kiaran O'Malley & Co. Ltd. Town Planning Consultants on behalf of the applicant Brinnin Holdings Ltd against a condition of the permission issued by Dún Laoghaire Rathdown County Council. The issues raised are as follows;

- The first party appeal is against condition no. 12 which states;  
  
12. *The developer shall lodge to Dún Laoghaire Rathdown County Council the total sum of €150,750.00 (€7,500,000 x 0.0201) as a contribution in lieu of not providing the 15% public open space requirement.*

*Reason: It is considered reasonable that the payment of a contribution be required in respect of the provision of the Community & Parks facilities & Recreational amenities benefiting development in the area of the Planning Authority and that is provided, or that is intended will be provided, by or on behalf of the Local Authority.*

- The first party state that they do not agree that the proposed development does not provide public open space in compliance with the development plan and the Sustainable and Compact Settlement Guidelines. On the initial site layout plan Drg. No. PP-03 Issue 01, 180sq m or 17% of the site area was designed as public open space.
- It is submitted that the proposed development complies with the requirements for public open space as set out in Section 12.8.5 of the Dún Laoghaire Rathdown Development Plan 2022-2028 which states, *“For this reason, public open space should be accessible, inclusive, secure, and usable. In accordance with the ‘Guidelines on Sustainable Residential Development in Urban Areas’, public open space on greenfield sites in the County’s new development areas should be in the form of useful open spaces and where appropriate larger neighbourhood parks to serve the wider community. Where public open space is to be provided on foot of a planning permission, the space in question should be well designed, and located to sympathetically complement the layout of the development. Public open spaces should be overlooked and designed to ensure that potential for antisocial behaviour is minimised through passive surveillance. The open space should be visible from, and accessible to, the maximum number of dwellings/units within the proposed scheme. Inaccessible, hidden or otherwise backland open space, and narrow linear strips of open space will not be acceptable.”*
- It is stated that the report of the Planning Officer initially accepted that the quantum of public open space inside the front boundary was sufficient, however this was then rejected “having regard to the foregoing security considerations section. It was stated in the report that “the area designated to be public open space is not considered to be conducive to imbuing the future occupants and their visitors with a sense of safety and security”.
- It is submitted that this reasoning does not make sense and that it is contrary to the following section of the report of the Planning Officer which states, “The Planning Authority have considered the proposed built form and apartment configuration and are of a view that the development will be able to provide its future residents and visitors with a sense of safety and security, as the

orientation and position of the apartment blocks and the units have been designed so as to facilitate passive surveillance.”

- It is set out that there is a contraction in the Council’s assessment and summary of the public open space as initially proposed in the planning application. It is submitted that there is passive surveillance of the public open space from the proposed development and therefore there is no basis for safety or security concerns.
- It is stated that there is no dispute that the quantum of open space complies with the development plan requirement. There should also be no dispute that the location, layout and accessibility of the public open space complies fully with section 12.8.5 of the development plan.
- The final paragraph of section 12.8.3.1 of the development plan states, “Public Open Space may be taken-in-charge, by the Local Authority, or may be privately managed.” It is proposed that the public open space is privately managed and therefore the fact that it would not be taken in charge does not provide any justification to attach an onerous financial in condition no. 12.
- The proposed development is a modest residential development which has a requirement for private open space, communal open space and public open space. It is submitted to the Commission that all three of these have been provided in compliance with the development plan and applicable section 28 Guidelines as follows:
  - As set out in the Housing Quality Assessment which was submitted with the further information response, the provision of private open space for each of the 10 no. apartments complies and or exceeds the required standard.
  - As shown on the Site Layout Plan: OPEN SPACES, communal open space of over 105sq m has been identified in the scheme. The communal open space requirement is 60sq m, there is an excess provision of 45sq m or 75% above the requirement.
  - As shown on the Site Layout Plan: OPEN SPACES, public open space of 173sq m is shown between the proposed North Block and the front boundary to Ballinclea Road, which also exceeds the not less than a minimum of 10% of

the site area and not more than 15% of the net site area per Policy and Objective 5.1 of the Sustainable and Compact Settlements Guidelines for Planning Authorities.

- Condition no. 12 was attached having regard to the Development Contribution Scheme and in particular section 6.0 that states;

6.1. *The Dun Laoghaire-Rathdown County Development Plan 2022 – 2028 provides that in the event that the standards for public open space referred to in the County Development Plan are not met and/or where public open space cannot be facilitated within a development, an additional contribution may be required by way of condition when granting planning permission.*

6.2. *Where the Planning Authority considers that the standards for public open space referred to in the County Development Plan are not met and/or that open space cannot be facilitated within the development As adopted 9th October 2023 concerned, an additional financial contribution of €7,500,000 per hectare shall be calculated on a pro rata basis on the quantum of the shortfall in public open space and monies paid in accordance with such condition shall be applied to the provision of and/or improvements to a park and/or enhancement of amenities in the area.*

- It is submitted that the standard for public open space has been met in the proposed scheme and that the proposal is fully compliant with respect to public open space, communal open space and private open space. Therefore, there is no basis for a financial contribution in lieu of public open space. The Commission is therefore requested to removed condition no. 12 of the Council's decision.

#### **7.4. Planning Authority Response**

- It is considered that the grounds of appeal do not raise any new matters which, in the opinion of the Planning Authority, would justify a change in attitude to the proposed development.

- The Commission is referred to the previous Planner's Report.

## **7.5. Further Responses**

7.5.1. A further submission was received from Marston Planning Consultancy on behalf of the third party appellants Beech Court Residents Association in response to the first party appeal made by Brinnin Holdings Ltd. The issues raised are as follows:

- They welcome the recognition by the Council through the calculation of this condition through its own contribution department that the proposed development includes no public open space and that this has generated the requirement for a public open space contribution.
- This is required in lieu of the applicant not providing the 15% public open space requirement.
- It is submitted that this illustrates that the proposal represents over development of the site and that there are strong and unambiguous grounds for refusing permission for this application on sound and objective planning grounds and these are reflected in the requirement to attach a condition in lieu of the inadequate quality of open space.

## **8.0 Assessment**

Having examined the application details and all other documents on file, including all of the submissions received in relation to the appeal, the reports 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 issues in this appeal to be considered is as follows:

- Policy Context
- Impact upon residential Amenity
- Access and traffic
- Other issues
- First Party Appeal

## 8.1. Policy Context

- 8.1.1. The appeal site at Altis, Avondale Road, Killiney, Co. Dublin is located on lands zoned Objective 'A' under the provisions of the Dun Laoghaire-Rathdown County Development Plan 2022-2028. The objective seeks "to provide residential development and improve residential amenity while protecting the existing residential amenities". Accordingly, 'Residential' development is permitted in principle under this land use zoning objective.
- 8.1.2. In relation to the national policy context the proposed development comprises a residential infill development in the suburb of Killiney, Co. Dublin which would be in accordance with the following National Policy Objectives of the National Planning Framework- First Revision (2025). NPO 7 seeks the delivery of 40% of all new homes nationally, within the built-up footprint of existing settlements and ensure compact and sequential patterns of growth. NPO 8 seeks the delivery of at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints and ensure compact and sequential patterns of growth. NPO 43 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. NPO 45 seeks to Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration, increased building height and more compact forms of development.
- 8.1.3. The site has an area of 0.134 hectares and the proposed scheme of 10. apartments which provides a density of 74.6 units per hectare. The scheme which was previously proposed on site under Reg. Ref. D24A/0157 was for the demolition of the existing dwelling and construction of 5 no. houses on the site. Permission was refused for that scheme for two reasons the first referred to the removal of trees on site and the second reason stated that it was considered that the proposed development constitutes an unacceptably low density of development within this location which would constitute an unsustainable use of this accessible and fully serviced site and, as such, would contravene Policy PHP18 Residential Density of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 and would also



be contrary to the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024). The site context was set out in the refusal reason where it was stated that the site is located in close proximity to both existing bus services and planned significant bus service improvements under the NTA's BusConnect programme. It was also highlighted that the site is close to existing Neighbourhood Centre services and schools.

- 8.1.4. In relation to the provisions of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024). Section 3.3.1 of the Sustainable Residential refers to Cities and Metropolitan (MASP) Areas. Table 3.1 refers to density ranges for the Dublin and Cork City and Suburbs. In relation to Suburban/Urban Extension locations it sets out that it is a policy and objective of these Guidelines that residential densities in the range 40 dph to 80 dph (net) shall generally be applied at suburban and urban extension locations in Dublin and Cork and that densities of up to 150 dph (net) shall be open for consideration at 'accessible' suburban/urban extension locations. The subject site located at Avondale Road, Killiney, Co. Dublin would constitute a suburban/urban extension location within the context of its location circa 4km from Dun Laoghaire Town Centre and 14km from Dublin City Centre.
- 8.1.5. Policy PHP18 of the Development Plan refers to Residential Density and it seeks to increase housing 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. The proposed development which entails the demolition of an existing derelict dwelling and development of 10 no. dwelling units constitutes a scheme which provides for the re-intensification of an infill/brownfield sites. It is set out under this policy that the design of schemes should be of high quality and that cognisance of the requirement to protect the existing residential amenities and the established character of the surrounding area should be had while also balancing the need to provide for high quality sustainable residential development. In relation to these issues, they will be addressed in the subsequent sections of this report.
- 8.1.6. Accordingly, I would conclude that the density of the scheme at 74.6 units per hectare is appropriate and in accordance with the provisions of the Sustainable Residential Development and Compact Settlements – Guidelines for Planning

## **8.2. Impact upon residential amenity**

- 8.2.1. The grounds of appeal raised the issues of overlooking, overbearing and overshadowing. The proposed height of the apartments is of concern in relation to privacy and amenity of adjacent properties. It is submitted in the appeal that the design, layout and height of the development did not have regard to the height and character of the adjoining residential properties. The appeal referred to the separation distance between the two proposed apartment blocks and between the adjacent existing buildings. It was submitted in the appeal that the privacy and amenity of adjoining properties will be seriously injured due to the proposed developments proximity to neighbouring properties.

### Overlooking/loss of privacy

- 8.2.2. In relation to the issue of overlooking the closest residential properties to the proposed apartment buildings are the neighbouring dwellings to the east and south within Beech Court and the property to the west 'Laragh'.
- 8.2.3. As part of the further information issued by the Planning Authority the applicant was requested to revise the design of the scheme to address the concerns they had in relation to the design of Block A proposed to the southern area of the site. It was requested that Block A be reduced to two-storeys in order to address potential for overbearing and overlooking and that consideration of the orientation of the first floor apartment units be had in order to minimise any perceivable overlooking.
- 8.2.4. In response to the matter the height of Block A was reduced from three to two-storeys. The proposed ridge height of the building has been reduced from 10.4m to 6.6m. In relation to the issue of potential overlooking I note that the 2 no. apartments proposed to the first floor of Block A are both one bedroom apartments with the bedrooms and bathroom addressing the southern site boundary. Obscure glazing is proposed to the bathroom windows. The balconies proposed to serve these units are located to the northern side of the building.
- 8.2.5. The first party in their response to the matter of potential overlooking of the property to the south no. 6 Beech Court highlighted the revised design with the reduction in

the height of the building to two-storeys and they noted that a separation distance of 4.2m is provided to the rear boundary with a separation distance of circa 18.5m to the rear of the dwelling no. 6. It is also proposed to retain the two mature Ash trees on site located at the southern boundary. Therefore, having regard to the separation distance between the rear of the proposed apartment building and the rear of no. 6 Beech Court and limited scale of fenestration, I consider that the Block A would not result in any undue overlooking of the neighbouring dwelling to the south.

8.2.6. The appeal also raised concern regarding potential overlooking of the properties to the east in Beech Court and the design of the proposed balcony screening was questioned. In relation to the matter of potential overlooking of those properties, in relation to apartment Block B, I note that there are no windows proposed to the east facing elevation of the building. The first party in their response highlighted that screening at the eastern terrace of unit no. 6 in the North block, will extend along the whole of the side of the balcony to avoid any potential for overlooking at no's 2 and 3 Beech Court. Therefore, while I note that balconies are proposed to the southern elevation of Block B, I consider that the provision of the balcony screens will satisfactorily address any potential overlooking of the neighbouring properties to the east in Beech Court. In relation to apartment Block A, I note that there is only one window proposed at first floor level to the east facing elevation of the building and this is a small window serving a kitchen area where obscure glazing is proposed.

8.2.7. Accordingly, having regard to the siting and design of the proposed scheme I am satisfied that that no material overlooking or loss of privacy will occur.

#### Overbearing

8.2.8. Regarding the matter of overbearing impact, the Planning Authority sought further information in relation to the design of the scheme specifically to reduce the height of apartment Block A from three-storeys to two-storeys. The grounds of appeal state that the proposed development would have an overbearing impact notwithstanding the proposed reduction in Block A to two-storeys. It is also raised in the appeal that the proposed Block B is located 0.8m at the closest point to the boundary to the east and west and that the proximity of the building would give rise to overbearing.

8.2.9. In response to the matter the first party stated that they do not accept that proposed the two-storey apartment building Block A would have an overbearing impact upon

neighbouring properties. They highlighted that the majority of the neighbouring properties are all higher than the Block A. The first party also stated that the design of Block A includes a setback in the floor plan as per the revised plans and that the block is more than sufficiently set back from the side boundaries to 'Laragh' to the south-west and no. 4 Beech Court to the north-east to avoid any overbearing impact from a two-storey building. In relation to the siting and design of Block A, I note that there is a setback of 2.75m from the western boundary with the dwelling 'Laragh' and that a minimum setback of 0.725m is provided to the eastern boundary with No. 4 Beech Court with the rear of the dwelling being 9m from the boundary. Having regard to the two-storey design of apartment Block A and the separation distances provided to closest neighbouring dwellings, I consider that it would not give rise to any undue overbearing impacts.

8.2.10. In relation to Block B, while I would note that sections of the building would be within close proximity of the eastern and western boundaries due to the site configuration, I note the specific design of the building with the undercroft area providing vehicular access into the scheme which is proposed on the western side of the building. Having regard to this design feature of Block B, I consider that it serves to reduce the impact of the proximity of the building to the western boundary. Regarding the location of the dwelling 'Laragh' relative to Block B, I note that it is setback behind Block B by circa 8m. I consider that the siting and design of Block B has been carefully considered having regard to the location of the dwelling 'Laragh' and that potential overbearing impacts have been minimised.

8.2.11. Regarding the location of the two properties no's 1 & 2 Beech Court, I note the rear of both dwellings are setback circa 14m from side of Block B. Therefore, given the separation distance provided to those dwellings and three-storey design of Block B, I consider that it would not give rise to any undue overbearing impacts.

8.2.12. Accordingly, as set out above, I consider that having regard to the siting and design of two apartment buildings within the scheme relative to surrounding properties that it does not present any undue overbearing impacts.

#### Overshadowing

8.2.13. The matter of overshadowing and impact on the daylight and sunlight to the property 'Laragh' to the west of the site was raised in the appeal. It was submitted in the

appeal that the impact of the position of the Block A within 3m of the eastern elevation of 'Laragh' would result in a loss of sunlight and daylight. In response the matter the first party submit that having regard to its orientation and low building height that any impact on daylight and sunlight at 'Laragh' from the two-storey South block will be minimal or imperceptible. Given the height and design of Block A being two-storey with a ridge height of 6.6m and its proposed siting relative to the dwelling 'Laragh' being circa over 3m from the eastern side elevation I would concur with the first party that any impact on daylight and sunlight would be minimal.

8.2.14. The grounds of appeal stated that the proposed development would be contrary to policy objective PHP20 of the Development Plan. Policy Objective PHP20 refers to Protection of Existing Residential Amenity and it seeks to ensure the residential amenity of existing homes in the Built-Up Area is protected where they are adjacent to proposed higher density and greater height infill developments. Having regard to the assessment of the impact on existing residential amenity as set out under this section of the report, I consider that the proposed development would not be contrary to the provisions of policy objective PHP20 of the Development Plan.

8.2.15. In conclusion, having reviewed the proposed design and layout of the scheme, relative to the existing surrounding properties, I consider having regard to the proposed siting of the apartment buildings and relative separation distances to the existing property that the proposed scheme would not result in any material overlooking, overbearing or overshadowing of neighbouring residential properties.

### **8.3. Access and traffic**

8.3.1. The proposal entails the development of a total of 10 no. apartments. Vehicular access is proposed onto Avondale Road to the north of the site. The grounds of appeal have raised concern regarding the additional vehicular traffic the scheme would generate and the impact it would have on the existing roads in terms of traffic safety. The issue of a shortfall of car parking was also raised.

8.3.2. The existing dwelling on site has a gated vehicular entrance which is setback 9m from the public road. There is a footpath and cycle path which extends along both sides of Avondale Road. The proposed access arrangement comprises the

relocation and widening of existing vehicular entrance with the construction of a new stone wall and piers.

- 8.3.3. The grounds of the third party appeal highlighted the proximity of the Graduate Roundabout circa 64m to the west of the site and the location of the entrance opposite the right turning lane off Avondale Road onto Ballinclea Road. Concern was expressed that the road experiences existing traffic queuing and the proposed intensification of the access will result in a greater proliferation of car trips in and out of the site which would result in a traffic hazard.
- 8.3.4. As part of the further information the applicant was requested to submit revised drawings and details providing a separate segregated pedestrian access onto the public footpath on Avondale Road and that the proposed front boundary wall/piers to be reduced to a height of 1.1m for a minimum length of 1m either side of the proposed rearranged vehicular entrance. The applicant addressed these matters with the revised plans they submitted. In relation to the matter of the proximity of the site access to the Graduate Roundabout the Planning Authority sought as part of the further information that the applicant submit a Construction Environmental Management Plan and including a Construction & Traffic Management Plan. A Construction & Traffic Management Plan was prepared by NRB Consulting Engineers in respect of the project.
- 8.3.5. Specifically, regarding the location of the site, it is stated in the plan that the site is located on the outside curve of Avondale Road and there is a high standard of intervisibility of any construction vehicles both from Avondale Road, with a 60m separation between the proposed site access and the Graduate Roundabout. It is stated in the plan that it is a relatively small scale of construction and that vehicle movements will be planned, co-ordinated and scheduled to ensure arrival times are expected by the site staff. Therefore, this would minimise the duration of any vehicles on Avondale Road and ensures that the site is prepared for storage of any deliveries. It is set out in the plan that during the project procurement phase, a schedule of deliveries will be produced, adopting a 'just in time' approach to avoid potential conflicts and unnecessary storage and handling, with deliveries scheduled to avoid the network peak periods. It is proposed that suitably sized small vehicles will be used to access the site. Accordingly, subject to the management of the construction traffic in line with the details set out in the submitted Construction &

Traffic Management Plan, I consider that the construction of the proposed scheme would not unduly impact upon the operation of the Graduate Roundabout and surrounding road network.

- 8.3.6. Regarding the level of traffic which the scheme would generate once built and occupied, the proposal is a small-scale infill residential scheme of 10 no. apartments with 8 no. car parking spaces proposed, therefore having regard to the scale of the scheme it will generate a relatively low level of new traffic onto the existing local network. The Transport Planning section of the Council raised no concerns in relation to the level of traffic that the proposal would generate and I note their report dated 5<sup>th</sup> of March 2025 which confirmed that following the submission of a response to further information that there were no objections to the proposal subject to the attachment of conditions.

Public transport and accessibility

- 8.3.7. The grounds of the third party appeal set out that the location is not well served by public transport and that services in the area are infrequent. The first party in their response to the third party appeal submitted that the area is very well served by public transport, they also highlighted that there are further services imminent as part of the Bus Connects bus plan including the B4(Spine/Branch Route), L11, L22 (Local Routes) and P11 (Peak Time).
- 8.3.8. Regarding existing public transport provision, I note that the closest bus stop to the appeal site is 130m away on Church Road (R118). Church Road (R118) is served by the no. 7, 7a, 7b, 45a and 111 bus routes. The site is located 1.9km from Glenageary Dart Station and 2.2km from the N11 Quality Bus Corridor. Brides Glen Luas station is situated 3.7km from the site. Both the no. 7 and no. 111 bus routes serve the Brides Glen Luas station.
- 8.3.9. The planned Bus Connects B4(Spine/Branch Route) will connect the area with Blanchardstown via the city centre and this is a planned high frequency route. The planned Bus Connects and P11 (Peak Time) will replace the 7b route running from Shankill to the City Centre. The L11 will replace the 45a route running from Kilmacanogue to Dun Laoghaire. The L22 route will replace the no. 111 route running from Brides Glen to Dun Laoghaire. The planned Bus Connects routes will provide both improvements in the frequency of services and extend the locations

which will be directly accessible by a single route. The most significant will be the B4 route which is both high frequency and will serve a cross city route from Shankill via the city centre to Blanchardstown.

8.3.10. In relation to context of the site, I would also highlight that it is located within walking and cycling distance of local amenities including schools i.e. Johnstown National Schools circa 450m away, parks, playing fields and playgrounds at Kilbogget circa 900m away, and Killiney Shopping centre which is circa 170m from the site.

8.3.11. Accordingly, I would determine that the site is located in an area which is well served by existing public transport, which will be further enhanced by planned Bus Connects routes and which is highly accessible to local amenities.

#### Car parking

8.3.12. The grounds of appeal raised the matter of the quantum of car parking proposed within the scheme and concern was expressed that overflow car parking would be generated in the surrounding area including Beech Court and at Killiney Shopping Centre.

8.3.13. Car parking standards are set out in Section 12.4.5. of the Development Plan. Four parking zones are designated within the County. Supplementary Map T2 indicates the areas. The site at Avondale Road, Killiney is located within zone 3 as illustrated on Map T2. Table 12.5 of the Development Plan sets out the car parking standards for the different land uses within the different zones. In relation to zone 3 the requirements for apartments are 1 per one bedroom unit, 1 per two-bedroom unit and 2 per three-bedroom unit and plus 1 in 10 visitor parking for apartments in zone 3. The proposed scheme as revised comprises 6 no. one bedroom apartments, 3 no. two bedroom apartments and 1 no. three bedroom apartment.

8.3.14. Accordingly, in terms of the provisions of Table 12.5 of the Development Plan the scheme would generate the requirement for 11 no. car parking spaces for the 10 no. apartments plus 1 no. further visitor car parking space. Therefore, there would be a shortfall of 4 no. car parking spaces. In relation to the consideration of a shortfall of car parking it is set out under Section 12.4.5.1 (iii) of the Plan which refers to Parking in Zone 3 that in some instances, in zone 3 reduced provision may be acceptable dependent on the criteria set out in 12.4.5.2 (i) with particular regard to infill/brownfield developments in neighbourhood or district centres.



- 8.3.15. The Planning Authority in their assessment of the proposal considered that the reduced on-site car parking was acceptable on the basis of the provisions of SPPR3 of the Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (2024). SPPR3 refers to Car Parking and it sets out that in city centres and urban neighbourhoods of the five cities, defined in Chapter 3 (Table 3.1 and Table 3.2) car-parking provision should be minimised, substantially reduced or wholly eliminated. The maximum rate of car parking provision for residential development at these locations, where such provision is justified to the satisfaction of the planning authority, shall be 1 no. space per dwelling. Having regard to the site context where it is situated circa 170m from Killiney Shopping Centre a neighbourhood centre and the proximity to existing and planned bus routes as detailed above I would concur with the Planning Authority that site is an appropriate location for a reduction in on-site car parking in accordance with SPPR3.
- 8.3.16. Furthermore, I would note for context in relation to car parking provision in the area which has previously been accepted, the granted Strategic Housing Application ABP Ref: 304823-19 at Hayfield which is located circa 140m to the west of the appeal site. The car parking provision for that scheme of 210 no. apartments was equivalent to one space per apartment.
- 8.3.17. The grounds of appeal refer to the potential for over flow car parking being generated within the Beechwood Court housing estate and also in the car park at Killiney shopping centre. The first party in response to those matters stated that they have no control over car parking at Beech Court and that car parking could be controlled through the provision of double yellow lines and parking enforcement. Regarding Killiney shopping centre they highlighted that the centre undertakes its own car parking management. I would accept these points made by the first party in relation to potential overflow parking.
- 8.3.18. In conclusion, having regard to the details set out above, I am satisfied with the proposed vehicular access arrangements and car parking.

#### 8.4. **Other issues**

##### Trees

- 8.4.1. The grounds of appeal raise concerns that it may not be possible to retain any of the trees on the site having regard to the root protection areas of the trees. Specifically, the appeal referred to the two mature ash trees located at the southern site boundary. It was highlighted in the appeal that the site is subject to an objective under the County Development Plan “to protect and preserve trees and woodlands”. It was noted in the appeal that while a tree survey has been undertaken it was not accompanied by a Tree Protection Plan and a Tree Constraints Plan.
- 8.4.2. The application documentation submitted includes a Tree Survey Report prepared by Independent Tree Surveys Ltd. The findings of the report were that of the 5 individual trees assessed, 1 was graded category B (moderate value), 3 were graded category C (low value), and 1 tree was graded category U (unsuited to long term retention). The trees comprise T1 a mature Horse Chestnut located inside the front wall and T2 a Sycamore tree. In relation to the Horse Chestnut tree, it was identified that it is affected by disease and is unlikely to recover and that the Sycamore tree is in good health. Trees T3 and T4 are located in the rear garden of the property. T3 is a mature Beech which is in fair condition and T4 is an Ash tree, which has been affected by Ash dieback disease and there is another Ash tree T5 at the rear boundary wall. It was recommended in the Tree Survey Report that Horse Chestnut tree T1 was not suited to be retained within a new development on the site, that T2 and T3 could be considered for retention and that it was not clear if the Ash tree T4 would succumb to Ash dieback disease. The report of the Planning Officer expressed concerns that the trees T4 and T5 which are proposed to be retained may be impacted by the footprint of the southern block being situated close to the trees and it was recommended in the report that a condition be included in the event of a grant of permission requiring a root protection zone to be set up around the existing mature trees during construction.
- 8.4.3. In response to the appellant’s concern regarding the trees on site the first party highlighted that a tree constraint plan was submitted with the further information response. In relation to this I note that revised Site Plan indicates the trees which are proposed to be retained and removed with tree T1 and T3 proposed to be removed. T1 the mature Horse Chestnut tree is graded category U and while T3 the Beech tree is graded category B. It is necessary that the tree is removed to facilitate the proposed development. I consider that it would be acceptable to remove the two

proposed trees, and I note that the three other mature trees will be retained along with proposal to plant new semi-mature trees within the scheme. The first party have stated that they are amenable to the attachment of a condition requiring a tree protection plan be submitted for agreement prior to commencement of development. Accordingly, I would consider that it would be appropriate to attach a condition requiring the submission of a tree protection plan should the Commission decide to grant permission for the proposal.

#### Ecology

- 8.4.4. It is stated in the appeal that no ecological impact assessment of the trees or of the house was undertaken to establish whether they are suitable or in use as bat roosts. In response to the matter the first party stated that there is no requirement for an ecological impact assessment or bat assessment. I would note that Planning Authority did not seek the submission of either such assessments as part of the extensive further information which was issued.

#### **8.5. First Party Appeal**

- 8.5.1. A first party appeal has been made against condition no. 12 of the permission granted by the Planning Authority under Reg. Ref. D24A/0635.

- 8.5.2. Condition no. 12 states;

*12. The developer shall lodge to Dún Laoghaire Rathdown County Council the total sum of €150,750.00 (€7,500,000 x 0.0201) as a contribution in lieu of not providing the 15% public open space requirement.*

*Reason: It is considered reasonable that the payment of a contribution be required in respect of the provision of the Community & Parks facilities & Recreational amenities benefiting development in the area of the Planning Authority and that is provided, or that is intended will be provided, by or on behalf of the Local Authority.*

- 8.5.3. The first party set out that the development contribution of €150,750.00 which was levied as a contribution in lieu of not providing the 15% public open space requirement should not have been levied on the basis that they do not agree that the proposed development does not provide public open space in compliance with the

development plan and the Sustainable and Compact Settlement Guidelines.

Regarding the proposed layout and the provision of public open space the first party set out that on the initial site layout plan Drg. No. PP-03 Issue 01, 180sq m or 17% of the site area was designed as public open space.

- 8.5.4. The first party submit that the proposed development complies with the requirements for public open space as set out in Section 12.8.5 of the Dún Laoghaire Rathdown Development Plan 2022-2028 which states, *“For this reason, public open space should be accessible, inclusive, secure, and usable. In accordance with the ‘Guidelines on Sustainable Residential Development in Urban Areas’, public open space on greenfield sites in the County’s new development areas should be in the form of useful open spaces and where appropriate larger neighbourhood parks to serve the wider community. Where public open space is to be provided on foot of a planning permission, the space in question should be well designed, and located to sympathetically complement the layout of the development. Public open spaces should be overlooked and designed to ensure that potential for antisocial behaviour is minimised through passive surveillance. The open space should be visible from, and accessible to, the maximum number of dwellings/units within the proposed scheme. Inaccessible, hidden or otherwise backland open space, and narrow linear strips of open space will not be acceptable.”*
- 8.5.5. In relation to the provision of public open space within the scheme as part of the further information the applicant was requested to revise the layout and allocate the public open space provision to the front of the site as communal open space because it was considered that the proposed public open space cannot be absorbed into the public realm due to the retention of most of the existing wall along the front boundary. In response to the matter the applicant submitted a revised site layout plan indicated the location of the communal open space including a play area to the front of the site.
- 8.5.6. Accordingly, an area of circa 180sq m of communal open space has been provided in the revised layout as granted by the Planning Authority. Section 12.8.3 of the Development Plan refers to Public Open Space, table 12.8 sets out that for residential development in the existing built-up area a minimum of 15% of the site area be provided as public open space. The site has an area of 0.134 hectares.

Therefore, an area of public open space of 0.0201 hectares (201sq m) would be required.

- 8.5.7. It is stated under Section 12.8.3 of the Plan that in relation to public open space provision that it is acknowledged that in certain instances it may not be possible to provide the required 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.
- 8.5.8. Section 12.8.3.2 of the Development Plan refers to Communal Open Space it sets out that in addition to public open space provided by the developer that communal open space must be provided for apartments in accordance with the minimum standards set out in Table 12.9. For one bedroom apartments 5sq m is required for two bedroom apartments with 3 bedspaces 6sq m is required, for two bedroom apartments with 4 bedspaces 7sq m and for three bedroom apartments 9sq m. The proposed two bedroom apartments will have 4 no. bed spaces as detailed in the housing quality assessment. Accordingly, the scheme as revised would generate the requirement for 60sq m of communal open space.
- 8.5.9. The first party set out in their appeal that as shown on the Site Layout Plan: OPEN SPACES, which was submitted with the appeal, that communal open space of over 105sq m has been identified in the scheme. They highlighted that the communal open space requirement is 60sq m, and that there is an excess provision of 45sq m or 75% above the requirement. They also submit that as shown on the Site Layout Plan: OPEN SPACES, public open space of 173sq m is shown between the proposed North Block and the front boundary to Ballinclea Road, which also exceeds the not less than a minimum of 10% of the site area and not more than 15% of the

net site area per Policy and Objective 5.1 of the Sustainable and Compact Settlements Guidelines for Planning Authorities.

- 8.5.10. The first party are basing their argument on the fact that they are referring to the open space between the northern block and the front boundary as public open space rather than communal open space which is what the planning authority specified that this area should be. The planning authority required that the area be communal open space rather than public open space on the basis that they did not consider that it constituted public open space because the location and layout of the area did not provide a sense of safety and security and that it should have a dual function as both a privacy strip and communal open space. The report of the Planning Officer dated 9/10/24 recommended that a condition be included in the event of a grant of planning permission requiring that the applicant pay a development contribution in lieu of providing public open space, having regard to the size of the site being less than 0.25ha and its associated site specific limitations and restrictions.
- 8.5.11. The first party have referred to Sustainable and Compact Settlements Guidelines for Planning Authorities and specifically Policy and Objective 5.1 – Public Open Space, they set out that the public open space provision in the scheme exceeds the minimum of 10% of the site area as advised in the guidelines. In relation to this matter, I would note that Policy and Objective 5.1 – Public Open Space, specifically provides guidance in respect of the content of statutory development plans and it is not a specific planning policy requirement (SPPR). Accordingly, in relation to the level of public open space and communal open space required to serve the proposed scheme then it is the provisions of the statutory development plan which are directly relevant in this case.
- 8.5.12. As detailed above as per the provisions of Section 12.8.3 of the Development Plan and specifically, table 12.8 a minimum of 15% of the site area is required to be provided as public open space. The site has an area of 0.134 hectares. Therefore, an area of public open space of 0.0201 hectares (201sq m) would be required. As detailed in Section 12.8.3.2 of the Development Plan which refers to Communal Open Space and table 12.9 which sets out the Communal Open Space Standards and as detailed above an area of 60sq m is required to be provided as communal open space.

8.5.13. The Planning Authority did not consider that public open space has been provided within the scheme and have attached condition no. 12 on the basis of the provisions of Section 12.8.3 of the Development Plan. While the first party have argued that the area of open space to the front of the site should be considered public open space rather than communal open space the Planning Authority granted permission on the basis that area constituted communal open space including a play area and they did not consider that the area to the rear of the site constituted communal or public open space. The first party in the site layout submitted with the appeal have referred to that area as communal open space. In relation to the area located to the southern end of the site I would note that it includes the two large ash trees. The first party has confirmed in their response to the third party appeal, that it is proposed to retain the two ash trees located at the southern site boundary. Having reviewed the submitted plans I would consider that this area would constitute an incidental landscaped area within the scheme where it is proposed to retain existing tree planting and provide new tree planting for screening and enhanced landscaping and therefore, I do not consider that the area to the rear of the site at the southern boundary would constitute usable public open space. Therefore, I would accept that the area to the front of the site represents communal open space but that there is a deficit of public open space as no designated area of public open space has been provided within the scheme. Therefore, in accordance with the provisions of Section 12.8.3 of the Development Plan I would conclude that it is necessary to attach a condition requiring a contribution in lieu of the provision of public open space to be paid for the shortfall.

8.5.14. Accordingly, I recommend the condition requiring the payment of a development contribution in lieu of the provision of public open space be attached by the Commission should they decide to grant permission for the development.

## **9.0 AA Screening**

9.1. I have considered case ABP-322319-25 in light of the requirements S177U of the Planning and Development Act 2000 as amended.

9.2. The closest European Sites, part of the Natura 2000 Network, is the Rockabill to Dalkey Island SAC (Site Code 003000) which is located circa 2.8km to the east of

the appeal site. Dalkey Island SAC (Site Code 004172) is circa 2.9km to the east of the appeal site.

- 9.3. South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) is located 3.4km to the north of the development site. South Dublin Bay SAC (Site Code 000210) is located approximately 3.5km to the north of the development site.
- 9.4. The proposed development comprises of the demolition of the existing derelict dwelling on site and replacement with the construction of 10 no. new dwelling units within two apartment buildings and all other site works.
- 9.4.1. No streams/watercourses are identified on site.
- 9.5. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.
- 9.6. The reason for this conclusion is as follows:
- The nature and scale of the proposed development and the location of the site on developed serviced lands.
  - The absence of any ecological pathway from the development site to the nearest European Site.
  - Location-distance from nearest European site.
  - Taking into account the screening report by the Planning Authority
- 9.7. I conclude, on the basis of objective information, 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.
- 9.8. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

## **10.0 Water Framework Directive**

- 10.1. The proposed development has been subject to a screening for Water Framework Directive Assessment (refer to Appendix 3 of this report).



- 10.2. The subject site is located at Avondale Road, Killiney, Co. Dublin. It is a suburban area circa 3km to the south of the town of Dun Laoghaire.
- 10.3. The Kill of the Grange Stream\_010 is situated circa 848m to the west. The Carrickmines Stream\_010 is located 1.5km to the west. The Southwestern Irish Sea-Killiney Bay (HA10) Coastal waterbody is located 1.7km to the east of the site. The Kilcullen (IE\_EA\_G\_003) groundwater body underlies the site.
- 10.4. The proposed development comprises the demolition of existing derelict dwelling on site and replacement with the construction of 10 no. new dwelling units within two apartment buildings and all other site works. It is proposed to connect to Uisce Éireann mains wastewater and water supply infrastructure.
- 10.5. No water deterioration concerns were raised in the appeal.
- 10.6. I have assessed the proposed the demolition of existing derelict dwelling on site and replacement with the construction of 10 no. new dwelling units within two apartment buildings and all other site works.
- 10.7. I have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.
- 10.8. The reason for this conclusion is as follows:
- The nature and scale of the development
  - The project uses standard construction / pollution control methods, materials and equipment.
  - A surface water management system including SuDS features is also proposed.

## **Conclusion**

- 10.9. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes,

groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

## 11.0 Recommendation

11.1.1. I recommend that permission be granted.

## 12.0 Reasons and Considerations

12.1.1. Having regard to the zoning objective for the site as set out in the Dún Laoghaire Rathdown Development Plan 2022 – 2028, the National Planning Framework – First Revision (2025), Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (2024), Sustainable Urban Housing: Design Standards for New Apartments, (2023), and the overall scale, design and height of the proposed development, 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 of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 13.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 25<sup>th</sup> day of February 2025 as 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. Apartments no's 2, 3 and 5 shall be provided with a minimum balcony/terrace area of 7sq m, and a minimum width of 1.5m. Prior to the commencement of development, the developer shall submit plans indicating the balcony/terrace areas in accordance with the above design specifications for the written agreement of the planning authority.

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

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

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

4. The attenuation and 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. 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.

6. The mitigation measures and monitoring commitments identified in the Construction and Environmental Management Plan and other plans and particulars submitted with the application shall be carried out in full except as may otherwise be required in order to comply with other conditions. Prior to the commencement of development, the developer shall submit a schedule of mitigation measures and monitoring commitments and details of a time schedule for implementation of the mitigation measures and associated monitoring, the planning authority for written agreement.

**Reason:** In the interest of clarity and protection of the environment during the construction and operational phases of the development.

7. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, and kerbs 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).

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

8. 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. Such lighting shall be provided prior to making available for occupation of any residential unit.

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

9. The landscaping scheme shown on drawing number 202419/SLD/P01, as submitted to the planning authority on the 25th day of February, 2025 shall be carried out within the first planting season following substantial completion of external construction works.

- (i) A tree protection plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (ii) 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, 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.

10. Proposals for an estate/street name, house/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 house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

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

11. 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.

12. 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.

13.

- (a) 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 and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) 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. All of the car parking spaces serving the residential units shall be provided with electronic connections to allow for the provision of future electronic vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of sustainable transportation.

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

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

16. 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 transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands 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 Coimisiún 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.

17. 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.

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

**Reason:** To ensure the satisfactory completion of the development.

19. The developer shall lodge to Dún Laoghaire Rathdown County Council the total sum of €150,750.00 ( $\text{€7,500,000} \times 0.0201$ ) as a contribution in lieu of not providing the 15% public open space requirement.

**Reason:** It is considered reasonable that the payment of a contribution be required in respect of the provision of the Community & Parks facilities & Recreational amenities benefiting development in the area of the Planning Authority and that is provided, or that is intended will be provided, by or on behalf of the Local Authority.

20. 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 Coimisiún 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.

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Siobhan Carroll  
Planning Inspector

25<sup>th</sup> of July 2025



### Form 1 - EIA Pre-Screening

<b>Case Reference</b>	ABP 322319-25
<b>Proposed Development Summary</b>	A development comprising the demolition of existing derelict structures on site and replacement with the construction of 10 no. new dwellings and all other site works.
<b>Development Address</b>	Altis, Avondale Road, Killiney, Dublin. A96AX02
	<b>In all cases check box /or leave blank</b>
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes,  - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.  <input type="checkbox"/> No, No further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input checked="" type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	Class 10(b)(i), Schedule 5 Part 2
<input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

<p>development under Article 8 of the Roads Regulations, 1994.</p> <p><b>No Screening required.</b></p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p><b>EIA is Mandatory. No Screening Required</b></p>	
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p><b>Preliminary examination required. (Form 2)</b></p> <p><b>OR</b></p> <p><b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b></p>	<p>EIA is mandatory for developments comprising over 500 dwelling units or urban development over 10 hectares in size or 2 hectares if the site is regarded as being within a business district.</p> <p>The proposal is significantly below this threshold being 10 no. residential units and the site has an area of 0.134 hectares which is sub threshold.</p>

<p><b>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</b></p>	
<p>Yes <input type="checkbox"/></p>	<p><b>Screening Determination required (Complete Form 3)</b></p>
<p>No <input checked="" type="checkbox"/></p>	<p><b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b></p>

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

## Form 2 - EIA Preliminary Examination

<b>Case Reference</b>	ABP 322319-25
<b>Proposed Development Summary</b>	Demolition of existing derelict structures on site; construction of 10 apartments in two three-storey blocks and all associated site works.
<b>Development Address</b>	Altis, Avondale Road, Killiney, Co. Dublin, A96AX02
<b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>	
<b>Characteristics of proposed development</b>  (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The development has a modest footprint, comes forward as a standalone project. It does require demolition of the existing derelict dwelling on the site. It does not require the use of substantial natural resources or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.
<b>Location of development</b>  (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The development is removed from sensitive natural habitats, centres of population and designated sites and landscapes of identified significance in the County Development Plan. There are no protected species/habitats on site.
<b>Types and characteristics of potential impacts</b>  (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the modest nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.
<b>Conclusion</b>	
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>

There is no real likelihood of significant effects on the environment.	EIA is not required.
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	<del>Schedule 7A Information required to enable a Screening Determination to be carried out.</del>
There is a real likelihood of significant effects on the environment.	<del>EIAR required.</del>

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

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

(only where Schedule 7A information or EIAR required)

### Appendix 3 – Water Framework Directive Screening

WFD IMPACT ASSESSMENT STAGE 1: SCREENING			
Step 1: Nature of the Project, the Site and Locality			
An Bord Pleanála ref. no.	322319-25	Townland, address	Altis, Avondale Road, Killiney, Co. Dublin, A96 AX02
Description of project		Demolition of existing derelict structures on site and replacement with the construction of 10 no. new dwellings and all other site works. It is proposed to connect to Uisce Éireann mains wastewater and water supply infrastructure.	
Brief site description, relevant to WFD Screening,		The site is located within a suburban area at an elevation of approximately 60m contour. The soil type is glacial till. The bedrock is Siluro-Devonian Granite. The Kill of the Grange Stream_010 is situated circa 848m to the west. The Carrickmines Stream_010 is located 1.5km to the west. The Southwestern Irish Sea-Killiney Bay (HA10) Coastal waterbody is located 1.7km to the east of the site. The Kilcullen (IE_EA_G_003) groundwater body underlies the site.	
Proposed surface water details		On site attenuation with discharge to surface water drainage network.	
Proposed water supply source & available capacity		Uisce Éireann mains water connection – no capacity issues	

Proposed wastewater treatment system & available capacity, other issues			Uisce Éireann mains wastewater connection– no capacity issues  Connection to public Mains. Foul water from the Site will eventually be treated at Ringsend Wastewater Treatment Plant (WwTP) prior to discharge into Dublin Bay.			
Others?			No			
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
River Waterbody	848m	Kill of the Grange Stream_010	Poor	At risk	Urban wastewater Urban runoff Hydromorphologic	Not hydrologically connected to the watercourse.
River Waterbody	1.5km	Carrickmines Stream_010	Good	Not at risk	-	Not hydrologically connected to the watercourse.

Coastal Waterbody	1.7km	Southwestern Irish Sea-Killiney Bay (HA10)	High	Not at risk	-	Not hydrologically connected to Coastal waterbody	
Groundwater Waterbody	Underlying Site	Wicklow (IE_EA_G_076)	Good	At risk	Agriculture and unknown	Underlying GWB	
Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.							
CONSTRUCTION PHASE							
No.	Component	Water body receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no)  Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2.

1.	Site clearance/Construction	Wicklow (IE_EA_G_076)	Pathway exists	Siltation, pH (concrete), hydrocarbon spillages Deterioration of water quality	Standard construction practice	No	Screened out
OPERATIONAL PHASE							
2.	Discharges to Ground	Wicklow (IE_EA_G_076)	Pathway exists	Spillages Deterioration of water quality	SUDs features	No	Screened out
DECOMMISSIONING PHASE							
3.	NA	NA	NA	NA	NA	NA	NA