



An
Coimisiún
Pleanála

Inspector's Report

ACP-323141-25

Development	Seven-year permission for a 1-9 storey development comprising 100 no. apartments and retail units.
Location	In the townland of Balally, at the existing Balally Shopping Centre, Blackthorn Drive, Sandyford, Dublin 16
Planning Authority	Dún Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	LRD 25A/0372/WEB
Applicant(s)	Westleton Limited
Type of Application	Largescale Residential Development
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	First Party Appeal against Condition Third Party against Decision
Appellant(s)	1. Westleton Limited 2. Wedgewood Residents Association 3. Balally Pharmacy 4. Sandyford Inns Limited

Observer(s)

- | | |
|-----------------------------------|-------------------------|
| 1. Máire O'Carroll | 16. Lisa Geoghegan |
| 2. Donato Giuliano | 17. Jeff Holland |
| 3. Stephen and Margaret Flynn | 18. Zdravko Manojlovic |
| 4. Michael Murray | 19. Fionn McGettigan |
| 5. Alma Murray | 20. Fergus McGettigan |
| 6. Paul Heffernan | 21. Andrea McGettigan |
| 7. Frank and Bridget Nerney | 22. Siobhan O'Donoghue |
| 8. Patrick and Noeleen Kealy | 23. Gordon Sutherland |
| 9. Valerie Slattery | 24. Sunil Adhikary |
| 10. Sinéad Ní Fhlanagáin Gulliver | 25. Fiona Tynan |
| 11. Angela McGrath | 26. Genevieve Whitfield |
| 12. Orla Cosgrave | 27. Mary Scally |
| 13. Paul Nolan | 28. Mark Callan |
| 14. Helen Morelli | 29. Cara Callan |
| 15. Tom Flynn | |

Date of Site Inspection

1st October 2025

Inspector

Phillippa Joyce

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1.0 Site Location and Description

- 1.1. The appeal site is located at Balally Shopping Centre, at Blackthorn Drive, Sandyford, Dublin 16. Within the site are two detached buildings (eastern, western), accommodate 14 units (including retail, services, café/ restaurants, community uses), which form the neighbourhood centre.
- 1.2. The eastern building includes the convenience store Supervalu, and the western building includes Balally Pharmacy (located on the northern elevation, operator is an appellant). Adjacent to the north of these two buildings is another detached building, a public house, Ollie's Bar (owner is an appellant).
- 1.3. Between these buildings is a paved walkway (staggered on a north-south axis), which provides pedestrian access through the site from Maples Road to Blackthorn Drive. Surface car parking and servicing areas are also around the buildings and the perimeter of the site.
- 1.4. The site is rectangular in configuration, indicated as measuring 0.983ha in total. The site includes public lands (footpath, roadway) under the control of Dún Laoghaire County Council (letter of consent included in the application). The Ollie's Bar premises is under separate ownership, does not form part of the proposed development, and is omitted from the site's development boundary (central location).
- 1.5. The site is bound to the north by Maples Road and the Church of the Ascension, to the east by public open space accommodating the Balally Family Resource Centre/ Scouts Den structure, to the south by Blackthorn Drive and residences on Moreen Avenue and Blackthorn Court, and to the east by Cedar Road and the Queen of Angels Primary School.
- 1.6. In proximity to the north and west of the site are several residential streets, including Hawthorn Road and Limes Road respectively. While proximate to the east/ southeast of the site are the Beacon Hospital complex (at the junction of Blackthorn Drive and Drummartin Link Road, c.450m walking distance from the site) and Sandyford Business Park (c.850m walking distance). Bus stops are located directly adjacent to the south of the site on Blackthorn Drive, while the Kilmacud LUAS Green Line stop is located c.650m to the northeast of the site (c.850m walking distance).

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a 1-9 storey mixed use development (predominantly residential) with 100 apartments, two retail units, ancillary residential spaces, and all associated site development works.
- 2.2. The key components of the scheme include the demolition of the covered walkways of the existing units and the provision of façade upgrades of these units (eastern and western buildings), and the construction of a single block in the western side of the site, and a detached single storey retail unit (kiosk structure) in the south of the site. The single block is comprised of a new building in the northwest of the site and new development over the existing western building which forms part of the neighbourhood centre.
- 2.3. The northwest building is 7 storeys in building height, excluding a mezzanine floor level. Proposed at ground floor level are a retail unit and ancillary residential floorspace (undercroft car parking, bicycle stores, bin storage, entrance and lobby area). At mezzanine floor level are the double-height space over the ground floor retail unit, apartment units, and ancillary residential floorspace (storage). Apartment units are proposed at 1st floor level to 6th floor level (i.e., residential accommodation over 7 storeys).
- 2.4. Development over the existing western building comprises a mezzanine/ storage floor level, and new floorspace of 8 storeys in height (i.e., this part of the block is 9 storeys in building height, excluding the mezzanine level). Apartment units are proposed at the 1st floor level to 8th floor levels (an additional two storeys over the northwestern building). The buildings are not connected at the ground floor or mezzanine floor levels. They form the single interconnected block from the 1st floor level.
- 2.5. The proposal comprises public realm improvements, public open space, communal open space, 279 bicycle parking spaces, and 89 car parking spaces (35 spaces for residential use, 54 spaces for the existing shopping centre), and the removal of 65 existing car parking spaces.
- 2.6. Access to the site is via existing entrances to the north and west (Maples Road, Cedar Road respectively) with pedestrian crossings proposed, as are improvements

to the footpaths surrounding the site, cycle path to the south, and a raised pedestrian crossing point to the southwest (junction of Cedar Road/ Blackthorn Drive).

- 2.7. Other associated ancillary site development works include clearance works, excavation and resurfacing of car parking, the construction of foundations, switch room, water tank rooms, storage room, meter room, sprinkler tank room, comms room, green roofs, hard and soft landscaping, attenuation area, connections to foul and water supply and surface run off.
- 2.8. The following tables present a summary of the principal characteristics, features, and floor areas of the components of the proposed scheme, which are extrapolated from the application forms, and plans and particulars.

Table 1: Key Figures for the Proposal

Site Area	Total area: 0.983 ha Net developable area: 0.837ha
Gross Floor Area	Overall: 12,850sqm Residential: 10,630sqm Non-residential (existing and proposed): 2,220sqm Non-residential (proposed retail unit and kiosk structure): 77sqm
Residential Units	100 units
Residential Density	145dph* *calculated as per methodology in the Compact Settlement Guidelines
Overall Building Height	7-9 storeys, excluding the mezzanine level Principal height ranges: c.25.1m – c.31m 1 storey kiosk
Dual Aspect	51% (51 units)
Car Parking	89 car parking spaces (35 residential use and 54 retail/ commercial use)

Bicycle Parking	279 cycle parking spaces (209 long term/ resident, 70 short term/ visitor)
Public Open Space	865sqm (east of the proposed buildings/ through the centre of the site at street/ ground floor level)
Communal Open Space	1,090sqm (street/ ground floor level, and roof gardens at 1 st , 2 nd , 7 th , and 8 th floor levels)
Part V	10 units (10%)

Table 2: Summary of Residential Unit Mix and Bedspaces

Bldg Storey	Floor Level	Studio (1P)	1 bed (2P)	2 bed (3P)	2 bed (4P)	3 bed (5P)	Total
1	Ground	0	0	0	0	0	0
2	Mezz'ne	0	2	0	1	1	4
3	1 st	1	3	1	5	4	14
4	2 nd	1	2	1	6	4	14
5	3 rd	1	2	1	6	4	14
6	4 th	1	2	1	6	4	14
7	5 th	1	2	1	6	4	14
8	6 th	1	2	1	6	2	12
9	7 th	0	0	1	4	2	7
10	8 th	0	0	1	4	2	7
Total Unit Type		6	15	8	44	27	100
% of Unit Type		6%	15%	8%	44%	27%	100%
Total Bedrooms		0	15	16	88	81	200
Total Bedspaces		6	30	24	176	135	371

- 2.9. The application includes a range of architectural, engineering, and landscaping drawings, and is accompanied by several reports and supporting documentation (full list in the applicant's Cover Letter, pgs. 3-5).

3.0 Planning Authority Opinion

- 3.1. A pre-application meeting under section 247 of the Planning and Development Act 2000, as amended (2000 Act) is indicated to have taken place between the applicant and the planning authority on 9th May 2024.
- 3.2. A pre-application LRD meeting in accordance with section 32C of the 2000 Act took place on 11th December 2024. The planning authority issued its LRD Opinion on 16th January 2025.
- 3.3. The Opinion indicates that the documentation, submitted under section 32B of the 2000 Act as part of the pre-application consultations, does not constitute a reasonable basis on which to make an application for permission for the proposed LRD.
- 3.4. The applicant was notified that the following issues would need to be addressed and/or information would be required to be submitted on same as part of an LRD application. These are grouped under the following headings (in summary):
- Public Open Space: Quantum and Quality
 - Compliance with the Compact Settlement Guidelines
 - Compliance with the CDP Building Height Strategy (Table 5.1)
 - External Finishes and Materials
 - Contiguous Elevations and Verified Views
 - Housing Quality Assessment
 - Daylight/ Sunlight Access
 - Building Lifecycle Report
 - Long-term Management Plans
 - Taking in Charge Map

- Irish Water (Uisce Eireann) Confirmation
- Dublin Eastern Bypass
- Blackthorn Drive-Drummartin Link Road Grade Separation
- Traffic and Public Transport Capacity Assessments
- Vehicular and Pedestrian Accesses
- Car, Motor and Cycle Parking
- Surface Water Drainage
- Site Specific Flood Risk Assessment
- Public Lighting
- Design of the Site Perimeter and Internal Thoroughfare Space
- Construction and Waste Management Plans
- Part V Compliance

3.5. The application, lodged with the planning authority on 9th May 2025, includes a Statement of Response from the applicant on the LRD Opinion which includes specific responses to the points of information requested by the planning authority.

3.6. For the Commission's clarity, copies of the minutes of the pre-planning meetings and the planning authority's LRD Opinion are available on the case file.

4.0 Planning Authority Decision

4.1. Summary of Decision

4.1.1. The planning authority granted permission for the proposed development on 3rd July 2025 subject to 42 conditions. This is a first party appeal against Condition 2 and a third party appeal (three appellants) against the planning authority's decision to grant permission.

4.2. Planning Authority Reports

4.2.1. Planning Reports

Report by Executive Planner (endorsed by Senior Executive Planner)

The Planner's report includes an assessment of the proposed development under the following headed items:

- Principle of Development and Redevelopment of the Site
- Transitional Zonal Areas
- Demolition of Structures
- Density
- Development Potential of Adjoining Sites and Effects on Existing Retail Units
- Residential Amenity
- Unit Mix
- Residential Standards
- Public and Communal Open Space
- Telecommunications
- Building Height and Visual Impact
- Childcare and Community facilities
- Ecological Impacts
- Access, Car and Bicycle Parking
- Surface Water Drainage and Flood Risk
- Part V
- Construction Management
- Building Life Cycle Report
- Archaeology
- Development Contributions
- Third Party Submissions
- Appropriate Assessment Screening
- EIA Screening

The Planner's report finds the proposed development to be acceptable in respect of several of items listed above.

Concerns relating to residential amenity (potential overlooking of certain units from balconies), residential standards (failure to provide the minimum floor to ceiling heights at ground floor level of northern element, minimum internal storage for 3-bedroom apartments, and sufficient external storage for bulky items), building height and visual impact (proposed height of 7-9 storeys is equivalent in visual effect to 10 storeys in height due to ground levels and inclusion of undercroft parking and a mezzanine level, failure to comply with the Building Height Strategy), and cycle parking (failure to provide cycle spaces for the commercial element, selection of cycle rack types) are identified. It is considered that these items can be addressed by amending conditions in the event of a grant of permission.

However, the planner's assessment concludes with a recommendation that permission for the proposed development be refused due to two reasons: firstly, the absence of public open space and the location of communal open space (roof/podium levels), and secondly, the omission of a childcare facility from the scheme.

Addendum Report by Senior Planner

The planning authority's decision includes an addendum report prepared by the Senior Planner concurring with the majority of the assessment outlined in the Planner's report, though disagreeing with the recommendation to refuse permission.

Items of note include the following:

- Regarding public open space, considers the open space provided (865sqm, north-south route through the site) can be classified as public open space as per the CDP.
- Results in a public open space shortfall of 609sqm (15% requirement of site area=1,474sqm) which can be addressed by way of an in-lieu financial contribution (as per section CDP 12.8.3.1 and Section 6 of the Development Contribution Scheme (DCS)).
- Highlights policy change from previous decision of ABP 317996-23/ PA Ref. LRD23A/0214 which did not support an in-lieu development contribution.

- Changes include Section 6 of the DCS (adopted in October 2023) strengthened CDP 12.8.3.1, and Policy and Objective 5.1 of the Compact Settlement Guidelines allows for a public open space requirement to be set aside (part or full) when provision is unfeasible due to site constraints.
- Recommends this approach be taken for the proposal as the site is not capable of providing additional public open space (physical and legal site constraints), the scheme is generally of good quality, and reasonably proximate to other areas of public open space.
- Regarding communal open space, refers to flexibility in CDP 12.8.5.4 which allows use of roof gardens on a case-by-case basis where there is no scope for at grade provision (stated as being in this instance).
- Regarding building height, agrees with planner's assessment and recommends the removal by condition of two storeys (2nd and 3rd floors, 14 units at both). Results in omission of 29 units (unit MZ-02 on the mezzanine level also omitted for additional external storage space), proposal is amended to 71 units (density reduced from c.145dph to c.100dph).
- Regarding the childcare facility, highlights the amendment of the scheme to 71 units does not require a childcare facility.
- Recommends permission be granted subject to condition.

4.2.2. Other Technical Reports

Parks: Recommends refusal.

Transportation Planning: No objection subject to condition.

Drainage Planning: No objection subject to condition.

Environmental Enforcement/ Waste Management: No objection subject to condition.

Building Control: No objection subject to condition.

Housing: No objection subject to condition.

Public Lighting: No report.

Biodiversity Officer: No report.

4.2.3. Planning Conditions

The majority of conditions attached to the grant of permission are standard in nature (construction, operational, technical, procedural, and financial).

Conditions of note or specific to the appeal include the following:

Condition 2:

Prior to commencement of development, the applicant shall submit revised drawings for the written approval of the Planning Authority illustrating the removal of the 2nd and 3rd floors (14 units per floor) of the apartment block.

REASON: To ensure that the development shall be in accordance with the DLR Building Height Strategy.

Condition 3

Prior to commencement of development, the applicant shall submit revised drawings for the written approval of the Planning Authority illustrating the following:

- a) Revised internal storage areas for each apartment that are in compliance with Section 12.3.5.3 Internal Storage and External Storage of the County Development Plan 2022-2028.*
- b) The removal of unit MZ-02 to provide for additional space for external storage provision for 71 units.*
- c) Privacy screens between the apartment units as follows:*

01-05, 01-12 and 01-11

04-05, 04-12 and 04-11

05-05, 05-12 and 05-11

06-04, 06-10 and 06-09

07-01, 07-05 and 07-04

REASON: To prevent unauthorised development.

Condition 37

Prior to the commencement of development, the developer shall enter into an agreement with the Planning Authority to provide for the payment of a financial contribution in the amount of €456,750.00 , in lieu of public open space within the site in accordance with section 12.8.8 of the Dún Laoghaire Rathdown County Development Plan 2022-2028 and as provided for in section 6 of the 2023-2028 Development Contribution Scheme made by Dún Laoghaire-Rathdown County Council on the 9th of October 2023, made under Section 48 of the Planning and Development Act 2000 (as amended). The contribution shall be paid prior to the commencement of the development or in such phased payments as the Planning Authority may agree to facilitate.

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

4.3. Prescribed Bodies

Uisce Eireann: Confirmation of Feasibility for water and wastewater connections. No objection subject to condition.

Department of Defence: No objection subject to condition.

4.4. Third Party Observations

- 4.4.1. The planning authority indicates submissions were received from 86 third-parties during the assessment of the application, and summarises the key issues raised.
- 4.4.2. I have reviewed the submissions on the case file and confirm several of the issues raised therein continue to form the basis of the third-party appeals, which are outlined in detail in section 7.0 below.

5.0 Planning History

Appeal Site

ABP 317996-23, PA Ref. LRD 23A/0214

Permission applied for by the applicant for an LRD comprising three blocks (Blocks A-C), 2-8 storeys over basement level, with existing retail/ commercial units retained at ground floor level, 'build to rent' residential scheme of 165 no. dwellings and all associated site works (for an appropriate period of seven years).

The proposed development was revised through Significant Further Information (SFI) to 6-7 storeys with 129 no. dwellings. In a first party appeal option, the proposed development was reduced to 121 no. dwellings. The SFI response version (and where relevant the appeal option version) of the proposed development was assessed at appeal stage.

On 13th December 2023, the Board refused permission for the proposed development for the following reason:

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

Having regard to;

(a) the domination of the site perimeter and edges with surface parking and vehicular access arrangements; the lack of active street frontage around the site perimeter and along the main pedestrian routes through the site;

(b) the absence of any public open space on site and the proposed location of all communal open space at roof/ podium level, where the main space would not be appropriately accessible to all residents and the smaller spaces would be significantly enclosed and/or overshadowed; and

(c) the substandard level of amenity for some apartments by reason of inadequate sunlight levels and the substandard outlook/ access arrangements for some apartments at the lower levels of Blocks B and C;

it is considered that the proposed development, would not positively contribute to the public realm or place-making at the scale of the neighbourhood/ street, would not provide coordinated development that would support the viability and vitality of the neighbourhood centre, and would not provide a suitable level of amenity for the prospective residents and other users of the neighbourhood centre. The proposed development would be contrary to the aforementioned development plan policy objectives and would, therefore, be contrary to the proper planning and sustainable development of the area.

PA Ref. D22A/0954

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

PA Ref. D17A/0889

Permission granted in January 2018 for the merging of Units 9 and 10 into one retail unit, operating as a pharmacy, and associated works to new shop front.

Adjacent Site to the East

PC/H/01/24 (Part 8 Scheme) (indicated as approved by the Council on 13th January 2025)

62 no. apartment units in a 5-6 storey building over undercroft area, including 31 no. one bed units; 21 no. two bed units; and 10 no. three bed units; 1 no. crèche facility of 297m² with associated external play area at upper ground level.

Energy Centre at sixth floor level and an external plant area set back at fifth floor roof level. Undercroft area at lower ground level comprising (a) 1 no. ESB substation (b) car and bicycle parking; (c) bin storage; (d) bulk storage area; and (e) supporting mechanical, electrical and water infrastructure.

Landscaping works including provision of (a) communal open space; (b) new pedestrian and cycle connections linking Blackthorn Drive with Cedar Road; and (c) public realm area fronting onto Blackthorn Drive. All associated site development works including (a) vehicular access off Cedar Road; (b) pedestrian and cycle access off Blackthorn Drive; (c) public lighting; (d) varied site boundary treatment; and (e) temporary construction signage.

6.0 Policy Context

6.1. National Planning Context

- 6.1.1. The national policy context guiding future growth in the Sandyford area (part of Dublin City and suburbs) is determined by frameworks, plans and guidelines including the National Planning Framework (First Revision, April 2025), Housing for All, Climate Action Plans, National Biodiversity Plan, and several section 28 Ministerial Guidelines.

National Planning Framework, First Revision, Project Ireland 2040 (NPF)

- 6.1.2. Several national policy objectives (NPOs) are applicable to the proposed development, a mixed use (predominantly residential) scheme within an established neighbourhood area of Dublin City and suburbs. These include NPO 4, NPO 7, NPO 8, NPO 12, NPO 16, NPO 22, NPO 37, NPO 42, NPO 43, and NPO 45, which support the provision of new homes and targeted population growth in Dublin City and suburbs and seek the delivery of well-designed urban schemes that incorporate sustainable modes of transport (walking and cycling).

Housing for All 2021

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

Climate Action Plans 2024 and 2025

- 6.1.4. The Climate Action Plans, to be read in conjunction, outline measures and actions by which the national climate objective of transitioning to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy by 2050 is to be achieved. These include the delivery of carbon budgets and the reduction of emissions across sectors of the economy. Of relevance to the proposed development, is that of the built environment sector. The Commission must be consistent with the Plan in its decision making.

National Biodiversity Plan 2023-2030

- 6.1.5. Includes five objectives by which the current national biodiversity agenda is to be set and the transformative changes required to ensure nature is valued and protection is delivered. Of relevance to the proposed development, are the targets and actions associated with Objective 2 on achieving the conservation and restoration needs of environmental designations. Section 59B(1) of the Wildlife (Amendment) Act 2000,

as amended, requires the Commission to have regard to the objectives and targets of the Plan in the performance of its functions.

Section 28 Ministerial Planning Guidelines

- 6.1.6. Several national planning guidelines are applicable to the proposed development (consolidated compact growth, increased residential densities with a greater mix of building heights and typologies in suburban neighbourhood locations, achievement of necessary standards for residential developments).
- 6.1.7. Several of the guidelines include Specific Planning Policy Requirements (SPPRs), the application of which is mandatory in the design and assessment of residential schemes.
- 6.1.8. The relevant guidelines include the following (my abbreviation in brackets):
- Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024, (Compact Settlement Guidelines). Applicable policy for the proposed development includes:
 - Section 3.3, Table 3.1 categorises ‘City – Urban Neighbourhood’ as including: (iv) lands around existing or planned high-capacity public transport nodes or interchanges within the Dublin City and suburbs area. These are described as accessible locations with good access to employment, education and institutional uses and public transport.
 - Section 3.3 requires that for sites categorised as ‘City – Urban Neighbourhood’ residential densities in the range 50 dph to 250 dph (net) shall generally be applied in such locations of Dublin City and suburbs.
 - Section 3.4 outlines a two-step density refining process, based firstly on a determination of accessibility to public transport options and secondly on five site-specific criteria (impacts on character, historic environment, protected habitats and species, daylight/ sunlight of residential properties, and water services capacity).
 - Policy and Objective 3.1 requires that the recommended density ranges are applied and that, where appropriate, these density ranges are refined further using the site-specific criteria.

- Policy and Objective 4.1 requires the implementation of principles, approaches and standards in the Design Manual for Urban Roads and Streets, 2013, including updates (DMURS).
- Section 5.3 requires the achievement of residential standards:
 - SPPR 1 – Separation Distances requires a minimum of 16m between opposing windows serving habitable rooms at the rear or side of apartments above ground floor level.
 - Section 5.3.3 states that public open spaces form part of the public realm within a residential development and are distinct from a public park. A reasonable quantum of open space is required to be provided, and the focus should be on overall quality, amenity value and biodiversity value.
 - Policy and Objective 5.1 recommends a public open space provision of between 10%-15% of net site area. However, it is stated that:

‘...In some circumstances a planning authority might decide to set aside (in part or whole) the public open space requirement arising under the development plan. This can occur in cases where the planning authority considers it unfeasible, due to site constraints or other factors, to locate all of the open space on site. In other cases, the planning authority might consider that the needs of the population would be better served by the provision of a new park in the area or the upgrade or enhancement of an existing public open space or amenity. It is recommended that a provision to this effect is included within the development plan to allow for flexibility. In such circumstances, the planning authority may seek a financial contribution within the terms of Section 48 of the Planning and Development Act 2000 (as amended) in lieu of provision within an application site.’
 - SPPR 3 – Car Parking specifies that for urban neighbourhoods, car-parking provision should be minimised, substantially reduced or

wholly eliminated (maximum rate 1 no. space per dwelling if justified).

- SPPR 4 – Cycle Parking and Storage requires a general minimum standard of 1 no. cycle storage space per bedroom (plus visitor spaces), a mix of cycle parking types, and cycle storage facilities in a dedicated facility of permanent construction (within or adjoining the residences).
- Section 5.3.7 indicates that a detailed technical assessment for daylight is not required in all cases, regard should be had to standards in the BRE 209 2022, a balance is required between poor performance and wider planning gains, and compensatory design solutions are not required.
- Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, 2023 (Apartment Guidelines). Applicable policy for the proposed development includes:
 - Section 2.0 categorises site locations, including that of 'Intermediate Urban' for sites within 800-1,000m of suburban centres or employment locations that may include hospitals, and within 1,000-1,500m of high-capacity urban public transport stops such as LUAS.
 - Section 3.0 includes Apartment Design Standards with several SPPRs and design criteria for apartment units as follows:
 - SPPR 3 (minimum floor areas and, by reference to Appendix 1, minimum storage, private open space areas for studios to 3 bedroom units), SPPR 4 (50% to be dual aspect units in intermediate urban locations), SPPR 5 (minimum 2.7m requirement for ground level floor to ceiling height), and SPPR 6 (maximum of 12 apartments per floor level per core).
 - Private amenity space should be located to optimise solar orientation and designed to minimise overshadowing and overlooking.

- Section 4.0 relating to Communal Facilities in Apartments includes applicable guidance on refuse storage, communal amenity space, children's play areas, car parking, and bicycle parking with storage (the two latter items are superseded by SPPR 3 and SPPR 4 of the Compact Settlement Guidelines).
 - Communal amenity space, which is well-designed and maintained, will contribute to meeting the amenity needs of residents.
 - Accessible, secure and usable outdoor space is a high priority for families with young children and for less mobile older people.
 - Appendix 1 indicates the minimum required areas for communal amenity space (studio as 4sqm, 1 bed as 5sqm, 2 bed as 7sqm, 3 bed as 9sqm).
 - In general, a clear distinction with an appropriate boundary treatment and/ or a 'privacy strip' should be between private and communal amenity space.
- Urban Development and Building Heights, Guidelines for Planning Authorities, December 2018 (Building Height Guidelines). Applicable policy for the proposed development includes:
 - Section 1.9 requires building heights of at least 3 to 4 storeys, coupled with appropriate density, in locations outside city and town centre areas to be supported in principle at development management level.
 - Section 2.1 states implementing the NPF requires increased density, scale and height of development in our town and city cores, to be achieved through reusing previously developed 'brownfield' land, building up urban infill sites and redeveloping existing sites that may not be in the optimal usage.
 - Section 3.1 stipulates that, in relation to the assessment of individual planning applications and appeals, there is a presumption in favour of permitting buildings of increased height in our urban cores and in other urban locations with good public transport accessibility.

- Section 3.6 guides that for city suburban edge locations, developments of 4 storeys or more can be accommodated alongside existing larger buildings, trees and parkland, river/ sea frontage or along wider streets.
- Childcare Facilities, Guidelines for Planning Authorities, 2001 (Childcare Guidelines). Applicable policy for the proposed development includes:
 - Appendix 2 recommends the provision of a childcare facility with a capacity of 20 childcare spaces per 75 dwellings units.
 - Section 2.4 outlines the scale and/ or requirement for childcare facilities may depend on the nature of the proposed development (reiterated in Section 4.7 of the Apartment Guidelines which allows studios and 1 bedroom units to be discounted from childcare demand calculations, and depending on location potentially for 2+ bedroom units).
- Development Management, Guidelines for Planning Authorities, 2007 (Development Management Guidelines).
 - Section 5.13 outlines issues relating to title to land.

6.2. Regional Policy Context

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

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

6.3. Local Policy Context

Dún Laoghaire Rathdown County Development Plan 2022-2028

- 6.3.1. The applicable development plan for the appeal case is the Dún Laoghaire Rathdown County Development Plan 2022-2028 (CDP).

6.3.2. The CDP contains map-based designations and policy in several chapters which establish the context for the proposed development (a mixed use (predominantly residential) scheme with apartments on a brownfield site, at a suburban neighbourhood location in an established area (characterised by a low rise, low density built environment), adjacent to a wider area which has undergone/ experienced notable change in the built environment in recent years).

6.3.3. The relevant CDP map-based/ mapped designations include:

- Site is zoned as 'NC' Neighbourhood Centre with the stated objective 'To protect, provide for and/ or improve mixed-use neighbourhood centre facilities' (as per Zoning Map 6).
- To the east of the site, along Drummartin Link Road, are a 'Strategic Road Reservation' and '6 Year Motorway Proposal'.
- To the south and east of the site, for Blackthorn Drive and Drummartin Link Road respectively, are 'Long Term Road Objectives/ Traffic Management/ Active Travel Upgrades'.
- Majority of site (centre/ western side) is located within Parking Zone 3, remainder of site is in Parking Zone 2 (as per Map T2).
- Site is not subject to any heritage designations, landscape protections, or other environmental designations.
- Site is not located within the catchment area of any section 49 Supplementary Development Contribution Scheme.

6.3.4. The applicable 2022 CDP policy, objectives, and standards are:

- Chapter 4 Neighbourhood: People, Homes and Place outlines policy for increasing the supply of quality residential development in an appropriate manner:
 - Section 4.2.1.5, Policy Objective PHP6: Childcare Facilities – encourage the provision of appropriate childcare facilities as an integral part of proposals for new residential developments, and in a sustainable manner to encourage local economic development.

- Section 4.3.1.1, Policy Objective PHP18: Residential Density – increase housing supply, encourage higher residential densities, and promote urban growth through consolidation and intensification of infill sites.
- Section 4.3.1.3, Policy Objective PHP20: Protection of Existing Residential Amenity – infill developments of greater density and building height to adjacent residential areas required to protect existing residential amenity through appropriate design and siting.
- Section 4.4.1.8, Policy Objective PHP42: Building Design and Height – encourage high quality design of all new development and ensure new development complies with the Building Height Strategy.
- Chapter 7 Towns, Villages and Retail Development outlines policy for appropriately designed, scaled and mixed use developments in neighbourhood centres:
 - Section 7.2.3.1, Policy Objective MFC1: Multifunctional Centres – embrace and support the development of the County's Major Town Centres, District Centres and Neighbourhood Centres as multifunctional centres which provide a variety of uses that meet the needs of the community they serve.
 - Section 7.2.3.3, Policy Objective MFC3: Placemaking in our Towns and Villages – support proposals for development in towns and villages that provide for a framework for renewal where relevant and ensure the creation of a high quality public realm and sense of place. Proposals should also enhance the unique character of the County's Main streets where relevant.
 - Section 7.5.4.1, Policy Objective RET7: Neighbourhood Centres – develop these centres as the focal point for communities and neighbourhoods through an appropriate mix, range, and type of uses subject to the protection of the residential amenities of the surrounding area.
 - Section 7.5.4.1 states the function of neighbourhood centres is to provide a range of retail outlets and services within walking distance for the local catchment population, and that new residential uses may be suitable.

- Chapter 12 Development Management contains requirements for new development and redevelopment proposals:
 - Section 12.3.1.1, Design Criteria – comply with national planning guidance, land use zoning, policy objectives, and numerous urban design standards.
 - Section 12.3.3.1, Residential Size and Mix and Table 12.1 – ensure new developments have an appropriate mix of units, including a proportion of larger units. For proposals with 50+ units (such as the appeal case), the CDP stipulates a maximum of 80% of studio, 1 and/ or 2 bedroom units, a maximum of 30% of studios and 1 bedroom units, and a minimum of 20% 3 bedroom + units.
 - Section 12.3.5, Apartment Development – numerous qualitative and quantitative standards for design, size, floor areas, room proportions, storage, private open space.
 - Section 12.4.5.1, Parking Zones – accord with parking standards for relevant zones outlined in Table 12.5 (majority of appeal site is located in Zone 3, various standard/ maximum requirements dependant on land use, deviations possible for brownfield sites in neighbourhood centres).
 - Section 12.4.5.2, Application of Standards – deviations from car parking standards in Table 12.5 are possible (including for neighbourhood centres in Zone 3, such as the appeal site) subject to assessment against several stated criteria.
 - Section 12.4.5.6, Residential Parking – resident and visitor parking in apartment schemes to be differentiated, spaces not to be sold separately, and all managed by a management company.
 - Section 12.6.1, Assessment of Development Proposals in Towns, District and Neighbourhood Centres – accord with the fundamental objective to support the vitality and viability of the retail centre, be of a high quality and incorporate layouts that encourage active and engaging frontages, and an inclusion of some element of residential use.

- Section 12.8.3, Open Space Quantity for Residential Development – public open space (15% of site area) and communal open space (4sqm-9sqm, based on unit size) required.
- Section 12.8.3.1, Public Open Space – To qualify as public open space the area must be designed and located to be publicly accessible and useable by all...acknowledged that in certain instances (e.g., high density urban schemes and/ or smaller urban infill scheme) it may not be possible to provide the above standards... the Council will seek a development contribution in lieu for any shortfall.
- Section 12.8.5 Public Open Space – Quality – ...provides a basis for active and passive recreation, creates urban focus, fosters community spirit... public open space should be accessible, inclusive, secure, and usable...
- Section 12.8.5.1, Design – ...should be designed to meet a range of user needs, including both active and the passive recreation to maximise accessibility...users should feel safe with adequate supervision... In higher density residential schemes (in excess of 100 units per hectare), the quality of the open space becomes of paramount importance.
- 12.8.5.2, Communal Open Space – is for the exclusive use of the residents of the development and should be accessible, secure, and usable outdoor space which is inclusive and suitable for use by those with young children and for less mobile older persons. Whilst an element of roof garden may be acceptable, the full quantum of communal open space should not take the form of being solely roof gardens...
- 12.8.5.4, Roof Gardens - Consideration of the use of roof gardens as communal open space shall be on a case by case basis and will not normally be acceptable on a site where there is scope to provide communal open space at grade, as roof gardens do not provide the same standard of amenity particularly to young children. Consideration must also be given to the overall design, layout, and location of the roof garden, including its height. For larger apartment schemes in excess of 50 units

no more than 30% of the communal open space shall be provided by way of a roof garden...

- Chapter 13 Land Use Zoning Objectives outlines policy for transitional zones and permissible uses classes:
 - Section 13.1.2, Transitional Zonal Areas – avoid abrupt transitions in scale and use at the boundaries of adjoining land use zones, necessary to avoid developments which would be detrimental to the amenities of the more environmentally sensitive zone, in zones abutting ‘residential areas’ particular attention must be paid to the use, scale and density of development proposals in order to protect the amenities of these residential properties.
 - Use classes of childcare service, residential, and shop-neighbourhood are permitted in principle under the NC zoning objective.

6.3.5. Appendix 5: Building Height Strategy (BHS) outlines the policy approach to building heights in different locations of the county.

- Policy Objective BHS1 states it is CDP policy to support the consideration of increased heights and also to consider taller buildings where appropriate ...in suitable areas well served by public transport links (i.e. within 1000 metre/10 minute walk band of LUAS stop) provided that proposals ensure a balance between the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity and the established character of the area.
- Policy Objective BHS1 acknowledges there may be instances where an argument can be made for increased height and/ or taller buildings within the suitable areas identified. In those instances, any such proposals are required to be assessed in accordance with the performance-based criteria set out in Table 5.1 of the BHS.
- ‘Increased height’ is defined as buildings taller than the prevailing building height in the surrounding area, and ‘taller buildings’ are defined as those that are significantly taller (more than 2 storeys taller) than the prevailing height for the area.

6.4. Natural Heritage Designations

- 6.4.1. The appeal site is not located in or immediately adjacent to a European site, a Natural Heritage Area (NHA) or a proposed NHA. There are no watercourses at or adjacent to the site.
- 6.4.2. The European site designations in proximity to the appeal site include (measured at closest proximity) include:
- South Dublin Bay and River Tolka Estuary SPA (site code 004024) is c.4.04km to the northeast.
 - South Dublin Bay SAC (site code 000210) is c.4.04km to the northeast.
 - Wicklow Mountains SPA (site code: 004040) is c.6.04km to the southwest.
 - Dalkey Islands SPA (site code 004172) is c.8.54km to the east.
 - Rockabill to Dalkey Island SAC (site code 003000) is c.8.88km to the east.
- 6.4.3. There are pNHA designations that align/ crossover with European site designations above, including the:
- Fitzsimon's Wood pNHA (site code: 001753) is c.0.87km to the southwest.
 - South Dublin Bay pNHA (site code 000210) is c.4.04km to the northeast.

7.0 The Appeal

7.1. Grounds of Appeal

- 7.1.1. This is a first-party appeal against Condition 2 and a third-party appeal (three appellants) against the planning authority's decision to grant permission.

First Party Appeal

- 7.1.2. The first party appeal against Condition 2 (cited in full in section 4.0 of this report). The Commission is requested to remove same from the grant of permission. The appeal grounds include the following:

Accords with National and Local Policy Objectives

- Revised National Planning Framework, 2025:

- Complies with NPO 3, NPO 7, and NPO 22 as the scheme is of an appropriate density and height, is providing new residential units at well located site in a suburb of Dublin City.
- Sustainable and Compact Settlements Guidelines, 2024:
 - In a 'City – Urban Neighbourhood', highly accessible location (Kilmacud LUAS stop c.852m away), and complies with recommended density (c.145dph in range of 50-250 dph).
 - A reduction in the proposed density (as per Condition 2) results in a less efficient use of accessible lands.
- Urban Development and Building Height Guidelines, 2018:
 - Satisfies the presumption in favour of buildings with increased density (meets the requirements of the applicable planning guidelines referred to above) and building height (scheme is up to 9 storeys).
- Dún Laoghaire Rathdown County Development Plan 2022-2028:
 - Complies with Policy Objective PHP20, PHP39, and PHP42 as proposal is a suitable height, does not compromise visual or residential amenities of the area, design ensures overlooking and overshadowing are minimised.
 - Proposal is not overdevelopment of the site, site is surrounded by a buffer (green spaces, landscaping, roads, setbacks) from adjacent residences, which facilitates a suitable transition in scale and density.

Meets Key Performance Based Criteria in CDP Appendix 5 Table 5.1

- States Policy Objective BHS3 for building height in residual suburban areas applies, which requires proposals to be assessed in accordance with the criteria of Table 5.1.
 - At County Level.
 - At District/ Neighbourhood/ Street Level.
 - At Site/ Building Scale.
 - County Specific Criteria.

Consistent with Evolving Urban Context and The Precedent for Increased Building Height

- Site is in a highly accessible location, close to major employment centres, Dublin City Centre, Dundrum Town Centre, public bus routes (Route No.s 114 and 116 are directly on Blackthorn Drive), high frequency LUAS line (Kilmacud LUAS stop is less than 1km away), and the M50.
- Acknowledges the proposal is higher than its immediate traditional suburban context.
- States acceptable as there are buildings of similar and greater height located nearby in Sandyford Business Park (Beacon Hospital, 8 storeys), and refers to other schemes with buildings of height (e.g., ABP 304405 Rockbrook 5-14 storeys, ABP 305940 Sandyford Central 10-17 storeys, and ABP 307683 Greenacres 4-8 storeys).

Third Party Appeals

- 7.1.3. Three third party appeals have been made against the planning authority's decision to grant permission for the proposed development. The appeals are made by two businesses with commercial premises at Balally Shopping Centre (Balally Pharmacy, Ollie's Bar), and a residents association group (stated as representing residents on Maples Road, Hawthorne Road, Lime Road and Whitebeams Road, north of the appeal site).
- 7.1.4. Several grounds of appeal are cited, the key points of which can be summarised as follows:

Planning History

- Remains largely the same as previous scheme, which was refused permission, same reasons continue to apply.
- Previous refusal reasons not addressed.
- Proposal now focussed on western half of the site, greater surface parking along primary street frontage (Blackthorn Drive), inadequate levels of amenity, and inadequate access to existing businesses (e.g., Balally Pharmacy).

- Reduced number of residential units, but gross floor area is minimally reduced (c.13,400sqm compared to c.15,000sqm).
- Car dominated layout of the refused application remains, surface car parking dominates public realm boundary with Blackthorn Drive.
- Proposal no longer includes building over the Supervalu building, resulting in dominant western side, piecemeal development.

Planning Authority's Decision

- Agreement with assessment by and supports recommendation of Executive Planner/ Senior Executive Planner to refuse permission.
- Condition 2 reduces the proposal in scale (two storeys omitted, 2nd and 3rd floors), building height (southern block: 29.8m to 24m, northwestern block: 25.1m to 19.3m), and residential unit numbers (100 to 71 apartments).
- Highlights the rationale for the removal of two storeys is due to an imbalance between the quality of the public open space and number of units.
- Highlights the planning authority recognised that the proposal would be visually discordant, its bulk and massing out of character with the area, and the overall built development of the area.
- Condition 2 does not address the site constraints and overdevelopment of the site.
- Unclear how planning authority able to ascertain the impacts/ effects (streetscape, residential, visual amenity) of the amendment by condition.
- Senior Planner has no basis for concluding that the commercial street could be considered as public open space as it offers no amenity or usable public open space to the residents.
- Senior Planner has misapplied section 5.1 of the Compact Settlement Guidelines, the CDP requirement for 15% of the site to be public open space cannot be overridden.
- Senior Planner has misinterpreted CDP Section 12.8.5.4 regarding communal open space, no exceptional case for roof-top only provision, the CDP and Development Contribution Scheme do not provide for a contribution in lieu.

- Senior Planner advocating a policy of any development, no matter how poor, is better than no development.

Legal Interest

- Appellant, owner of Ollie's Bar disputes the applicant's right to make the application.
- Ollie's Bar surrounded by lands within the application site, no independent access to a public road.
- Owner has rights of way over (pedestrian, vehicles) and rights to park on (own and client vehicles) the existing car parking areas which are within the application site.
- Owner's rights being ignored, legal proceedings protecting same are being undertaken, planning process is being abused by the applicant.

Impact on Businesses

- New block (in northwestern corner of site) will connect to the existing block being built over (southern/ western side of site) at second floor level. This level oversails part of the Balally Pharmacy (entrance), which will cause it to be located in a dark passageway, with poor natural light, reduced passing trade, and reduced trade from less mobile customers due to the loss of car parking.
- Existing 140 car parking spaces serving the centre reduced to 89 spaces, of which 35 spaces are for the proposed residential use, leaving 54 spaces for the existing commercial units, a 62% decrease.
- Closest to the pharmacy (and doctor surgery) are two reserved disabled spaces and 15 other spaces which are used and relied upon by customers, all will be removed.
- Foundations for the northern block will be adjacent to the pharmacy and will have a profoundly negative impact, reduce access by customers, and the viability of the business.
- Inability to access pharmacy services should be considered as being contrary to the NC zoning objective.

- Proposal will involve the denial of access to the Ollie's Bar property (via roadways, footpaths, driveways, passages), denial of parking, and disconnection to all services and utilities.
- Ollie's Bar will be unable to trade and forced to close, and the property become dilapidated and derelict.
- Daylight and sunlight report suggests major adverse effect on the property. Ollie's Bar has a strong daytime trade, bar requires good daylight, good daylight and sunlight are essential for the beer garden.

Impact on the Neighbourhood Centre

- Lack of a coherent strategy for the neighbourhood centre.
- Proposal does not create a high-quality public realm and sense of place, viability and vitality of the centre not protected, contrary to CDP Objectives MFC1, MFC3 and RET7.
- Proposal fails to integrate with the existing units, oversails existing units in the western block with some units covered by a passageway (northern facing units) and overhanging/ obscuring of others (southern facing units).
- Negative impact on the overall development potential to renew and regenerate the neighbourhood centre.
- Overall plot in ownership of two parties, proposal should not be facilitated on the basis that the rest of the land is not available for development.

Layout, Design and Height

- Piecemeal development, no public open space and/ or no quality open space being provided.
- Public open space provided is a commercial/ retail street, does not comply with policy in CDP Section 12.8.3.
- Scheme is excessive, not justified, overdevelopment of the site, site too constrained for this scale of proposal.
- Scale/ character of the area set by Part 8 scheme (5-6 storeys, c.21m) and the SuperValu structure (single storey, c.8.3m).

- Site not a corner site, proposal does not have the capacity to be taller than the Part 8 scheme (even as reduced by condition).
- Does not provide a suitable transition to surrounding area, form a landmark building, or positively contribute to the character and identify of the neighbourhood.
- Design approach has been to increase the height and overall massing on the western side of the scheme, creates a vertical saw-tooth effect, which is ill considered.
- Proposal largely surrounded by parking/ vehicular accesses creating barriers to access, substandard public realm, and inactive frontage at southern street level.
- Scheme is enclosed, lacks a discernible focal point of suitable design quality, inadequately contribute to place making.
- Proposal fails to comply with the criteria in Table 5.1 of the CDP Building Height Strategy.
- Fails to meet the threshold of high-quality design and building height required under Objective PHP42.
- Public realm pathway (i.e., stated as the public open space) will be heavily overshadowed by the proposal.

Future Residential Amenity

- Proposal does not comply with policy in CDP Section 12.8.3 in relation to quantity and quality of public (minimum of 15% of site area) and communal open space for new residential developments.
- Communal open spaces are predominantly north facing, at roof level, poorly connected, offering minimal amenity to residents.
- Scale of proposal would result in significant disamenity (loss of light) to any future residents on the eastern side of the site, and in the western side of the Part 8 scheme.

Overlooking and Overbearance

- Nature, scale, density, design, layout of scheme at this location would be seriously injurious to residential and visual amenities of the area.
- Balconies on eastern and western elevations, overlooking of any future scheme to the east, and of existing residences to the south and the school to the west.
- Extent of visual overbearance evident in verified view VVM5 and VVM6, notably a view from the closest residences in Blackthorn Court has not been included, visual impact being significantly underplayed.

Property Prices

- Scheme will negatively impact the value of properties in the area due to overbearance, loss of light, privacy, and residential amenity.

Traffic Impacts

- Proposal reduces the existing car parking spaces from 140 to 54, a decrease of 62%, a profound net loss of parking from the site, unjustified.
- Undoubtedly lead to an overspill of car parking spaces within Wedgewood area, which already suffers from commuter, school, church related traffic and parking.
- Car parking and traffic strategy based on out-of-date survey work from 2022.
- Proposal will result in serious traffic congestion at peak hours, cause a traffic hazard, inhibit safe movements of cyclists.
- Scale of proposal and low car parking ratio will add a considerable strain on the operation of current/ future public transport services.

Construction Phase Impacts

- No methodology in the case for how tenants in the centre will be able to continue to trade.
- No details on how noise, dust, dirt, access to be managed during construction.
- No engineering details on how a large part of the existing centre can be built over while the businesses therein can continue to trade.

- Lack of detailed phasing and construction programme is totally unacceptable, especially as 7-year permission has been applied for.
- Outline Construction Management Plan noted but is under the control of/dictated by a subsequent contractor.
- Impact on existing businesses from lengthy construction phase will be compounded by loss of parking spaces, noise and dust disturbance, nuisance from deliveries and waste management.
- Inadequate and inappropriate to condition matters to be addressed post-planning, third parties excluded, contrary to Aarhus Convention.

Inadequacies of Environmental Assessments

- EIA screening questioned, cumulative impacts are not adequately assessed.

7.2. Applicant Response

7.2.1. The applicant has submitted a first party response to issues raised in the three separate appeals. The issues considered and responded to include the following:

- Proposal not in accordance with the land-use zoning.
 - proposed development will make a significant contribution to the existing neighbourhood centre.
 - proposed development is primarily residential in nature with ground floor retail provided and will integrate with the existing shopping centre and create a truly mixed-use scheme.
 - new residential community will help underpin and support the vitality and viability of the shopping centre, while creating a strong mix of uses in accordance with Objective MFC1.
 - proposal will add a significant new architectural feature to the area.
 - scale of the proposed development is designed and considered in response to its function as a neighbourhood centre site and its relationship with the overall scale and setting of the adjacent Sandyford Business District in accordance with Objective MFC3.

- existing businesses will be retained, and the new residential community will underpin and support the vitality and viability of the shopping centre, creating a strong mix of uses in accordance with the zoning objective and Policy Objective RET7.
- proposal entails 77 sqm of additional small scale retail space to complement to the existing shopping centre providing additional active frontage to Cedar Road and a kiosk along Blackthorn Drive.
- Increased Height not suitable for the Neighbourhood Centre.
 - site provides an excellent opportunity for redevelopment and increased intensity.
 - no immediately adjoining houses to east, north or west, Blackthorn Drive is a broad and busy thoroughfare with wide dimensions.
 - significant separation distance is provided from the closest dwellings on Moreen Avenue/ Blackthorn Court.
 - main block is closer to the perimeter of the site to the northwest and west, creating additional opportunities for active frontage and linkages through the site.
 - DLRCC block is well separated (69.8m along Blackthorn Drive) from the proposed block, acts as a transition in height from the Sandyford Business District. At 6 storeys the DLRCC block acts as a stepping stone and reflects the changing nature of the area.
 - scheme has been designed in accordance with the Revised National Planning Framework (2025); The Sustainable and Compact Settlements (SCSG) Guidelines for Planning Authorities (2024); the Urban Development and Building Height Guidelines 2018.
 - at County level the Development Plan 2022-2028 the scheme demonstrates compliance with the performance-based criteria set out in Appendix 5.
 - site is located in an evolving urban context and there is precedent for increased height in the Sandyford context.

- Communal and Public Open Space.
 - communal open space and public open space requirements are 698 sqm and 837 sqm (10%) respectively.
 - proposed development exceeds the requirements for communal open space while a new and improved public open space is delivered.
 - high quality communal open spaces are provided at ground, first (above podium), second, seventh and eighth floor amounting to 1,090 sqm, allowing for a range of outdoor space types benefiting from different orientations.
 - DLRCC planner accepted there is no scope to provide communal open space at grade given the site's constraints, and that the dispensation implied by CDP Section 12.8.5.4 is applicable in this instance.
 - key public realm and landscape interventions are proposed in order to improve the existing condition.
 - proposed development provides for the creation of an attractive, high quality, sustainable development within the existing built-up urban area.
 - proposal will result in the creation of a strong urban edge at a prominent location along Blackthorn Drive.
- Development Contribution In Lieu of Open Space.
 - rationale for contribution in lieu of a new public open space has been clearly set out.
 - provisions in CDP 12.8.3.1 and in the Sustainable and Compact Settlement Guidelines allow for an in lieu development contribution.
 - project is a rejuvenation and enhancement of an existing shopping centre, it is not possible to provide a new public open space on the site.
 - existing retailers are subject to ongoing and long term leases.
 - public open space is 865 sqm in size (10.3% of the net site development area).

- DLRCC planner accepted there is good provision of existing open space in the area to which the proposal would be connected.
- proposals include additional landscaping and urban greening measures along the boundaries and within the site, including new trees, landscaped boundaries, planters, and new paving.
- Coherent Strategy for the Neighbourhood Centre.
 - proposed development has been carefully considered and designed in relation to the present and future context including the approved Part 8 to the east.
 - proposed development comprises a positive intervention at this prominent location which is considered a significant improvement on the existing centre and its urban context.
 - overall site strategy has been developed in order to retain the existing shopping centre and create a mixed-use neighbourhood centre.
 - public realm upgrades will attract additional people into the neighbourhood centre, improve accessibility and directly benefit existing retail.
- Future Residential Amenity.
 - excellent levels of daylight are achieved in the proposed development as set out in 3DDB Daylight and Sunlight Assessment.
 - proposed development meets and exceeds the appropriate standards for apartments as set out in the Housing Quality Assessment.
 - proposed development provides high quality communal open spaces and a new and improved public open space.
- Traffic Impacts.
 - no evidence is provided to support the claim that the proposed development will have a negative traffic impact.
 - survey work undertaken at appropriate days and times.

- car parking and cycle parking provision have been designed in accordance with Section 28 Guidelines and Development Plan policy.
- car parking spaces for the proposed development have been provided on a restricted basis in order to encourage modal shift away from private car use to shared car use, public transport and active travel.
- proposed development will provide a range of transportation options including an electric car sharing club, a number of car parking spaces will be allocated to operate the shared vehicle scheme, car parking will be managed on site.
- Construction Phase Impacts.
 - applicant will work closely with the local community and existing businesses during the construction phase to minimise disruption and ensure continued access to retail units and services.
 - processes outlined in and managed through Construction Management Plan and Construction and Environmental Management Plan.
 - proposed mitigation measures include provision of a community liaison officer at the site.
 - contractor will coordinate with the operators of the individual retail/commercial units and the pub as required to ensure a safe interface between the construction works and the existing uses.
- Overlooking and Visual Impact.
 - proposal promotes a suitable height which does not compromise the existing visual or residential amenities of the surrounding area.
 - orientation and layout of the scheme have been designed to ensure overlooking and overshadowing are minimised.
 - significant separation distances from residential properties, buffer zones between (open space, , grass verges, footpaths).
 - no protected views and prospects are identified as being impacted by the proposed development.

- proposed development entails a high-quality architectural response to the area, through careful orientation and massing of the blocks (sic).
- Adequacies of Environmental Assessments.
 - included are a comprehensive set of planning application documentation.
 - EIA Screening Report and AA Screening Report have addressed potential cumulative impacts.
 - slightly updated EIA Screening included in the appeal response which confirms that the Part 8 scheme (PC/H/01/2024) has been considered as part of the cumulative impact assessment.
- Property Values.
 - no evidence of negative impact on property values.
 - anticipated that a positive impact will result due to the enhanced neighbourhood centre and positive impact on the vitality of existing retailing.
- Impact on Balally Pharmacy.
 - proposal will make a significant contribution to the existing neighbourhood centre, integrate with the existing units, complement the existing retail offer, public realm upgrades will attract additional people thereby supporting the vitality and viability of the centre.
 - 4 no. car parking spaces (4% of the total spaces) will be designated accessible car-parking spaces at ground level in accordance with CDP Section 12.4.5.3.
 - disabled spaces are to be demarcated with yellow lines, a protected hatched area and appropriate road markings to identify these spaces.
 - disabled parking spaces are distributed in such a way to benefit all users of the development.
 - existing commercial units will benefit from a modernised public realm and parking area which meet mobility and access requirements.

- Impact on the Neighbourhood Centre.
 - proposed development comprises a positive intervention at this prominent location which is considered a significant improvement on the existing urban context and the optimal development strategy for the subject site.
 - proposal will provide an improved public realm such as upgraded footpaths, cycle paths, access points, planting and hardscapes resulting in a more accessible and permeable public space, improving the overall appearance and accessibility of the subject site.
 - new pedestrian crossing points are proposed to the west adjacent to the school and to the north to the church, an upgraded junction with Blackthorn Drive is also provided in the form of raised crossing and cycle path.
- Legal Matters associated with Ollie's Bar.
 - applicant has legal interest to make a planning application by virtue of the fact that the applicant is the freehold owner of the entire area of the neighbourhood centre.
 - Ollie's Bar and Lounge is outside the application site, which is clearly illustrated in the ownership drawing.
- Response to Previous Refusal Reason.
 - development strategy has been significantly changed to address the concerns of the Inspector included in decision of Reg. Ref. LRD23A/0214; ABP Reg. Ref. 317996-23.
 - a much-reduced extent of residential with alternative site layout and block structure, previously proposed Blocks B and C have now been excluded entirely from the proposal addressing any sunlight and daylight concerns on proposed units or adjacent sites.
 - Inspector had accepted many aspects of the scheme including the principle of the proposal, its height and scale, proposed car parking

and approach to the DLRCC site to the east and the relationship to the existing pub.

- Sunlight/ Daylight.
 - proposed will not result in any impact greater than negligible on permitted or existing residential units in the area (13 Blackthorn Court, Ollie's Bar only properties required to be assessed).
 - 'major adverse' impact on windows of premises noted, reference made to assessment by DLRCC Planner, i.e., not considered this would result in any significant negative impact on the overall amenity enjoyed by patrons of the bar.
- Appendices enclosed include:
 - legal correspondence and documentation,
 - responses to other items (not appeal grounds) arising,
 - updated EIA screening, and
 - correspondence from the Commission.

7.2.2. Key points in the applicant's response to the appeal, as relevant to the issues raised in the appeal grounds, are also considered in section 8.0 Planning Assessment of this report.

7.3. Planning Authority Response

7.3.1. Response states the grounds of appeal do not raise any new matter which would justify a change in attitude to the proposed development.

7.4. Observations

7.4.1. Observations on the appeal case have been received from 29 named parties with addresses given at Cherries Road, Hawthorns Road, Maples Road, Apples Road, Blackthorn Court, Whitebeams Road, Blackthorn Green, Limes Road, Plums Road. Several of the issues raised are similar to those cited in the third party appeals (outlined above).

7.4.2. Key additional issues raised by observers can be summarised as follows:

- Opposition to the proposal notwithstanding that 2 storeys removed by planning authority decision.
- Negative impact on community character, defined by low rise residential homes and small local businesses.
- Proposal too high, too dense, will be an eyesore, dominate the skyline, overlook a primary school, church and houses, obscure views to the Dublin Mountains.
- Area swamped with high rise apartments, overpopulated, services not available (schools, creches, doctors, public transport).
- Existing car parking spaces at the centre are required for community, church goers, school users.
- Nuisance to nearby residences and wider community due to construction impacts from traffic, dirt, dust, noise, safety risks, will cause chaos, especially with the Council's development.
- Opinions and needs of community ignored, no consideration of inconvenience to local residents.
- Opposition to allowing an in-lieu contribution for not providing public open space, establishes a poor precedent, open spaces are needed for people's health and wellbeing.
- Using Beacon Hospital, Sandyford Business Park to justify proposed building height not acceptable, different planning context, different character on western side of the Beacon junction.
- Inadequate green space, proposed roof gardens are unsuitable for and do not meet the needs of young children.
- Existing high levels of overspill car parking in Wedgewood residential areas, unrealistic to believe future residents will use public transport or cycle, more parking and traffic congestion will occur in Wedgewood area.
- Acceptance of needs for new dwellings, redevelopment and regeneration of the neighbourhood centre, proposal of 3-5 storeys, 17-18m height,

apartments with 1 car parking space, no loss of existing car parking spaces at the centre would be acceptable.

7.5. Further Responses

7.5.1. No further responses have been received on the appeal case.

8.0 Planning Assessment

8.1. Introduction

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

- Legal Interest
- Planning History
- Neighbourhood Centre
- Design, Layout and Public Realm
- Building Height
- Residential Density
- Existing Residential Amenity
- Future Residential Amenity
- Parking, Traffic and Transportation
- Water Services and Flood Risk
- Other Matters

I propose to address each of these items in turn below.

8.1.2. In respect of the proposed development, I have carried out a screening determination for appropriate assessment (AA), a pre-screening and a screening determination for environmental impact assessment (EIA), and a screening determination for water status impact assessment (WSIA). These are presented in sections 9.0, 10.0, and 11.0 below and are to be read in conjunction with Appendices 1-4 of this report.

8.2. Legal Interest

- 8.2.1. A third party appellant, Sandyford Inns Limited, is the owner of Ollie's Bar, the public house premises located at the neighbourhood centre (NC), which is omitted from the centre of the appeal site.
- 8.2.2. Appeal grounds include opposition to the proposal due to the appellant having rights of way (pedestrians and vehicles) across and rights to park (own and client vehicles) on car parking areas included within the site, the applicant having insufficient legal interest to therefore make the application, the appellant submitting their legal rights are being ignored by the applicant, and that legal proceedings have been initiated to protect same.
- 8.2.3. In the appeal response, the applicant states it is the freehold owner of the entire NC area included within the site's development boundary ('legal and registered owner of the said land with title absolute'). The public lands within the site (adjacent streets forming the perimeter public realm) are under Dun Laoghaire Rathdown County Council's control and a letter of consent from same is included in the application documentation.
- 8.2.4. I have reviewed the case file, including the appeal response, noting the information provided by the applicant (i.e., application form, DLR letter of consent, correspondence from solicitor firm (referring to High Court proceedings, land ownership, right of way, right to services), Land Registry and folio details (two folios pertain)).
- 8.2.5. The applicant acknowledges the appellant has certain easements and a right of way from the premises to and from the public road. However, the appellant's claim to a right to park is refuted (parking at the centre is regulated by a permit system, clamping controls, the appellant is allocated use of five car parking spaces). The applicant states it has a right to relocate or alter the car parking areas as it sees fit.
- 8.2.6. In considering issues of legal interest and rights of way, I have had regard to the guidance in Section 5.13 of the Development Management Guidelines. The guidelines are clear that '[t]he planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts' and refers to section 34(13) of the

2000 Act which states that a person is not entitled solely by reason of a permission to carry out any development.

- 8.2.7. The guidelines indicate that only in instances where it is clear that an applicant does not have sufficient legal interest in the subject lands, should permission be refused on that basis. In instances where there is doubt as to the sufficiency of the legal interest, the planning authority may decide to grant permission as such a grant is subject to the provisions of section 34(13) of the Act. That being, the developer must be certain under civil law that they have all rights in the subject land to execute the grant of permission.
- 8.2.8. Following my review of the case file, I consider that the applicant has provided documentary evidence demonstrating it has sufficient legal interest in the lands. I am satisfied that, for planning purposes, the applicant has sufficient legal interest to propose the new development and altered car parking arrangements as indicated in the plans and particulars.

Conclusion

- 8.2.9. In conclusion, while I note the appeal grounds, I am satisfied that for planning purposes, the applicant has demonstrated sufficient legal interest to propose the development as indicated in the lodged plans and particulars, subject to the restrictions explicit in section 34(13) of the 2000 Act. The claim of interference with rights of way and rights to park are civil matters between the parties and outside the scope of the planning system.

8.3. Planning History

- 8.3.1. The recent planning history at the site is raised as an appeal ground by the parties (applicant, appellants, and observers). I agree, finding the decision relating to ABP 317996-23/ PA Ref. LRD 23A/0214 to be a key consideration in the assessment of the appeal case. In the interests of clarity and brevity, in this assessment I refer to the proposed development which was subject of ABP 317996-23/ PA Ref. LRD 23A/0214 as the 'previous scheme'.

Overview of the Previous Scheme

- 8.3.2. Under the previous scheme, the applicant sought permission for 165 no. dwelling units (build to rent tenure) in three blocks (Blocks A-C), 2-8 storeys over basement

level, a community building, with the existing retail/ commercial units being retained at ground floor level within the NC.

- 8.3.3. In summary, the previous scheme maintained the building footprints of the existing eastern and western buildings, the access arrangements, and majority of the surface car parking around the perimeter of the site (at southern, western boundaries). The previous scheme included public realm improvements in the walkway area between the eastern and western buildings (and to the west of Ollie's Bar). Block A comprised a new building in the northwest corner of the site and the overhead development of the existing western building, Block B comprised a new building to the east of Ollie's Bar, and Block C comprised the overhead development of the existing eastern building.
- 8.3.4. During the planning authority's assessment, the previous scheme was revised at Significant Further Information (SFI) stage to 6-7 storeys (over basement) with 129 no. dwelling units. The planning authority refused permission for the previous scheme and in a first party appeal option, the total number of units was further reduced to 121 no. dwelling units. The proposed development subject of the SFI response was assessed at appeal stage. For clarity and information purposes, I direct the Commission to the plans and particulars received by the planning authority as SFI on 20th July 2023.
- 8.3.5. On 13th December 2023, the Board refused permission for the previous scheme for one reason (see section 5.0 above, cited in full, several sub-items). The Board noted that the dominant surface parking and access arrangements and a lack of active street frontages, the absence of public open space and poorly located/ accessible communal open space, and substandard levels of amenity for some future residences. In so doing, the previous scheme was considered to:
1. Firstly, not positively contribute to the public realm or place-making.
 2. Secondly, not provide coordinated development that would support the viability and vitality of the neighbourhood centre.
 3. Thirdly, not provide a suitable level of amenity for the prospective residents and other users of the neighbourhood centre.

Appeal Grounds

- 8.3.6. In the first party appeal, the applicant refers to the planning history at the site, the changes made to the previous scheme, and patterns of development in the wider area with which the proposed development (i.e., the scheme subject of the current appeal) is considered to accord. References are made to positive comments in the Inspector's report for the previous scheme (e.g., no objection in principle to the height and scale of that proposal), the planning history of taller buildings being permitted in the wider area/ in a suburban context (e.g., Sandyford Business Park), and the planning authority's acceptance of there being a good provision of open space in the immediate area which development at the site would be closely linked.
- 8.3.7. Third party appellants and observers submit that the proposed development remains largely the same as that of the previous scheme, that the refusal reasons have not been addressed and continue to apply. While key changes are noted (e.g., reduction in total residential units, no development on eastern side/ over the Supervalu building), the gross floorspace is stated as being only marginally reduced, a car dominated layout is retained, and that surface car parking continues to dominate the public realm. There is strong opposition to the proposed development being primarily focussed on and overly dominating the western half of the site, resulting in ad hoc, piecemeal development.
- 8.3.8. In its response to the appeals, the applicant refutes the appeal grounds stating that (reiterating information in the application documentation) the proposed development is much reduced in extent, features an alternative site layout and block structure, with Blocks B and C removed to address concerns arising from daylight/ sunlight impacts, and no basement level thereby reducing construction related impacts on retail units and surrounding amenities. The applicant states the proposed development now comprises a single block which has been sited closer to the northwest and west perimeters, thereby creating additional opportunities for active frontage and linkages through the site, with additional landscaping, shop frontage improvements, and public realm upgrades proposed.
- 8.3.9. Regarding open space, the applicant submits that the proposed development contains public open space in the form of an internal street and plaza (c.865sqm), and that it is not possible to provide a significant new public open space due to the site being an established neighbourhood centre facility. A payment in lieu is proposed to address the remaining shortfall. Communal open space in the proposed

development has been revised through the omission of the large podium space over the previous Block B, and communal open spaces are now provided at ground, first, second, seventh and eighth floors (totalling c.1,090sqm). These comprise a range of outdoor spaces, with different orientations, accessible to all residents.

Conclusion

8.3.10. In conclusion, whilst the proposed development is assessed on its own merits in this report and the Commission is not restricted by or bound to the previous Board decision, I consider that the planning history at the site is a relevant appeal ground. The previous decision to refuse permission is instructive as to what the key issues are that need to be addressed in the proposed development. I identify three issues which formed the basis of the refusal reason of the previous scheme (cited in subsection 8.3.5 above). A determination is necessary to establish the extent to which the proposed development addresses and overcomes these issues. I undertake same in the following subsections relating to Neighbourhood Centre (subsection 8.4), Design, Layout and Public Realm (subsection 8.5), and Future Residential Amenity (subsection 8.9).

8.4. Neighbourhood Centre

8.4.1. Third party appeal grounds include that the proposed development is contrary to the 'NC' Neighbourhood Centre zoning objective, does not protect the viability and vitality of the existing NC, fails to integrate with the existing units (oversailing, overhanging, obscuring, overshadowing), causes an adverse impact on businesses (obstruction, loss of access, loss of car parking, construction impacts), and does not comply with CDP policy relating to neighbourhood centres, namely Policy Objectives MFC1 and RET7 (see section 6.0 above).

8.4.2. Related are appeal grounds that there is no coherent strategy for the NC, the proposal will adversely impact on the potential for the NC's overall renewal and regeneration, and that the proposal should not be facilitated as all the lands at the NC are not available. I identify the introduction of a residential use to the existing NC and the quantum of new residential floorspace being proposed as a proportion of the overall NC floorspace as relevant planning considerations. I address the substantive issues below.

Neighbourhood Centre Zoning Objective

- 8.4.3. The site is subject to the NC zoning objective which seeks '*To protect, provide for and/ or improve mixed-use neighbourhood centre facilities*'. The use classes of residential and shop-neighbourhood (and childcare service) are permitted in principle. As such, subject to normal planning considerations, the proposed uses (and required use in respect of the childcare facility associated with the residential component) are acceptable.
- 8.4.4. The proposed development comprises new residential and retail floorspace, façade upgrades of the existing NC units, and public realm improvements (paving, seating, landscaping). The new floorspace comprises 100 apartments with ancillary areas (bicycle storage, bin storage, communal open spaces), one retail unit and a kiosk structure. There is a requirement for a childcare facility arising from the number of dwelling units, however the applicant submits a childcare facility is not necessary.
- 8.4.5. Presently, the two structures on site which form the NC (eastern and western) are single storey with ancillary storage space, and no residential accommodation overhead. The proposal therefore seeks to introduce a residential use to the NC.
- 8.4.6. From details in the case file (see Table 1 of this report above), the quantum of proposed residential floorspace is 10,630sqm and the combined existing and proposed commercial floorspace is 2,220sqm. Of the latter, the proposed commercial floorspace comprises only 77sqm (i.e., new retail unit 56sqm, kiosk 16sqm floorspace) ((net figures)). I identify that the proposed residential use would comprise c.83% of the overall NC floorspace (c.12,850sqm), while the existing/ proposed commercial floorspace would comprise the remaining c.17%. Of the latter, the new additional retail floorspace being provided at the NC would comprise just c.0.6% of the overall NC floorspace.
- 8.4.7. At ground floor level, the proposed development largely retains the building footprints of the existing eastern and western buildings (alterations include removal of covered walkways, façade upgrades, the eastern building remains single storey with upper-level storage space). New build in the proposed development is concentrated on the western side of the site (new northwestern building and overhead development of the existing western building). Save for the single retail unit and kiosk structure, the remainder of the new ground floor level floorspace is given to ancillary residential floorspace.

- 8.4.8. While I accept that residential use is a permissible use class within the NC zoning objective, for the reasons outlined above, I have strong reservations regarding the implications of these proportions for the future viability and vitality of the NC. I consider that the uses and quantum as proposed would have a disproportionate and unbalanced effect on the NC which in turn would prevent it from performing its key role and function (i.e., of providing commercial services and meeting community needs).
- 8.4.9. I note the underlying NC zoning objective at the site which seeks 'To protect, provide for and/ or improve mixed-use neighbourhood centre facilities', Policy Objective MFC1 which requires the provision of a variety of uses to meet the needs of the community the NC serves, Policy Objective RET7 which requires the NC to develop as the focal point for communities through providing an appropriate mix, type, and range of uses, policy in Section 12.6.1 which requires developments in a NC to accord with the fundamental objective to support the vitality and viability of the retail centre, and Policy Objective PHP6 which requires childcare facilities are provided as an integral part of new residential developments and to encourage local economic development. I consider more commercial, retail, professional services and/ or community uses to be preferable and necessary. I find the proposed residential component is overly dominant, the extent of new commercial floorspace to be wholly inadequate, with opportunities for new and varied uses at the NC to be markedly restricted. As such, I find the proposed development fails to comply with these applicable CDP objectives and policies.
- 8.4.10. These shortcomings are intensified when considered in combination with the design approach taken for the proposal, which fails to present a coherent development strategy for the site, concentrates development on one side of the site at/ over the western building (up to 10 storeys) and retains the eastern building as single storey in effect.
- 8.4.11. As discussed in the following subsections of this report, overall, I consider that the nature, scale and intensity of the residential use results in sub-optimal design outcomes and poor amenity levels for future residents and users of the NC. For example, the proposal comprises 100 residential units accommodating a potential c.370 future residents, but with no meaningful public open space, near-exclusive

provision of communal open space at roof garden levels, or childcare facility provided to meet the needs of same.

- 8.4.12. I find such open spaces and a childcare facility would diversify the range of uses in the NC and ensure satisfactory levels of amenity for residents and users of the centre. Indeed, the NC is the optimum location for a childcare service, and its provision (e.g., at ground floor level) would have the added benefit of contributing to the creation of active street frontages (thereby complying with Policy Objective PHP42 and policy in Section 12.6.1 as discussed in the following subsection 8.5).
- 8.4.13. For the Commission's clarity, I highlight that I have identified, focussed and considered the introduction, quantum, and proportionality of the residential use at the NC more than featured in the applicant's documentation and/ or the planning authority assessment. While the Commission may consider this to be a new issue in the appeal, I am satisfied that this is not the case. I undertook analysis of the proposed uses, floor areas, and implications of same on the role and function of the NC. These factors would have been known to the parties and had been raised under related issues, such as residential density and amenity.

Impact on Existing Businesses

- 8.4.14. The proposed development includes alterations to existing units in both the eastern and western buildings of the neighbourhood centre, new development over the western building, and public realm improvements. Of the proposed works to the existing units, I note the removal of covered walkways, the provision of façade upgrades, and the creation of passageways (partial, and/ or in full) overhead of specific units in the existing western block (three northern-facing units and one southern-facing unit) (see Proposed Ground Floor Level: Dwg No. 386-PL-02-00, dotted line indicates the extent of the passageways around the western building).
- 8.4.15. I acknowledge the concerns raised in the appeal grounds regarding adverse impacts caused to existing businesses due to oversailing, overhanging, obscuring, and overshadowing (cited for Balally Pharmacy and Ollie's Bar). Regarding oversailing/ overhanging passageways, I do not consider these to be excessively restrictive or obstructive (northern passage length c.12.5m. width c.4m, height c.6m, southern passage length c.7.5m, width c.2m, height c.6m). The creation of the passageways affects a small number of units in the centre (I acknowledge a notable change in

outlook for the appellant's premises, Balally Pharmacy). Further, the façade upgrades are a welcome component of the design approach (new double height glazing and signage), benefitting the majority of the units and in turn modernising the general appearance of the NC.

- 8.4.16. Regarding overshadowing of Ollie's Bar, I note the findings of the applicant's Daylight and Sunlight Assessment (DSA), which outlines that two windows on the premises' western elevation (closest to the new development) were assessed for daylight and sunlight impact and found to experience a major adverse effect.
- 8.4.17. The DSA highlights that only two windows were required to be assessed (i.e., only windows facing within 90 degrees due south), the premises is in commercial use, the BRE Guidelines make no reference to uses such as public houses having a 'reasonable expectation of daylight', a public house is typically occupied in the evening hours requiring artificial light, the interior of a public house would typically rely on artificial rather than natural light, the CDP does not require any specific daylight/ sunlight assessment or standard test for commercial properties, the outdoor seating area/ beer garden area is located on the eastern side of the premises, and a degree of overshadowing is acceptable.
- 8.4.18. While I acknowledge the appellant's concerns regarding same and the potential impact on the outside area of the premises (beer garden), I concur with the positions of the applicant (outlined above) and planning authority, which considered the extent of overshadowing would not result in any significant negative impact on the overall amenity enjoyed by patrons of the bar. Accordingly, in similarity with the potential impact on Balally Pharmacy, while the proposed development would cause changes to the built environment and outlook presently enjoyed by Ollie's Bar, the effects of same are not considered to be such as to warrant a refusal of permission.
- 8.4.19. The proposed development involves the removal of 65 car parking spaces at the NC (from a stated existing total of 140 spaces), and the provision of 89 car parking spaces (35 spaces for the proposed residential use, 54 spaces for the existing shopping centre). The impacts associated with the loss of car parking are considered in subsection 8.10, however, in short, these are found to be generally acceptable. Save for anticipated temporary disturbances during the construction

phase, the proposed development would not prevent or obstruct pedestrian or vehicular access to the existing businesses on a permanent basis.

8.4.20. In respect of the construction phase impacts, I acknowledge appellants' concerns relating to disruption, nuisance, and potential for loss of business. I have reviewed the applicant's outline Construction Management Plan (CMP), Construction Environmental Management Plan (CEMP), and the first party appeal response.

8.4.21. While there is a degree of overlap, key items for considering the potential impact on businesses include the General Construction Approach and the Communications and Local Stakeholder Management in the CMP. The applicant commits to enabling continued access to retail units and services, the provision of a community liaison officer, retention of a contractor to coordinate with individual operators to ensure safe interfaces between construction works and premises, and to identify, erect and manage safe routes for operators and public to units, and use of appropriate hoarding and signage. While I note appellants seek more detailed information, I consider that the range of measures outlined above to address the potential impacts on existing businesses is reasonable. Construction phase impacts would be temporary, managed, and not unduly adverse.

Refusal Reason for the Previous Scheme (ABP 317996-23)

8.4.22. As outlined in subsection 8.3 above, I consider the planning history to be a relevant planning consideration in this appeal. In the assessment of the previous scheme, the Inspector found the proposal failed to appropriately integrate with existing development within (e.g., the existing NC units) and adjoining the site (e.g., the DL RCC then-planned Part 8 scheme to the east) which contributed to the substandard layout and design of the scheme. The Board determined the previous scheme inadequately protected the viability and vitality of the centre and thereby be contrary to CDP Policy Objectives MFC1 and RET7.

8.4.23. In the case file (application documentation, first party appeal, appeal responses), the applicant outlines the efforts undertaken to address the shortcomings identified in the assessment of the previous scheme. While I acknowledge the key amendments made to the current proposal (reduction in total number of residential units, removal of overhead development of the eastern building (previous Block C), omission of the northeastern building (Block B) and community building, removal of basement level,

provision of new build in the northwest corner fronting onto the streets, increased perimeter tree planting/ landscaping), I consider that in seeking to address the previous shortcomings, the current proposal encounters similar issues albeit in a different manner.

8.4.24. Primarily, the decision to retain the two existing buildings forming the NC (i.e., to not alternatively replace in part/ whole or extend in a southerly direction) results in the proposed development failing to comprehensively develop the NC site or to provide a sufficient quantum of new commercial floorspace (thereby limiting opportunities for new and varied uses at the NC). Further, the decision to concentrate the proposed development on the western side of the site results in the scheme being unbalanced and incoherent. I concur with the positions of appellants and find the proposed development constitutes an ad hoc and piecemeal form of development at and of the NC.

8.4.25. I consider that the shortcomings identified in the assessment of the previous scheme have not been definitively addressed and remain as deficiencies in the proposed development. As such, the basis of the refusal reason relating to the NC and its future development remain applicable. I consider the proposed development does not constitute coordinated development and, for the reasons outlined in subsection 8.4.9 above, would support the viability and vitality of the NC.

Conclusion

8.4.26. In conclusion, I consider that the proposal does not constitute coordinated development and permitting same would not be the optimum solution for the site itself nor the most beneficial outcome for the NC and receiving area. The inadequate range and type of commercial/ community uses proposed, the overly dominant proportion of new residential floorspace, and the concentration of development within one side of the site, would fail to support the viability and vitality of the NC, provide a balanced variety of uses at the NC, or meet the needs of the community the NC is required to serve. Accordingly, I consider that the proposal fails to comply with the NC zoning objective, Policy Objective MFC1, Policy Objective RET7, policy in Section 12.6.1, and Policy Objective PHP6.

8.5. Design, Layout, and Public Realm

- 8.5.1. In this subsection I assess the design, layout and public realm quality of the proposed development. Public realm includes an assessment of public open space due to the cross-referenced manner of both in the proposed development. An assessment of building height is considered separately in the following subsection 8.6.
- 8.5.2. Third party appeal grounds and observations describe the proposed development as excessive, unjustified, overdevelopment, piecemeal, enclosed, and raise concerns regarding the constrained nature of the site. Appeal grounds regarding the proposed public realm, include criticisms of its being a commercial/ retail street, lacking a focal point of suitable design quality, inadequately contributing to place making, and being contrary to CDP Policy Objective MFC3.
- 8.5.3. Related, the proposed public open space is described as being both not or inadequately provided, of poor quality, heavily overshadowed, and not in compliance with policy in CDP Section 12.8.3. There is also opposition against the planning authority accepting a development contribution in lieu of the provision of public open space, described as establishing a poor precedent.

Design

- 8.5.4. The proposed development includes a mixed use (predominantly residential), single block sited in the western portion of the site, comprised of a new building in the northwest and new floorspace over the existing western building (single storey with attic level storage). The northwest building proposes ancillary residential and retail accommodation at ground floor level and mezzanine level, and residential accommodation at 1st to 6th floor levels (8 storeys inclusive the mezzanine level, see Table 2 of this report above). The western building maintains the existing commercial ground floor level floorspace, attic level storage (equivalent of the mezzanine level), and proposes residential accommodation at 1st floor to 8th floor levels (10 storeys inclusive of the mezzanine level).
- 8.5.5. The proposed northwest building and existing western building are not directly connected at ground floor and mezzanine levels but are connected from 1st floor level (a passageway is created overhead at street level thereby maintaining access to the existing NC units in the northern elevation of the western building, as discussed in subsection 8.4 above).

- 8.5.6. The parameters set at ground floor level by maintaining the western building and providing the new northwest building are evident in the architectural approach taken for the elevational design of the single block. The elevational design features different external cladding, colours, and finishes, variations in fenestration proportions and arrangements, and stepped building heights to reflect the two different components at ground floor level of the block. While the building height and scale of the proposed development are assessed in subsection 8.6 below, I consider the architectural approach taken to the elevational treatment of the block to be, in and of itself, acceptable, whereby attempts have been made to create visual interest, variation, definition and break-up the block's bulk and mass.
- 8.5.7. I also positively note the design approach to the façade upgrades of the existing western and eastern buildings at the NC (new double height glazing and signage), which benefit the majority of the units and modernise the general appearance of the NC.
- 8.5.8. However, I consider aspects of the proposed development's design which are less successful are those relating to the ground floor level, street frontages, and public realm interfaces. This is particularly in respect of the new northwest building which at ground floor level comprises extensive ancillary residential floorspace (undercroft car parking, bicycle stores, bin storage, entrance and lobby area). The only exception is the retail unit in the northeast corner, which is positively noted. Otherwise, this floorspace presents blank closed facades (only door opes indicated on plan) to the surrounding streets/ internal walkway.
- 8.5.9. I note Policy Objective PHP42 which requires high quality design of all new development and policy in Section 12.6.1 which requires developments in a NC to be of a high quality and incorporate layouts that encourage active and engaging frontages. I consider the design approach to the ground floor level of the northwest building to be unsatisfactory, inadequate and to result in poor interactions with the surrounding public realm. As such, I find the proposed development fails to comply with these applicable CDP objectives and policies.

Layout

- 8.5.10. In the case file documentation, the applicant outlines the constraints pertaining to the overall development of the site (e.g., physical, legal, land ownership, leases). This is

evident in the layout of the proposed development, in which several existing components at the site are maintained.

- 8.5.11. The site layout retains the two existing buildings (eastern, western) which form the NC, the existing vehicular and pedestrian entrances on the northeast, west, south boundaries, and the existing surface car parking areas and internal access arrangements to the southwest, south, and northeast. The pedestrian walkway through the site (north-south axis, staggered route between the existing eastern and western buildings, and to the west of Ollie's Bar) is also retained. Except for the proposed façade upgrades, the eastern building is retained largely as is (building footprint, single storey building height).
- 8.5.12. While I note the implications of the site constraints (as identified by the applicant) on the layout, in my opinion these restrictions do not justify the development of the site in the manner being proposed. As discussed previously in subsection 8.4 above, the proposed development is concentrated within the western side of the site which results in an unbalanced and incoherent layout, which I find to be injurious to the future vitality and viability of the NC.
- 8.5.13. I note Policy Objective MFC3 which requires proposals for renewal to create a high-quality public realm and sense of place, and enhance the unique character of main streets. I consider that the decision to retain the two existing buildings forming the NC (i.e., to not replace in part/ whole or extend in an available southerly direction) results in the proposed development failing to enhance the character of the NC, the surrounding streets (outside perimeters, also the internal walkway), form distinctive urban edges, and create active street frontages. This is particularly notable along the site's southern boundary, Blackthorn Drive, where the site frontage measures c.110m and, notwithstanding proposed new/ improved boundary treatment, paving and landscaping proposals, the layout continues to be dominated by access arrangements and surface car parking. As such, I find the proposed development fails to comply with Policy Objective MFC3.

Public Realm and Public Open Space

- 8.5.14. The public realm in the proposed development comprises the existing walkway which traverses centrally through the site (north-south axis, staggered alignment between buildings) and the existing public footpaths/ verges of Maples Road, Cedar

Road, and Blackthorn Drive (see Public Realm Areas: Dwg No. 1816_PL_P_01.7). Within the site's central public realm are proposed new/ improvements to paving, hard (seating) and soft (raised planters, trees) landscaping, and boundary treatments. New/ improved paving and cycle track are proposed for the public footpaths.

- 8.5.15. In the case documentation, the applicant categorises the central walkway/ public realm area as public open space (see Open Space Quantities: Dwg No. 1816_PL_P_01.6). The area is indicated as measuring 865sqm.
- 8.5.16. I have reviewed the planning authority's assessment of the proposed public realm and of the applicant's categorisation of the public realm as public open space. Council officials varied in their positions on same. The Parks Department recommends refusal of permission on qualitative grounds (interrupted views due to 'crank', safety concerns, poor urban design solution). The Executive Planner/ Senior Executive Planner recommend refusal of permission on both qualitative and quantitative grounds (public realm a pedestrian and cycle connection, insufficient focus on public open space for active and passive recreation, a fundamental tenet of public open space, public realm and public open space not interchangeable, quality public realm and quality public open space required to ensure quality placemaking, the absence of any public open space detracts from the functionality and usability of the scheme, a significant site constraint, indicating overdevelopment of the site).
- 8.5.17. The Senior Planner did not agree, acknowledged the site constraints, referred to the change in policy context since permission was refused for the previous scheme (ABP 317996-23), classified the central public realm area qualitatively as public open space, noted the provision of 865sqm of public open space, calculated a shortfall of 609sqm, considered an in-lieu development contribution can address same, and recommended permission be granted for the proposed development subject to condition (Condition 37 pertains).
- 8.5.18. I have considered the qualitative value and quantitative nature of the central public realm area in the proposed development. The public realm area coincides with the existing staggered walkway between the eastern and western buildings at the NC (width c.8m, length c.30m), which expands marginally to the west of Ollie's Bar (width c.12.5m, length c.36m). The public realm area features paving improvements,

with new seating and planting (see Landscape Masterplan: Dwg No. 1816_PL_P_01).

- 8.5.19. At the time of my site inspection, I observed the manner in which the walkway is used and noted that it was heavily trafficked with users of the NC, in particular those shopping at Supervalu (the entrance door is in the western elevation of the eastern building, access to the entrance of the store is via the walkway, a location which corresponds with the proposed public realm being c.8m in width and where new planting is proposed, i.e., the walkway is relatively narrow and quite restricted).
- 8.5.20. I note policy in CDP Sections 12.8.5 and 12.8.5.1 which requires public open space to serve both active and passive recreational needs, be accessible, inclusive, secure, and usable, and guides that in higher density schemes quality of the open space is paramount. Additionally, I note that policy in Section 5.3.3 of the Compact Settlement Guidelines guides that while public open spaces can form part of the public realm, a reasonable quantum of open space is required to be provided, and the focus should be on overall quality, amenity value and biodiversity value. While the public realm improvements are noted and welcomed, I do not consider these to be interventions of a scale and quality that would allow the public realm area to be considered as public open space. I consider that the design, nature and size of the central public realm area would unarguably fail to satisfy these national and local policy requirements. As such, I find the proposed development fails to comply with CDP policy in Sections 12.8.5 and 12.8.5.1.
- 8.5.21. In having regard to the above, I concur with the assessments of the Executive Planner/ Senior Executive Planner and Parks Department. I consider that the central public realm area in the proposed development cannot reasonably be categorised as public open space on qualitative grounds, and as such, there is no quantum of public open space provided within the scheme.
- 8.5.22. While third parties submit that the Senior Planner applied public open space policy provisions incorrectly, I do not concur. The Compact Settlement Guidelines (Policy and Objective 5.1), the CDP (Section 12.8.3.1) and the Council's Development Contribution Scheme 2023-2028 (Section 6) make provision for instances where a section 48 development contribution may be applied in lieu of the on-site provision of public open space. Notwithstanding, I consider the flexibility in the policy context is

appropriate for instances where the nature, scale and/ or design of a proposal are such as to warrant the use of the policy. I do not consider a section 48 development contribution would be justified in this instance as no public open space is being provided in the proposed development, as opposed to there being a shortfall in provision.

Refusal Reason for the Previous Scheme (ABP 317996-23)

- 8.5.23. For the Commission's clarity, the same central public realm area was included in the previous scheme (see plans and particulars received by the planning authority as Significant FI on 20th July 2023). In the documentation of that case file and outlined in the Inspector's report, the applicant did not classify this area as public open space. The previous scheme was assessed as having no public open space, and this formed part of the basis of the refusal reason.
- 8.5.24. With reference to Policy and Objective 5.1 of the Compact Settlement Guidelines, the applicant has classified the central public realm area as public open space in the proposed development. However, for the reasons outlined above I do not concur. As such, the absence of public open space and the implications for amenity levels of future residents cited in the refusal reason of the previous scheme remains a relevant issue for the proposed development.
- 8.5.25. Additionally, in terms of layout, the proposed development continues to be dominated by surface car parking and the vehicular access arrangements to same, with only minor changes in the design having been undertaken to attempt to create active street frontages. These are primarily associated with the proposed retail unit to the northwest fronting onto Maples Road. While I note the inclusion of the kiosk structure, I do not consider this to be sufficient to create an active street frontage onto Blackthorn Drive. Otherwise, the design of the new build at ground floor level continues to be dominated by car and cycle parking, bin storage and access to the apartments, all with blank, inactive frontages.
- 8.5.26. In my opinion, the deficiencies in the layout and design of the previous scheme have not been adequately addressed in the proposed development. These aspects which formed part of the basis of the refusal reason remain applicable.

Conclusion

8.5.27. In conclusion, while certain aspects of the proposed development are positively noted and welcomed (elevational treatment of block, façade upgrades and public realm improvements), these fall short of the high-quality design, meaningful creation of public realm or distinctive place-making required by the CDP. I do not consider the proposed development to constitute a comprehensive design framework for the renewal or regeneration of the NC, nor to ensure the creation of a high-quality public realm or sense of place. The absence of public open space in the proposal prevents suitable levels of amenity being provided for future residents and other users of the neighbourhood centre. Accordingly, I consider that the proposal fails to comply with Policy Objective PHP42, policy in Section 12.6.1, Policy Objective MFC3 and policy in Sections 12.8.5 and 12.8.5.1.

8.6. Building Height

- 8.6.1. Third party appellants and observers strongly oppose the proposed building height of the block, notwithstanding the removal of two storeys in the planning authority decision.
- 8.6.2. Appeal grounds and observations include that the proposed development is too high, dominates the skyline, obscures views of the mountains, overlooks properties, is inconsistent with the scale of the area, is not a landmark building, creates a vertical saw-tooth effect, is ill considered, does not provide a suitable transition to the surrounding area, does not positively contribute to the character and identify of the neighbourhood, does not comply with Policy Objective PHP42 or the criteria in Table 5.1 of the CDP Building Height Strategy.
- 8.6.3. I also identify CDP Policy Objective PHP20 relating to developments of increased building height being of an appropriate design and siting to protect existing residential amenity, and policy in Section 13.1.2 relating to transitional zones as relevant considerations.
- 8.6.4. Further, the site is described as not having the capacity to accommodate a building taller than the DLRCC Part 8 scheme (which is 5-6 storeys), and that favourable height comparisons with Beacon Hospital and Sandyford Business Park are unjustified as these are at a remove from the site (west of the Beacon junction), of a different character and planning context.

- 8.6.5. The first party appeal requests the omission of Condition 2 from the planning authority's grant of permission which reduced the building height (removal of two storeys, 2nd and 3rd floor levels). Third party appeal grounds relating to the planning authority decision include that Condition 2 fails to address site constraints and overdevelopment, the planning authority had concerns regarding building height and visual impact (visually discordant, bulk and massing out of character with the area), and the rationale for the removal of two storeys is due to an unacceptable imbalance between the quality of the public open space and number of units.

Planning Authority Decision – Condition 2

- 8.6.6. In the case file, the block is described as 7-9 storeys in building height, which I note excludes the mezzanine level between the ground and first floor levels (which in the northwest building comprises nearly a full floor of accommodation, only the area over the retail unit is double height). In similarity with the planning authority, I consider it more accurate to describe the height of the block inclusive of the mezzanine level (see details in Table 2 of this report above).
- 8.6.7. The proposed block features a stepped roof profile (lowest at the northern elevation fronting onto Maples Road, highest at the southern elevation fronting onto Blackthorn Drive), ranges in building height from 8 to 10 storeys, with principal height dimensions of between c.25m and c.31m.
- 8.6.8. The planning authority's assessment included a performance-based criteria test as required under CDP Policy Objective BHS1. The proposed development failed the test in respect of criteria at the County, Neighbourhood/ Street, and Site/ Building Levels. The planning authority determined that while the site is capable of accommodating increased height, the proposed building of 10 storeys was visually discordant, overbearing and out of character with the established building heights of the area, the height and scale of the proposed development raised issues indicative of overdevelopment, the proposed building would benefit from the removal of at least two floors, any height above 8 storeys would be disproportionate with the surrounding emerging built form (reference is made to the adjacent DLRCC Part 8 scheme) and excessive in the suburban context.
- 8.6.9. In the recommendation to grant permission, the Senior Planner addressed concerns relating to building height through the removal of two storeys by condition. Condition

2 pertains (cited in section 4 of this report above) which removes the 2nd and 3rd floors of the block. In effect, Condition 2 reduces the principal height dimensions of the 8 storey component from c.25.1m to c.19.3m and the 10 storey component from c.31m to c.25.2m.

- 8.6.10. The first party appeal outlines the manner in which the proposed development is acceptable, and reasons Condition 2 should be omitted. The grounds of the appeal include compliance with national and local policy in respect of providing new residences, density, building height, efficient use of lands, accessible location in close proximity to public transport, not adversely impacting residential or visual amenities of the area, and meeting the CDP performance-based criteria for tall buildings. The applicant submits that while the proposal is higher than its immediate traditional suburban context, a precedent for tall buildings has been established in the area, and the proposal complies with same.
- 8.6.11. For the reasons outlined in this subsection and in undertaking the performance-based criteria test of the proposed development below, I do not concur with the applicant. Furthermore, while I note that Condition 2 reduces the height, scale and massing of the proposed development, I consider the condition fails to address the underlying shortcomings of the proposal (i.e., it does not provide for the coordinated and comprehensive development of the site and NC, or provide acceptable levels of amenity for future residents and users of the NC, and the maximum building height of 8 storeys remains excessive for the site and receiving area).
- 8.6.12. In this regard, while I make similar conclusions to those of the planning authority in the performance-based criteria test, I do not concur with the planning authority's approach to revise the proposed development by way of condition, as I do not consider that Condition 2 is sufficient to address the deficiencies in the scheme.

Performance Based Criteria Test

- 8.6.13. The proposed development comprises a single block with principal building heights of between 8-10 storeys, and the proposed block comes within the definition of a 'tall building' of the BHS.
- 8.6.14. There is national and local policy supporting the provision of tall buildings in certain circumstances. These include when in proximity to public transport, amenities and environment are safeguarded, and residential amenity and the established character

of the area are protected. CDP Policy Objective BS1 requires a proposed development with a tall building to be assessed using the performance-based criteria set out in Table 5.1 of the BHS.

- 8.6.15. As the first party appeal requests the omission of Condition 2, the third party appellants and observers state Condition 2 does not improve the proposal or address its shortcomings, and the planning authority's response to the appeals states the grounds of appeal do not raise any new matter which would justify a change in attitude, I propose to undertake the performance-based criteria test on the proposed development as submitted to and assessed by the planning authority (i.e., maximum 10 storeys in effect, with a principal height of c.31m).

Table 3: Performance Criteria Assessment of Proposed Development

Performance Criteria	Assessment
At County Level	
Proposal assists in securing objectives of the NPF, in terms of focusing development in key urban centres, fulfilling targets in relation to brownfield, infill development and delivering compact growth.	Proposal provides for consolidation of new development, densification of residential use, partial redevelopment of a NC site, and greater efficiencies in use of serviced land and public resources. Proposal contributes to an increased supply of residential units, specifically of apartments, providing an alternative to the existing conventional housing offer in the receiving area.
Site must be well served by public transport – i.e. within 1000 metre/10 minute walk band of LUAS stop, DART Stations or Core/Quality Bus Corridor, 500 metre/ 5 minute walk band of Bus Priority Route - with high capacity, frequent service and good links to other modes of public transport.	As detailed in the applicant's Public Transport Capacity Assessment (PTCA), the site is well served by public transport. Proposal is within c.850m walking distance of Kilmacud LUAS Green Line stop, operating at a 4-minute frequency. Proposal is within 500m of 6 bus stops served by 8 routes operating at varying frequencies (most frequent option, Bus Stop 449, Route 11, every 10-20 mins).

Proposal must successfully integrate into/ enhance the character and public realm of the area, having regard to topography, cultural context, setting of key landmarks. In relation to character and public realm the proposal may enclose a street or crossroads or public transport interchange to the benefit of the legibility, appearance or character of the area.	Site has street frontage onto three public roads, and is located within/ midway along these roads, i.e., site does not occupy a corner, junction, crossroads, or interchange location which are more suitable for/ capable of accommodating tall buildings (as described in Section 3.6 of the Building Height Guidelines). The character of the area is relatively uniform, defined by conventional two storey houses, and single storey commercial buildings (i.e., the NC) and single storey community and educational buildings (primary school, church, resource building). Extant permission for 5-6 storey apartment block exists on adjacent DLRCC lands to the east (not implemented). Proposal comprises an 8-10 storey block on the western side of the site, while the eastern side of the site retains buildings that are primarily single storey in height. Proposal results in abrupt changes in building height from the modest single and two storey buildings located in and surrounding the site. Public realm improvements are proposed for the central walkway area and the public roads. These are primarily new paving, limited seating and planting, and boundary treatments. There is no notable intervention of scale and quality. The improvements are positively noted but fall short of meaningful creation of public realm or distinctive place-making. <u>Proposal fails to successfully integrate into or enhance the character and public realm of the area.</u>
Protected Views and Prospects: Proposals should not adversely affect the skyline, or detract from key elements	Site is not within a CDP protected view or prospect.

within the view whether in foreground, middle ground or background. A proposal may frame an important view.	I have reviewed the applicant's CGI and VVM documents and Landscape and Visual Assessment Report (LVAR). I note the visual impact of the proposed development in particular long range VVMs (as several short range VVMs include extensive tree cover). These include VVM 3 (view southwest with Dublin Mountains in background), VVM 5 and VVM 6 (views north). I consider that these VVMs indicate the notable differences in height, scale and massing between the proposed development and the key elements in the receiving area. The key elements include the Dublin Mountains and skyline, and existing built environment (i.e., characterised by conventional two storey buildings, some within open space settings). I find the visual effect of the proposal (without any context for other taller buildings, notwithstanding the inclusion of the DLRCC Part 8 scheme in outline) to be jarring and to detract from these key elements in views of the receiving area. <u>Proposal's height, scale and massing are excessive, inappropriate and injurious, detracting from these key elements in views of the receiving area.</u>
Infrastructural carrying capacity of area as set out in Core Strategy of CDP, relevant Urban Framework Plan or Local Area Plan.	No infrastructural capacity constraints have been identified or confirmed as affecting the proposal (e.g., water services infrastructure). Concerns raised by third parties in respect of public transport and traffic generation are noted but it is considered that the applicant has demonstrated there is sufficient capacity in the public transport systems and road network to accommodate the proposal.
At Neighbourhood/ Street Level	

Proposal must respond to its overall natural and built environment and make a positive contribution to the urban neighbourhood and streetscape.	Proposal includes some features which make positive contributions to the urban neighbourhood and streetscape, primarily the façade upgrades of the existing NC units, the public realm improvements (paving, seating, planting), and the inclusion of the retail unit and kiosk structure. However, the proposal focusses development on the western side of the site and in so doing fails to positively contribute to and/ or comprehensively develop the NC, resulting in the scheme being unbalanced and incoherent. Further, by retaining the two existing buildings in the NC (i.e., not replacing them in part/ whole or extending in an available southerly direction), the proposal fails to make a positive contribution to the neighbourhood or surrounding streetscapes (public roads on the outside perimeters, or the internal walkway). The proposed northwest building comprises extensive ancillary residential floorspace at ground floor level which presents blank closed facades to the surrounding streets/ internal walkway. The design approach to the ground floor level of this building is unsatisfactory, inadequate and results in poor interactions with the surrounding public realm. Proposal does not form new distinctive urban edges or create active street frontages <u>Proposal fails to adequately and appropriately respond to the receiving environment, and to make a positive contribution to the urban neighbourhood and streetscape.</u>
Proposal should not be monolithic and should avoid long, uninterrupted walls of building in the form of slab blocks.	Proposal is not considered to be monolithic as the elevational design for the single block reflects the parameters at ground floor level (i.e., maintaining

	and building over the western building and providing the new northwest building). Proposal features different external cladding, colours, and finishes, variations in fenestration proportions and arrangements, and stepped building heights to reflect the two different components at ground floor level of the block. Architectural approach taken to the elevational treatment of the block is acceptable as attempts have been made to create visual interest, variation, definition and break-up the block's bulk and mass.
Proposal must show use of high quality, well considered materials.	Proposal features varied yet complementary external finishes for each component (e.g., different coloured cladding), aluminium and steel panels and screens. The materials are well considered and reflect the modern nature of the proposal.
Proposal where relevant must enhance urban design context for public spaces and key thoroughfares and marine or river/ stream frontage.	Proposal incorporates public realm improvements to the central walkway through the site, which are positively noted but fall short of meaningful creation of public realm or distinctive place-making. The central public realm area within the proposal fails to satisfy national and local policy requirements and definitions of public open space. The area cannot be categorised as public open space on qualitative grounds, and as such, the proposal provides no public open space. Proposal fails to enhance the urban design context for public spaces due to the absence of meaningful creation of public realm and public open space.
Proposal must make a positive contribution to the improvement of	Proposal includes public realm improvements (paving, hard and soft

legibility through the site or wider urban area. Where the building meets the street, public realm should be improved.	landscaping) within the central walkway and perimeter streets which would improve the general appearance of the NC site. However, I have previously outlined my concerns regarding the absence of meaningful public realm, active street frontages, and public open space in the scheme.
Proposal must positively contribute to the mix of uses and/ or building/ dwelling typologies available in the area.	Proposal introduces residential use to the NC, which is welcomed. However, the proposed residential use would comprise c.83% of the overall NC floorspace, while the existing/ proposed commercial floorspace would comprise the remaining c.17%. Of the latter, the new additional retail floorspace provided at the NC comprises just c.0.6% of the overall NC floorspace. More commercial, retail, and/ or professional service uses would be preferable and necessary. The required childcare facility is not provided. <u>Proposal is dominated by the proposed residential use and the extent of new commercial/ community floorspace is wholly inadequate, with opportunities for new and varied uses at the NC being markedly restricted.</u>
Proposal should provide an appropriate level of enclosure of streets or spaces.	Proposal includes the central public realm area which coincides with the existing staggered walkway between buildings at the NC. The staggered layout of the walkway (described by the planning authority as a crank, kink) prevents full views along its length. Further, the central public realm area is relatively narrow and restricted (widths range between c.8m-12.5m), with new seating and planting proposed. <u>The level of enclosure of the central public realm area is not considered appropriate due to restricted views, potential safety risk, restricted</u>

	<u>accessibility, and obstructions to ease of movement for users.</u>
Proposal should be of an urban grain that allows meaningful human contact between all levels of buildings and the street or spaces.	Proposal maintains the two buildings which form the NC. The façade upgrades to the existing units and public realm improvements (seating, planting) are welcomed. However, I have previously outlined my concerns regarding the lack of active street frontages due to blank facades in the northwest building, and the failure to create distinctive public realm and/ or new urban edges along the southern side boundary.
Proposal must make a positive contribution to the character and identity of the neighbourhood.	I have previously outlined my concerns regarding the proposal's shortcomings in making a positive contribution to the character and identity of the neighbourhood (failure to integrate with existing built environment, excessive height, scale and massing detracting from the receiving area, failure to create meaningful public realm or place-making).
Proposal must respect the form of buildings and landscape around the site's edges and the amenity enjoyed by neighbouring properties.	The built environment at the site's edges is defined by conventional two storey houses, and single storey commercial, community and educational buildings. In the area of open space to the east of the site is the extant DLRCC Part 8 Scheme for a 5-6 storey apartment block. The 8-10 storey block is proposed on the western side of the site, with buildings in the eastern side of the site remaining single storey. Proposal results in abrupt changes in building height from the modest single and two storey buildings located in and surrounding the site. <u>Proposal is of a height, scale and massing which are excessive, inappropriate and injurious, failing to respect the form of the buildings and landscape around the site's edges and</u>

	<u>the amenity enjoyed by neighbouring properties due to overbearance and adverse visual impact.</u>
At Site/ Building Scale	
Proposed design should maximise access to natural daylight, ventilation and views and minimise overshadowing.	Proposal includes a single block, 8-10 storeys in height which is surrounded by low rise development. The block is freestanding and would have good access to daylight, sunlight, ventilation, views (51% of units are dual aspect, all have balconies). There are no other tall buildings in proximity which could adversely affect access the proposal (extant DLRCC Part 8 scheme, Beacon Hospital complex, Sandyford Business Park are at a remove). The Daylight and Sunlight Assessment (DSA) analyses daylight and sunlight available to neighbouring properties and the proposed apartments, and sunlight available to some of the proposal's amenity spaces. There are minimal instances of non-compliance with the BRE 209 2022 standards.
Proposal should demonstrate how it complies with quantitative performance standards on daylight and sunlight as set out in BRE guidance "Site Layout Planning for Daylight and Sunlight" (2nd Edition). Where a proposal does not meet all the requirements, this must be clearly identified and the rationale for any alternative, compensatory design solutions must be set out. On relatively unconstrained sites requirements should be met.	The DSA analyses daylight and sunlight available to neighbouring properties and the proposed apartments, and sunlight available to the proposed development's amenity spaces. There are minimal instances of non-achievement of the applicable BRE 209 2022 standards. The instances of non-compliance are within acceptable parameters. The DSA assesses four of the five communal open space areas and indicates these achieved the minimum BRE standard for access to sunlight (see Fig. C10, pg. 71). From the same figure, I note the majority of the central public realm area fails to receive the minimum BRE

	standard of 2 hours sunlight on 21 st March. <u>I consider this to be indicative of the poor amenity value of the public realm area, which is submitted by the applicant to be public open space.</u>
Proposal should ensure no significant adverse impact on adjoining properties by way of overlooking, overbearing, and/ or overshadowing.	Proposal is not considered to cause undue overlooking or overshadowing of adjoining properties. However, the proposal results in abrupt changes in building height from the modest single and two storey buildings located in and surrounding the site. <u>Proposal is of a height, scale and massing which are excessive, inappropriate and injurious to the visual amenities of the receiving area. Proposal would be visually jarring and adjoining properties will experience overbearance from same.</u>
Proposal should not negatively impact on an Architectural Conservation Area (ACA) or the setting of a protected structure.	There are no protected structures, ACAs or archaeological monuments at or in the vicinity of the site.
Proposals must demonstrate regard to the relative energy cost of and expected embodied and operational carbon emissions over the lifetime of the development. Proposals must demonstrate maximum energy efficiency to align with climate policy. Building height must have regard to the relative energy cost of and expected embodied carbon emissions over the lifetime of the development.	Proposal includes a Lifecycle Report and a Climate Action and Energy Statement which indicate the favourable performance indicators of the proposal in terms of energy rating, sustainable modes of transport, solar power and wate consumption.
County Specific Criteria	
Having regard to the County's outstanding architectural heritage which is located along the coast, where increased height and/ or taller buildings are proposed within the Coastal area from Booterstown to Dalkey the proposal should protect the particular character of the coastline. Any such	Not applicable. Site is not in a coastal location.

proposals should relate to the existing coastal towns and villages as opposed to the coastal corridor.	
Having regard to the high quality mountain foothill landscape that characterises parts of the County any proposals for increased heights and/ or taller building in this area should ensure appropriate scale, height and massing so as to avoid being obtrusive.	While the site is at a remove from the Dublin Mountains foothill landscape, I have previously outlined my concerns regarding the impact the proposal has on local views to/ of the Dublin Mountains from the vicinity of the site, as evident in VVM 3. <u>Proposal is of an inappropriate height, scale and massing, which fails to avoid being visually obtrusive in views to/ of the Dublin Mountains.</u>
Additional specific requirements (applications are advised that requirement for same should be teased out at pre planning's stage).	Preplanning consultation undertaken on proposed development. Application and appeal documentation sufficient for assessment purposes.
Specific assessments such as assessment of microclimatic impacts such as down draft.	Range of documentation provided with the application, including a Wind Microclimate Modelling report. No issues such as down draft or inclement conditions identified.
Potential interaction of building, materials and lighting on flight lines in locations in proximity to sensitive bird/ bat areas.	The Ecological Impact Assessment (EclA) confirms the site is in an urban location and is not located in a sensitive area in terms of bird flight paths. The bat roost and habitat suitability, and bat surveys found the trees and hedgerow habitat on-site offered low foraging and commuting suitability to bats, and very low presence of bats (two species in September 2023). Already high levels of illumination at the site.
Assessment that the proposal allows for the retention of telecommunications channels, such as microwave links.	Telecommunications Impact Assessment accompanies the proposal, no impact on any existing telecommunications channels identified.
An assessment that the proposal maintains safe air navigation.	Site is not in an aviation designation or flightpath location included in the CDP.

	Report from prescribed body, Dept of Defence, no objection subject to condition (regarding notification of crane activity).
Relevant environmental assessment requirements, including SEA, EIA (schedule 7 information if required), AA and Ecological Impact Assessment, as appropriate.	Proposal accompanied by EcIA, Appropriate Assessment Screening Report (AASR), and EIA Screening Report (including updated version at appeal response stage). I have undertaken screening for AA and EIA and concluded that neither assessment is required for the proposal.
Additional criteria for larger redevelopment sites with taller buildings	
Proposal should make a positive contribution to place making, incorporating new streets where appropriate, using massing and height to achieve densities but with variety and scale and form to respond to scale of adjoining development.	Appeal site is not considered to be a larger redevelopment site. I have previously outlined my concerns regarding the proposal's contribution to place making, massing and height, and response to scale of adjoining development in other criteria above.
For larger unconstrained redevelopment sites BRE standard for daylight and sunlight/any forthcoming EU standards on daylight sunlight should be met.	As above.

8.6.16. In having undertaken the above performance-based criteria test of the proposed development, I highlight to the Commission my key findings:

- Proposal fails the performance test at each scale of assessment: County Level, Neighbourhood/ Street Level, Site/ Building Level, and County Specific Criteria.
- Proposal fails to successfully integrate into or enhance the character and public realm of the area.
- Proposal's height, scale and massing are excessive, inappropriate and injurious, detracting from key elements in views of the receiving area.

- Proposal fails to adequately and appropriately respond to the receiving environment, or to make a positive contribution to the urban neighbourhood and streetscape.
- Proposal is dominated by the proposed residential use and the extent of new commercial/ community floorspace is wholly inadequate, with opportunities for new and varied uses at the NC to be markedly restricted.
- Level of enclosure of the central public realm area is not considered appropriate due to restricted views, potential safety risk, restricted accessibility, and obstructions to ease of movement for users.
- Proposal is of a height, scale and massing which fail to respect the form of the buildings and landscape around the site's edges and the amenity enjoyed by neighbouring properties due to overbearance and adverse visual impact.
- The DSA illustrates that the majority of the central public realm area fails to receive the minimum BRE standard of 2 hours sunlight on 21st March, which is indicative of the poor amenity value of the public realm area, which is categorised by the applicant as public open space.
- Proposal is of a height, scale and massing which are injurious to the visual amenities of the receiving area, visually jarring, and overbearing for adjoining properties.
- Proposal is an inappropriate height, scale and massing, which fails to avoid being visually obtrusive in views to/ of the Dublin Mountains.

8.6.17. I note Policy Objective PHP42 which requires that new development complies with the Building Height Strategy, Policy Objective PHP20 which requires developments of greater building height protect existing amenity of adjacent residential areas through appropriate design and siting, and policy in Section 13.1.2 which requires the avoidance of abrupt transitions in scale and that appropriate attention be paid to scale in development proposals. Having regard to the results outlined in the performance-based criteria test and my key findings above, I find the proposed development fails to comply with these applicable CDP objectives and policies.

8.6.18. In the interests of clarity for the Commission, I note that the applicant refers to and relies upon comments made in the Board's assessment of the previous scheme,

ABP 317996-23. The Inspector had found the building height and scale of the previous scheme to be acceptable. In not drawing the same conclusion for the proposed development, I highlight that the previous scheme (as per the SFI response) comprised three blocks of 6-7 storeys over basement, the tallest building was Block A with a principal height of c.23.25m, development was proposed over both the eastern and western buildings of the NC, and the DLRCC scheme to the east was then-indicated as being 8 storeys in height. I consider there to be material differences in the schemes, whereby the proposed development is a single block, 8-10 storeys with principal heights of c.25.1m to c.31m, concentrated only on the western side of the site leaving the eastern building as single storey in effect, and the DLRCC Part 8 scheme has been approved as 5-6 storeys in height.

Implications of Condition 2 on Building Height

- 8.6.19. In the interests of completeness for the Commission, I have considered the implications of Condition 2 on the building height of the proposed development. The condition removes two storeys, the 2nd and 3rd floor levels, from the proposed block, which amends the 8 storey (northwest) component to 6 storeys in height and the 10 storey (western) component to 8 storeys. The removal of two storeys equates to a reduction in building height of c.5.8m, thereby reducing the principal heights of the components from c.25.1m to c.19.3m and from c.31m to c.25.2m. (I direct the Commission to the third-party appeal submitted on behalf of Wedgewood Residents' Association (pg. 7), which includes an image of the southern elevation of the block with the two floors omitted and an indication of the reduction in building height).
- 8.6.20. In effect, I acknowledge that Condition 2 would reduce the height, scale and massing of the proposed development. However, I consider that the amended maximum building height of 8 storeys would remain excessive for the site and receiving area. The amended block continues to overly concentrate development on one side of the site, would continue to cause abrupt changes in building height from the modest single and two storey buildings located in and surrounding the site, and would continue to exceed the building height of the extant DLRCC Part 8 scheme by two storeys.

8.6.21. I am satisfied that several of my key findings from the above performance-based criteria test (relating to height, scale and massing per se) would continue to be applicable. That being, I consider the amended block would continue to:

- detract from key elements in views of the receiving area.
- fail to respect the form of the buildings and landscape around the site's edges and the amenity enjoyed by neighbouring properties due to overbearance and adverse visual impact.
- be injurious to the visual amenities of the receiving area, visually jarring, and overbearing for adjoining properties.
- fail to avoid being visually obtrusive in views to/ of the Dublin Mountains.

Conclusion

8.6.22. In conclusion, the proposed development has failed to achieve the threshold of high-quality design and compliance with the BHS as is required under CDP Policy Objective PHP42. I do not consider that the site is a suitable location for or has the necessary characteristics (as described in Section 3.6 of the Building Height Guidelines), to successfully accommodate a block of the height, scale and massing as is proposed. The site adjoins residential and sustainable neighbourhood infrastructure zoning objectives, yet the proposed development is of an inappropriate design and siting exerting an overbearing effect on adjacent properties, fails to avoid abrupt transitions in scale, has inadequate regard to the existing scale of development, and would be detrimental to the amenities of the area, thereby failing to comply with Policy Objective PHP20 and policy in CDP Section 13.1.2.

8.7. Residential Density

8.7.1. The proposed development comprises 100 dwellings units on a site with a net developable area of 0.837ha. The applicant applies the methodology in the Compact Settlement Guidelines for calculating residential density in mixed use schemes (Appendix B) and indicates the density of the scheme is 145dph (Architectural Design Statement, pg. 22).

8.7.2. In undertaking its performance-based criteria test of the proposed development, the planning authority identified that the proposal's height and scale raised issues indicative of overdevelopment of the site. In its decision, the planning authority

omitted 29 units in total by condition (Condition 2 omitted 28 apartments and Condition 3 omitted one apartment), reducing the total number of units to 71 units, which the Senior Planner equated to a density of c.100dph.

Appeal Grounds

- 8.7.3. In the first party appeal, the applicant submits the proposed density of 145dph is compliant with a range of national and local planning policy (discussed below), appropriate for the site, and requests the omission of Condition 2 from the grant of permission stating that a reduced density results in a less efficient use of accessible lands.
- 8.7.4. Third party appeal grounds and observations include the proposed development is too dense, the area has too many high-rise apartments, experiences overpopulation and excessive demand on services which are unavailable. I identify the policy context on residential density, and population increase as relevant planning considerations.

Policy Context

- 8.7.5. In similarity with building height, there is national and local policy context for increased residential densities in certain circumstances, including urban consolidation subject to specific parameters. I highlight to the Commission that CDP policy does not specify a density target or range for the site. Relevant policy includes Policy Objective PHP18, which generally encourages higher residential densities and intensification of infill sites to achieve urban growth.
- 8.7.6. In similarity with the applicant, I identify the national policy context as being directly applicable to the appeal. Arising from the Compact Settlement Guidelines, I consider that the site is a 'City – Urban Neighbourhood' location. The site is within 1km walking distance of the LUAS Green line service and therefore comes within the scope of sub-category '(iv) lands around existing or planned high-capacity public transport nodes or interchanges within the Dublin City and suburbs area'. Such areas are described as highly accessible locations with good access to employment, education and institutional uses and public transport. The recommended density for such areas is in the range of 50dph-250dph.

- 8.7.7. The guidelines require a density refining process based on firstly, accessibility to public transport options and secondly, site-specific criteria. As stated above, the site is classified as a highly accessible location due to being within 1km walking distance to the Kilmacud LUAS Green Line stop. Of the five site-specific criteria (impact on character, historic environment, protected habitats and species, daylight/sunlight of residential properties, and water services capacity), I consider that the density of development at the site is restricted by impact on character. The other criteria are not applicable to the site, or the proposed development does not impact these criteria.
- 8.7.8. However, I do not consider this to be the case in respect of impact on character. As I have outlined in detail previously in subsections 8.4 Neighbourhood Centre, 8.5 Design, Layout and Public Realm, and 8.6 Building Height, I have strong reservations regarding the intensity of the residential use proposed at the NC, the unbalanced concentration of development on the western side of the site, and the adverse impact of the proposal's height, scale and massing on the character of the area, defined by modest single and two storey buildings located in and surrounding the site.
- 8.7.9. Importantly, in the interests of clarity for the Commission, I make a distinction at this point between whether the density in the proposed development is appropriate and what an appropriate density for the appeal site may be. I note that the density range in the Compact Settlement Guidelines for the site is very broad at 50-250dph, and the proposed density of 145dph is at an approximate midpoint within the range.
- 8.7.10. The reservations I have regarding the proposed development are similar to those issues identified by the planning authority and described as being indicative of overdevelopment of the site. My concerns relate to and arise from the design approach taken for the proposed development as opposed to the residential density metric of 145dph in and of itself. As outlined previously, new development is concentrated on the western side of the site and the residential density of 145dph is achieved by providing all new residential accommodation in part/ whole floor levels across 10 storeys (including necessary ancillary residential floorspace).
- 8.7.11. That being, while I consider the density of the proposed development to be inappropriately achieved, I do not consider that a proposed density of 145dph is

necessarily inappropriate for the site as a more comprehensive design approach to the site could yield a similar residential density through a more suitable design solution.

Population Increase

- 8.7.12. In considering the impact of the proposal on the receiving area, I have reviewed spatial and population data in the 2022 Census. The site is located within the Electoral Division of Dundrum-Balally, the population of which is 8,844 persons (Census website, information is correct as of the date of this report).
- 8.7.13. For the proposed development of 100 residential units, I estimate there to be a population increase of between c.264-371 persons (c.2.99%-4.19% increase in the Electoral Division's population). This range is based on the 2022 Census average household size for the Electoral Division (c.2.64 persons) and the total number of bedspaces in the scheme (if all bedspaces were to be occupied, see Table 2 in section 2 of this report above).
- 8.7.14. Having regard to the proposed unit mix and the high proportion of 2 bed (4P) and 3 bed (5P) units (71%) in the proposed development (which arises from compliance with CDP 12.3.3.1: Residential Size and Mix, and Table 12.1: Apartment Mix Requirements), I consider a population increase of c.300 persons to be a reasonable estimate, which would equate to an c.3.39% increase to the population of the Electoral Division.
- 8.7.15. While I acknowledge concerns expressed by appellants, on review of several reports on the case file, including the Planning Report and Statement of Consistency, Community and Social Facilities Audit, Traffic and Transport Assessment, Engineering Planning Report, and the EIA Screening Report (as updated in the first party appeal response, which consider in-combination effects with adjacent developments), I do not anticipate any excessive or injurious impacts on the receiving environment of this area of the city, which offers a wide range of facilities and services. On balance, I consider that the potential proportion of population growth would be within acceptable parameters for the Electoral Division and this developing suburb of Dublin City.

Conclusion

8.7.16. In conclusion, while the appeal site may be capable of accommodating a form of development with a residential density of 145dph in the event of a more comprehensive design approach, I consider that the density of the proposed development is inappropriately achieved due to all new residential accommodation being concentrated into a single block of up to 10 storeys building height, on the western side of the site. While I consider the wider receiving area would be capable of accommodating the population increase associated with the proposed development, I consider the proposal is substandard in terms of providing for and safeguarding future residents' needs, which is discussed in greater detail in subsection 8.9 Future Residential Amenity below.

8.8. Existing Residential Amenity

Appeal Grounds

- 8.8.1. Third party appeal grounds and observations include the proposed development's adverse impact on the residential amenity of existing properties in the area due to overlooking, overshadowing, overbearance, construction phase disturbances, increased traffic generation, loss of car parking, and overspill parking demands.
- 8.8.2. For the Commission's clarity, I highlight that there is a degree of overlap between the issues raised with regard to residential amenity (both existing as considered in this subsection, and future considered in subsection 8.9 below), and those in subsection 8.4 Neighbourhood Centre (e.g., construction phase impacts), subsection 8.5 Design, Layout and Public Realm (e.g., public open space), and subsection 8.6 Building Height (e.g., character of the area, overbearance). Also, I confirm that traffic related impacts are considered below in subsection 8.10.

Overlooking

- 8.8.3. With regard to overlooking and a loss of privacy, these typically arise due to close proximity and direct orientation. I have reviewed the applicant's Planning Report, Architectural Design Statement, LVIA, cross-section drawings, and undertaken my site inspection which included visiting surrounding residential streets.
- 8.8.4. Separation distances between the proposed block and buildings around the site's perimeter include c.34m to the church, c.61m to the school, and c.45m to 1 Moreen Avenue (see Site Layout Plan: Dwg No. 386-PL-00-10). The latter is the closest

existing residence to the proposed development, located to the south of the site (side gable, not directly opposing rear). Other existing residences in the surrounding area, including Blackthorn Court, Blackthorn Green, Hawthorn Road and Limes Road are between c.55m and c.150m from the proposed development. I estimate the eastern elevation of the proposed block to be c.75m from the western elevation of the extant DLRCC Part 8 scheme. Separation distances from the proposed development to existing/ extant residences are all notably in excess of the minimum 16m separation distance required by SPPR 1 of the Compact Settlement Guidelines. At these distances, I do not consider that the proposed development would realistically result in any undue overlooking of adjacent residences.

Overshadowing

- 8.8.5. With regard to overshadowing, I have reviewed the applicant's DSA which demonstrates that the proposed development does not cause an adverse impact on daylight and sunlight accessibility to adjacent residences. This is due to the notable separation distances described above and that no development has been proposed over the eastern building within the NC. The applicant's DSA outlines that only one residential property, 13 Blackthorn Court, was required to be assessed for effect on daylight access (sunlight access not required due to window orientation), and the level of effect on tested windows is established as negligible. The proposed development does not subtend any windows by 25 degrees in any other residential property, including those in the extant DLRCC Part 8 scheme.

Overbearance

- 8.8.6. With regard to overbearance, I have considered the visual impact of the proposed development on adjacent properties including existing residences in subsection 8.6 Building Height. In undertaking the performance-based criteria test of the proposal, I found that the height, scale and massing of the block failed to respect the form of the buildings and landscape around the site's edges and the amenity enjoyed by neighbouring properties due to overbearance and adverse visual impact. For the reasons outlined in subsection 8.6.17 above, I concluded that the proposed development would not comply with Policy Objective PHP20 or policy in CDP Section 13.1.2 which seek to prevent adverse impacts on residential amenity from buildings of increased height.

Construction Phase Impacts

- 8.8.7. With regard to construction phase impacts, I consider the issues raised are similar to those I considered in subsection 8.4 Neighbourhood Centre in respect of the impact on businesses. While I acknowledge appellants' and observers' concerns relating to dust and noise pollution, disruption, and nuisance, I have reviewed the applicant's outline CMP, CEMP, and the first party appeal response and am satisfied that construction phase impacts would be temporary, managed, and not unduly adverse.

Conclusion

- 8.8.8. In conclusion, I am satisfied that the proposed development would not have an adverse impact on existing/ extant residences due to overlooking, overshadowing, or construction phase impacts. However, the height, scale and massing of the proposed block are considered to be visually jarring causing an overbearing effect on adjoining residential properties and thereby failing to comply with Policy Objective PHP20 and policy in CDP Section 13.1.2.

8.9. Future Residential Amenity

Appeal Grounds

- 8.9.1. Third party appeal grounds and observations relating to future residential amenity include the substandard quantity and quality of public and communal open spaces, and the proposed block impacting future development on the eastern side of the site due to overlooking and overshadowing. I identify the achievement of policy-required accommodation standards as a relevant planning consideration for future residential amenity. Further, a comparison with the previous scheme is necessary as the non-provision of a suitable level of amenity for the prospective residents formed part of the basis of the refusal reason.

Policy Context

- 8.9.2. The proposed development is subject to the requirements of national policy in the Compact Settlements Guidelines and the Apartment Guidelines, both of which include several mandatory SPPRs. Those of the Apartment Guidelines have been incorporated into the CDP. I identify key considerations in determining the level of amenity for future residents of the scheme to include the apartment unit mix, accommodation design and standards, ancillary residential services (including a

childcare facility), and open space provision and function. I address each substantive item below.

Unit Mix

- 8.9.3. In respect of apartment unit mix, CDP Section 12.3.3.1 and Table 12.1 require that in schemes of 50+ dwelling units a minimum of 20% of the total number of units are 3 bedroom + units, with studio, 1 and/ or 2-bedroom units comprising up to 80%. The proposal comprises 27% 3-bedroom units thereby complying with same (see Table 2 of this report above).

Accommodation Design and Standards

- 8.9.4. In respect of accommodation design and standards, I have reviewed the range of plans and relevant particulars, including the Architectural Design Statement, Housing Quality Assessment (HQA), and DSA. For the most part, the residential units achieve the minimum floor areas, room sizes, room dimensions, storage, floor to ceiling heights, aspect, and private open spaces specified in the Apartment Guidelines/ CDP policy, and in so doing complies with policy in CDP Section 12.3.5.
- 8.9.5. I note exceptions identified by the planning authority, including an under provision of internal storage in certain 3-bedroom units that is recommended to be addressed by way of condition (Condition 3(a) and 3(b) pertain, requiring revised plans and additional external storage at mezzanine floor level through the omission of an apartment unit), and the floor to ceiling height of the ground floor level of the northwestern building (though I note from the elevation/ cross sections, the height would appear to be acceptable).
- 8.9.6. I note the potential for overlooking identified by the planning authority between the balconies of certain units (three apartments located on each of the 1st to 7th floor levels, with balconies on the western elevation of the block). While I note that the planning authority addresses same by condition (Condition 3(c) pertains, requiring privacy screens), due to the very close proximity and orientation of these balconies, I have reservations regarding the levels of privacy and adequacy of amenity afforded to these units. Similarly, while achieving the required quantitative standards, I have reservations regarding the amenity value of balconies on the eastern elevation of the block due their design (projecting), the proximity to and outlook over the central public realm/ walkway, servicing areas, and the Ollie's Bar public house premises.

Ancillary Residential Services

- 8.9.7. In respect of ancillary residential services, I note the provision of such floorspace in the northwest building. The floorspace includes undercroft car parking, bicycle and bin stores at ground floor level, and storage lockers at mezzanine level. Above, I noted the planning authority's position that additional external storage space be provided by condition to serve future residents, as only 36 lockers are being provided.
- 8.9.8. On assessment, I find the ancillary floorspace to be overly concentrated at the northern end of the block and consider that it would be preferable had ancillary residential services been provided/ more evenly distributed at and accessible from within the ground floor level (in particular, bin and cycle stores) to ensure accessibility by and convenience to all future residents, i.e., those in the southern end of the block. While not a refusal reason in and of itself, I consider this sub-optimum solution to be a result of the design approach to the scheme and that the existing western building remains largely unchanged at ground floor level.

Childcare Facility

- 8.9.9. An important ancillary residential service is that of a childcare facility. The proposed development comprises 100 apartments and generates a requirement for a childcare facility in accordance with the Childcare Guidelines (recommendation of 20 childcare spaces per 75 dwellings units). CDP Policy Objective PHP6 seeks the provision of childcare facilities as an integral part of new residential developments. The proposed development does not provide a childcare facility.
- 8.9.10. The Childcare Guidelines and Apartment Guidelines allow flexibility in certain circumstances whereby studios and 1-bed units can be discounted from childcare demand calculations and, depending on location, potentially 2-bed units. In the proposed development, the studio and 1-bed units comprise 21 units, with 79 remaining (2- and 3-bedroom apartments). Accordingly, the requirement for a childcare facility to be provided to serve the proposal and future residents remains.
- 8.9.11. I have reviewed the applicant's Planning Report and Community and Social Facilities Audit. The applicant's case for not providing a childcare facility includes that the eight 2-bed (3P) units should be discounted from the calculation as these are not likely to house families (thereby leaving 71 units for calculation purposes which is

below the required 75 dwelling units), and that there are adequate existing facilities in the surrounding area (17 facilities in a 1.5km radius), which have available capacity to cater for childcare demands from the proposed development.

- 8.9.12. In the planning authority's assessment, I note that regard was given to the childcare demands which may arise from the extant DLRCC Part 8 Scheme (which does not include a childcare facility), and the applicant's case for discounting the eight 2-bed (3P) units was rejected. I concur with the planning authority's position and am of the opinion that all the 2 bed and 3 bed apartments could meet the housing needs of families and that necessary services should be available for them. The Apartment Guidelines state it is only depending on location that 2-bed units could be discounted and, conversely to the applicant, I submit that it is due to the NC location of the site that the 2 bed-units should not be excluded from the calculation.
- 8.9.13. I also note that of the existing childcare providers indicated in the Community and Social Facilities Audit (Figure 2, pg. 5), only one is in meaningful proximity to the proposed development (No. 4). Other providers are all at a remove, and had the applicant chosen a walking distance radius of 10 mins/ 1km, several of the providers would have been excluded from the analysis.
- 8.9.14. Further, as I considered in subsection 8.4 Neighbourhood Centre, in my opinion the NC location of the site is the optimum location for a new childcare facility (as opposed to, for instance, in a house within a residential estate). Due to the range of uses and services available at the NC, the surrounding education and community uses (primary school, church, family resource centre/ scouts' den), and the beneficial synergies of clustering such uses, the provision of a childcare facility for residents and the wider community should be targeted at the site and not avoided.
- 8.9.15. Finally, in the interests of clarity for the Commission, while I note the approach taken by the Senior Planner in the recommendation to grant permission (omit 29 units in total, remove the requirement for the childcare facility), for the reasons outlined above, I consider the scheme requires a childcare facility and this cannot be addressed by way of condition as it would require notable revisions/ reconfiguration of the accommodation at ground floor level. I agree with the positions of the Executive Planner/ Senior Executive Planner to refuse permission due to the absence of a childcare facility. I consider that due to the failure to provide a

childcare facility, the proposed development does not comply with the requirements of Section 28 national planning guidance and CDP Policy Objective PHP6.

Communal Open Space

- 8.9.16. In respect of open space provision and function, I have addressed public open space in subsection 8.5 Design, Layout and Public Realm, and private open space (balconies) above. Below, I focus on the communal open space and have reviewed the applicant's Architectural Design Statement, Landscape Architect Report, and relevant plans.
- 8.9.17. The proposed development includes five areas of communal open space (see Open Space Quantities: Dwg No. 1816_PL_P_01.6). These are located at street/ ground floor level (enclosed northwest corner of the northwest building) and at 1st, 2nd, 7th, and 8th floor levels (roof gardens).
- 8.9.18. Arising from standards in the Apartment Guidelines (also incorporated into the CDP), the proposed development generates a requirement for 698sqm of communal open space. Details of the five spaces (quantitative, qualitative, function) are provided in the Architectural Design Statement (I note that Communal Amenity Space 2 is referred to as being at ground floor level, however it is at 1st floor level). The spaces are indicated as measuring 1,090sqm in total, thus meeting the quantitative requirements for communal open space provision at the proposal.
- 8.9.19. With regard to design, function, orientation, and accessibility, I positively note the details provided in the Architectural Design Statement and Landscape Architect Report, particularly regarding provisions and facilities that have been made for children's play (0-6 years, 6-12 years). The DSA analyses access to sunlight for four of the five communal space areas (I note that the ground floor space was not assessed) and indicates these achieve the BRE 209 2022 standard for same (see Fig. C10, pg. 71). In this regard, I consider that the spaces would largely satisfy the Apartment Guidelines requirement that communal amenity spaces be accessible, secure and usable outdoor spaces for families with young children and for less mobile older people.
- 8.9.20. However, I identify CDP policy in Section 12.8.3 which relates to 'Open Space Quantity for Residential Development' as a key consideration in the assessment of

the proposed development. Of relevance are Sections 12.8.3.2 and 12.8.3.4 which relate to communal open space and roof gardens.

- 8.9.21. Policy in Section 12.8.3.2 indicates that while an element of roof garden may be acceptable, the full quantum of communal open space should not take the form of being solely roof garden, that the use of roof gardens as communal open space shall be assessed on a case-by-case basis and will not normally be acceptable on a site where there is scope to provide communal open space at grade.
- 8.9.22. As outlined above, the proposed development has incorporated a nominal element of communal open space at ground floor level in the northwest corner of the site (indicated as 65sqm), but the majority of communal open space is provided at roof levels from 1st to 8th floor with the largest area (c.369sqm) being at the 8th floor level. I calculate that the ground floor level space constitutes c.6% of the total communal open space provision, i.e., the remaining c.94% is in the form of roof gardens. Notwithstanding the constraints to developing the site as identified by the applicant, I consider there would be scope to provide communal open space at grade (i.e., through an alternative, comprehensive design approach at the site). In this regard, I consider the proposed development fails to comply with policy in Section 12.8.3.2.
- 8.9.23. Importantly, I note that Section 12.8.3.4 states: 'For larger apartment schemes in excess of 50 units no more than 30% of the communal open space shall be provided by way of a roof garden'. I consider the wording used in Section 12.8.3.4 to be definitive on the matter (i.e., 'no more than' and 'shall'). That being, I consider that there is no flexibility in the maximum amount of communal open space that can be provided as roof garden, and that permitting the proposed development with the communal open space as presently configured would constitute a material contravention of the CDP. As c.94% of communal open space is provided in the form of roof gardens which notably exceeds the maximum allowable proportion, I consider the proposed development materially contravenes policy in Section 12.8.3.4.
- 8.9.24. For the clarity of the Commission, I do not consider that a material contravention of the CDP would be warranted or justified in this instance due to the substandard area of communal open space at ground floor level and the omission of any public open space from the scheme. Were the Commission to be so minded, in my opinion,

granting permission for the proposed development would need to be pursued in accordance with section 37(2)(a) of the Planning and Development Act 2000, as amended.

Refusal Reason for the Previous Scheme (ABP 317996-23)

- 8.9.25. In the previous scheme, the Inspector highlighted the absence of public open space, poorly located/ accessible communal open space, and substandard levels of amenity for some future residences. Accordingly, not providing a suitable level of amenity for the prospective residents and other users of the neighbourhood centre formed the basis of the refusal reason for the previous scheme.
- 8.9.26. I acknowledge that the applicant has made amendments to the proposed development which have addressed some previous concerns, primarily the decision to not develop over the eastern building in the NC has avoided several poor amenity outcomes for future residents (e.g., overlooking, overshadowing).
- 8.9.27. However, in my opinion, shortcomings relating to the quantitative and qualitative nature of the public and communal open space in the previous scheme have not been adequately addressed in the proposed development. These aspects which formed part of the basis of the refusal reason remain applicable.

Conclusion

- 8.9.28. In conclusion, while the majority of the proposed apartments meet minimum accommodation standards and requirements, I consider the omission of public open space, a childcare facility, and the overprovision of communal open space in the form of roof gardens are fundamental issues in the proposed development. These constitute material shortcomings which would negatively impact on the residential amenity of future residents. The proposed development fails to comply with CDP Policy Objective PHP6 and policy in Section 12.8.3.2 and materially contravenes policy in Section 12.8.3.4 of the CDP.

8.10. Parking, Traffic and Transportation

- 8.10.1. Appeal grounds and observations include strong opposition to the revised parking arrangements at the NC, its impact on businesses, customers, and visitors to the church and school, and concerns regarding overspill car parking demand to the wider Wedgewood area, increased traffic congestion, creation of traffic hazard, and

strain on public transport services and cycle infrastructure. I address the substantive issues in turn.

- 8.10.2. I have reviewed and had regard to the applicant's Planning Report, Traffic and Transport Assessment (TTA), Mobility Management Plan (MMP), DMURS Compliance Statement, Stage 1 Road Safety Audit and DMURS Quality Audit (RSA), Public Transport Capacity Assessment (PTCA), and appeal documentation, and the technical report from the planning authority's Transportation Planning Section.

Parking: Car and Cycle

- 8.10.3. In respect of car parking, the proposed development involves revisions to the existing surface car parking arrangements at the NC. Of the existing 142 car parking spaces, the proposal removes 65 spaces, retains 77 spaces, and provides 12 spaces. Of the 89 spaces being provided, 35 spaces are intended for residential use (segregated in undercroft parking at ground floor level of the northwest building), and the remaining 54 spaces are to serve the NC (located primarily at the southwestern and southern site perimeters). Appellants describe the reduction in existing car parking as unjustified and a profound loss.
- 8.10.4. While I acknowledge the extent of the reduction in parking spaces and the concerns of businesses and current users, the existing arrangements at the NC are reflective of a historic period of high parking provision at such locations. That being, there is a notable overprovision of car parking spaces at this location compared with current standards as discussed below.
- 8.10.5. The site is located between CDP Parking Zone 2 and Zone 3, and I note that in calculating the parking requirement for the NC, the applicant has applied the standards of Zone 2 as per CDP Table 12.5. In the interest of clarity, I consider this method to be acceptable as the parking standards are maximums, there are minor differences between the relevant uses and standards, and some uses at the NC would attract no parking requirement (i.e., the calculation of spaces is balanced out).
- 8.10.6. In respect of parking for the commercial floorspace at the NC, the applicant calculates a parking requirement for the existing NC (stated as 2,190sqm for retail) as a maximum 66 spaces (TTA, Table 10.2, pg. 32), which is accepted by the planning authority. I note that the combined existing and proposed commercial floorspace at the NC is indicated as 2,220sqm, and calculate that the proposed new

retail floorspace would attract an additional c.1 space requirement. Thus, the parking requirement to serve the commercial component of the NC in the proposed development is a maximum of 67 spaces. I consider the proposed provision of 54 spaces to be acceptable having regard to the accessible location of site, proximity to public transport, walking distances to local residential streets, the co-sharing nature of parking spaces at the NC, the types of parking spaces provided (accessible, parent and child, car club), the applicant's overview of the management system for controlled parking at the NC, and provisions in the MMP.

- 8.10.7. In respect of parking for the residential component, the applicant calculates the parking requirement applying SPPR 3 of the Compact Settlement Guidelines as a maximum of 100 spaces (1 space per residential unit). The proposed development provides 35 spaces for residential use, a ratio of 1:0.35 spaces, which is accepted by the planning authority. While I again acknowledge third party concerns regarding the stated-under provision of parking spaces for future residents, I note that SPPR 3 specifies that for urban neighbourhood locations, such as the appeal site, car-parking provision should be minimised, substantially reduced or wholly eliminated. In this context and having regard to the accessible location of site, walking distances to varied public transportation modes, cycle facilities and infrastructure, and provisions in the MMP, I consider the provision of 35 spaces to be acceptable. For the Commission's clarity, I confirm that the above parking provision aligns with the standards and flexibility allowed for in the CDP policy (i.e., CDP Table 12.5, Section 12.4.5.1, Section 12.4.5.2 allow deviations from parking standards for brownfield sites in neighbourhood centres).
- 8.10.8. In respect of cycle parking, the proposed development provides 279 cycle parking spaces, 209 spaces for long stay (resident) use and 70 spaces for short stay (visitor). Resident cycle parking is in dedicated stores at ground floor level with a variety of bike stand types including cargo spaces, visitor parking is on-site, with 50% of spaces covered.
- 8.10.9. The applicant calculates the cycle parking requirements based on standards in the CDP and Apartment Guidelines (TTA, Tables 10.3-10.5, pgs. 34-35). A cycle parking requirement of 22 spaces is required for the commercial component (proposed and existing floorspace) of the NC, and 257 spaces for the residential component (resident/ visitor, Apartment Guidelines). For clarity purposes, I note that

SPPR 4 of the Compact Settlement Guidelines applies but confirm the standards align with those used in the Apartment Guidelines. Accordingly, the proposed development achieves the required cycle parking provision, i.e., 279 spaces.

- 8.10.10. I note the Transportation Planning report refers to the scheme providing different cycle parking spaces (224 long stay, 84 short stay), that no account has been taken of the commercial component requirement, requires a variety of stands, and no short stay spaces are covered (recommended Condition 8 of the Transportation Planning report pertains). However, I consider the proposed cycle provision has incorporated the commercial requirement and have been able to identify the covered short stay spaces (see Cycle Stand Location Landscape Plan: Dwg No. 1816_PL_P_01.5).

Overspill Parking Demand

- 8.10.11. In respect of concerns relating to overspill car parking affecting nearby uses and residential streets, I have reviewed the TTA and MMP, both of which contain objectives to minimise private car use. The latter promotes alternative transport modes for residents and/ or staff of the proposal (pedestrian, cycling, public transport, car sharing) and outlines the management of scheme including employment of a MMP coordinator. Also, the parking management measures would be effective in minimising potential for overflow car parking.

- 8.10.12. Further, I find that the reasons the limited on-site parking space provision is acceptable also address appellants' and observers' concerns relating to potential overspill parking. These include the shared use nature of parking spaces at the NC, that a high portion of trips are likely to be made by pedestrians accessing shops and services within the NC, and that vehicular trips which do occur are likely to be drop-offs and/ or of relatively short duration. The applicant submits that inappropriate parking associated with the proposal can be managed, which is accepted by the planning authority, and with which also I concur.

Traffic

- 8.10.13. The proposed development maintains the existing vehicular access arrangements from Maples Road to the north and Cedar Road to the west. The proposal includes for pedestrian crossings at these points, improvements to the footpaths surrounding the site, cycle path to the south, and a raised pedestrian

crossing point to the southwest (junction of Cedar Road/ Blackthorn Drive). The pedestrian access north-south through the site to Blackthorn Drive is also maintained.

8.10.14. The TTA outlines the results of traffic surveys of existing conditions at five junctions (J1-J5, pgs. 9-10), the predicted generated traffic at peak hours onto these five junctions (inclusive of the existing commercial uses at the NC and extant DLRCC Part 8 Scheme: AM Peak: in 89: out 108, PM Peak: in 105: out 92), and the capacity analysis of the existing site entrances and for the Cedar Road and Blackthorn Drive junction (sufficient capacity for the proposed development traffic to utilise the junctions up to the Design Year 2043).

8.10.15. On review of the TTA, I consider the methodology used to accord with applicable guidance, find the baseline survey data and assumptions applied in the traffic generation calculations to be reasonable, and accept the junction capacity outcomes as concluded. I do not concur with appeal grounds and observations that the proposed development would result in serious traffic congestion at peak hours, or that the survey information is outdated and cannot be relied upon.

8.10.16. I have reviewed the DMURS Compliance Statement and RSA and am satisfied that the applicant has demonstrated the proposed development achieves the necessary design standards and is of a layout that is safe for all road users (12 problems identified by auditors in the RSA have been addressed in the design/ alternatives accepted by the auditors). While raised as concerns, no alternative evidence has been provided by appellants or observers that the proposed development creates a traffic hazard or inhibits safe movements of cyclists.

Transportation

8.10.17. In respect of the availability of and impact on public transport, the PTCA details the existing (bus and LUAS) and planned (BusConnects) public transport services serving/ proximate to the proposed development, undertakes existing passenger capacity analysis of the bus and LUAS services, predicts future passenger demand, and calculates likely impact of the proposed development on the available public transport capacity.

8.10.18. The PTCA demonstrates that the site is well served by public transport, being within 500m of six bus stops served by eight routes operating at varying frequencies

(every 10-20 mins, every 30mins), and within c.850m walking distance of Kilmacud LUAS Green Line stop, operating at a 4-minute frequency.

8.10.19. Of the six bus stops surveyed, seven buses were analysed during the AM peak hour with c.75% spare seat capacity recorded, with similar results recorded for the PM peak hour. The PTCA observes that while there are a relatively low number of buses on the bus routes serving the local area, they run at low occupancy levels as they serve stops adjacent to the site, thereby having a high level of available capacity for future commuters. Similar analysis of the Kilmacud LUAS stop indicated spare capacity during the AM Peak of c.53% and PM Peak of 48% (for northbound services) and AM Peak of c.60% and PM Peak of 41% (southbound). The number of public transport commuters predicted from the proposal is 115 persons. A comparison between predicted future trips by bus/ LUAS with the as-surveyed spare capacity on the services indicates ample spare capacity on the existing bus network and significant spare capacity on the LUAS service.

8.10.20. In similarity with the impact on traffic levels, on review of the PTCA, I consider the methodology used, baseline survey data and assumptions applied in the public transport commuter calculations to be reasonable, I accept the findings of spare capacity and the extent of impact on the services as concluded. I do not concur with appeal grounds and observations that the proposed development would add a considerable strain on the operation of current/ future public transport services.

Conclusion

8.10.21. In conclusion, while I acknowledge third party concerns in respect of the revised parking arrangements at the NC, I consider these to be within acceptable parameters. Further, I find the proposed development to be acceptable in terms of pedestrian, cyclist and vehicular access, to be of a scale and intensity of use that is not likely to create a traffic hazard, cause undue traffic congestion, cause a strain to public transport services, or have an adverse impact on the traffic conditions of the surrounding area.

8.11. Water Services and Flood Risk

8.11.1. The proposal seeks to connect to existing public water services currently serving the site. The site is brownfield in nature, serviced, and there are no watercourses at or

adjacent to the site (Carrickmines Stream is closest watercourse, c.379m to the southeast, crow-flies).

- 8.11.2. In respect of water supply, proposals include connection to the existing watermains which run through the site and along Blackthorn Drive to the south. Wastewater drainage proposals include connection and discharge by gravity to the existing public sewer also in Blackthorn Drive to the south. Incidental surface water drainage in the undercroft car parking area will be collected, separated, pumped from basement storage via a petrol interceptor to the foul sewer.
- 8.11.3. I note that Uisce Eireann has provided Confirmations of Feasibility (appendices in the Engineering Planning Report) confirming that there is sufficient capacity and infrastructure upgrades are not necessary to either system to facilitate the proposed development.
- 8.11.4. In respect of surface water, proposals include connection and discharge to an existing surface water sewer located along the site's northern perimeter, Cedar Road/ Maples Road. Prior to discharge, all run-off (except that of the undercroft car parking area) will be attenuated on site. Attenuation is proposed by way of SuDS measures (green roofs, permeable paving, bioretention areas/ modified planters) and an on-site attenuation tank with petrol interceptor (located under surface car parking at the north of the site).
- 8.11.5. The SuDS and attenuation measures allow for the controlled discharge at a GDSDS compliant rate. The attenuation tank is indicated to have sufficient capacity to ensure no flooding for the 1 in 100-year storm event.
- 8.11.6. The site-specific Flood Risk Assessment (SSFRA) confirms there is no history of, no evidence for, and no on-site flood risk associated from any type of flooding event up to the 100-year event. The proposal is within Flood Zone C for fluvial, pluvial and coastal flooding.

8.12. Other Matters

- 8.12.1. Other matters of note raised in the appeal grounds and observations include the appropriate period of the permission, property prices, and inadequacy of the EIA screening report.

- 8.12.2. The applicant seeks an appropriate period for the permission of 7 years. The planning authority noted the applicant had failed to provide a rationale for the extended duration, did not recommend granting same in its absence, and no condition to that effect was attached in the grant of permission.
- 8.12.3. Third party concerns relate to the construction phase impacts of works being undertaken for such an extended period of time. The applicant responds that it is not intended for construction works to be undertaken for the 7-year period, but over a 24-30 month programme. I consider that the proposed development is a mid-scale, mid-density scheme, without exceptional complexities (no unique site preparation, habitats and species protection processes, surface water body relocation). I concur with the planning authority and, should granting permission be under consideration by the Commission, I do not consider that the proposal would require longer than the standard 5-year permission.
- 8.12.4. Appeal grounds include the proposed development negatively impacting on the value of properties in the area due to overbearance, and loss of light, privacy, and residential amenity. While I acknowledge appellant's concerns, and in undertaking my assessment am of the opinion that the proposed development would have a visually overbearing effect on the receiving area, no documentary evidence for such an impact has been provided in the appeal grounds. Accordingly, I do not consider that a definitive link between the proposal and depreciation in the value of properties has been demonstrated.
- 8.12.5. Appeal grounds questioned the adequacies of the environmental assessments undertaken for the proposed development, in particular the extent to which the EIA screening report had assessed cumulative impacts. I note the applicant's appeal response outlining the comprehensive nature of the planning application documentation prepared and the inclusion of an updated EIA Screening Report, which confirms that cumulative impacts arising from the Council's Part 8 Scheme has been considered. I confirm to the Commission that in undertaking my screening determination for EIA (section 10.0 and Appendix 3 below), I have had regard to the updated EIA screening report.
- 8.12.6. Finally, I direct the Board to sections 9.0, 10.0 and 11.0 of this report below, and in particular to corresponding Appendices 1-4. These screening determinations

provide detailed assessments of the impact of the proposed development on several components of the environment.

9.0 Appropriate Assessment

9.1. Stage 1 – Screening Determination for Appropriate Assessment

9.1.1. In accordance with section 177U(4) of the Planning and Development Act 2000, as amended (2000 Act), and on the basis of objective information, I conclude that the proposed development would not have a likely significant effect on any European site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (Stage 2) under section 177V of the 2000 Act is not required (see Appendix 1 of this report below).

9.1.2. This conclusion is based on:

- Nature, scale and location of the proposal, site and receiving environment.
- Objective information presented in the case file (e.g., AASR, EclA) and from verified sources (e.g., EPA, NPWS, planning authority).
- Qualifying interests and conservation objectives of the European sites.
- Absence of any meaningful pathways to any European site.
- Distances from European sites.
- Standard pollution controls and design features that would be employed regardless of proximity to a European site and the effectiveness of same.

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

10.0 Environmental Impact Assessment

10.1. Pre Screening for Environmental Impact Assessment

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

10.1.2. I identify the following classes of development in the 2001 Regulations as being of relevance to the proposal:

- Class 10(b) relates to infrastructure projects that involve:
 - (i) Construction of more than 500 dwelling units,
 - (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.
- Class 13(a) relates to changes to a project that would:
 - (ii) result in an increase in size greater than –
 - 25 per cent, or
 - an amount equal to 50 per cent of the appropriate threshold (i.e., Class 10(b)(i) or (iv)), whichever is the greater.

10.1.3. The proposed development is sub-threshold in terms of mandatory EIA requirements arising from Class 10(b)(i) and/ or (iv) and Class 13(a)(ii) of the 2001 Regulations. As such, the criteria in Schedule 7 of the 2001 Regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment and should be the subject of EIA (see Appendix 2 of this report below).

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

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

10.2.2. Based on the criteria in Schedule 7 of the 2001 Regulations, I have carried out an EIA screening determination of the project (included in Appendix 3 below of this report). In so doing, I have had regard to the following:

1. The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, in particular:
 - (a) the nature and scale of the proposed mixed use (predominantly residential) development (which is below the mandatory thresholds for Class 10(b)(i), Class 10(b)(iv) and Class 13(a)(ii) of the 2001 Regulations), the brownfield nature of the site and its location in a neighbourhood/ outer suburban area which is served by public services and infrastructure.

- (b) the absence of any significant environmental sensitivity in the vicinity.
- (c) the location of the development outside of any sensitive location specified in article 109(4)(a) of the 2001 Regulations.
- 2. The results of other relevant assessments of the effects on the environment submitted by the applicant, and the results of the strategic environmental assessments of Dún Laoghaire Rathdown County Development Plan 2022-2028 undertaken in accordance with the SEA Directive (2001/42/EC).
- 3. The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise have been significant effects on the environment.

10.2.3. In conclusion, I am satisfied that by reason of the nature, scale and location of the proposed development, the development would not be likely to have significant effects on the environment and that an environmental impact assessment and the preparation of an Environmental Impact Assessment Report is not, therefore, required.

11.0 Water Status Impact Assessment

11.1. Stage 1 – Screening Determination for Water Status Impact Assessment

- 11.1.1. I have assessed the proposed development with regard to, and have considered the objectives as set out in, Article 4 of the Water Framework Directive (WFD). Article 4 seeks to protect and, where necessary, restore surface and ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration.
- 11.1.2. I conclude that the proposed development will not result in a risk of deterioration to any waterbody (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any waterbody in reaching its WFD objectives. Consequently, I conclude that the proposed development can be excluded from further assessment (see Appendix 4 of this report below).
- 11.1.3. This conclusion is based on:

- Nature, scale and location of the project, site and receiving environment.
- Objective information presented in the case documentation (e.g., Engineering Planning Report, HHRA, SSFRA) and from verified sources (EPA, planning authority).
- Hydrological and hydrogeological characteristics of proximate waterbodies.
- Absence of any meaningful pathways to any waterbody.
- Standard pollution controls and project design features.

12.0 Recommendation

I recommend that permission be REFUSED for the development as proposed due to the following reasons and considerations set out below.

13.0 Recommended Draft Order

Planning and Development Act 2000, as amended

Planning Authority: Dún Laoghaire Rathdown County Council

Planning Authority Register Reference: LRD 25A/0372/WEB

Appeal by Westleton Limited, Wedgewood Residents Association and others, against the decision made on the 3rd day of July 2025, by Dún Laoghaire Rathdown County Council to grant permission subject to conditions to Westleton Limited c/o of John Spain, 39 Fitzwilliam Place, Dublin 2, in accordance with plans and particulars lodged with the said Council.

Proposed Development

Largescale residential development on lands in the townland of Balally, at the existing Balally Shopping Centre, Blackthorn Drive, Sandyford, Dublin 16. The site is bound by Maples Road to the north, Cedar Road to the west, Blackthorn Drive to the south and open space to the east, on a site 0.983 ha. in size which includes the existing shopping centre. The existing units at the ground floor level of the Balally Shopping Centre are to be retained.

Particulars of the proposed development are as follows:

Permission is sought for a period of seven years for the construction of a 1-9 storey development comprising 100 no. apartments and retail units, part of which is located over the western part of the existing retail/ commercial units. The residential portion contains a single block on the western portion of the site which is primarily 7-9 storeys stepping down to 7 storeys to the north with a mezzanine level.

Residential units include: 6 no. studios, 15 no. 1 bed, 8 no. 2 bed 3 person, 44 no. 2 bed 4 person apartments and 27 no. 3 bed units.

Communal amenity space of 1,090 sqm. Provision of private open space in the form of balconies or terraces to all individual apartments. Public open space is provided in the form of extended and upgraded public realm. 2 no. commercial units are provided in the form of a single storey kiosk beside Blackthorn Drive to the south and a small commercial unit beside Maples Road (77 sqm in total). Façade upgrades are provided to the existing retail units.

279 no. bicycle parking spaces of which, 209 no. are long term spaces provided in secure bicycle stores and the remaining 70 no. are short term space for visitors. It is proposed to retain 77 no. existing car parking spaces and provide 12 no. new spaces at undercroft level, resulting in a total of 89 no. car parking spaces, 35 no. car parking spaces are intended to serve the residential units and are located at undercroft and surface level, and 54 spaces will serve existing retail located at surface level. 65 no. existing car parking spaces are proposed to be removed.

Access to be via the existing entrances on Cedar Road and Maples Road to the north and west of the site. The application also entails improvement to the footpath surrounding the site and cycle path to the south. A raised pedestrian crossing point is provided to Cedar Road/ Blackthorn Drive junction. Pedestrian crossings are provided to the north and west of the subject site.

All associated ancillary site development infrastructure including site clearance/ minor demolition works, site hoarding, removal of external stairs, excavation and resurfacing of car parking, removal of covered walkway in front of existing units, the construction of foundations, public realm improvements, switch room, water tank rooms, storage room, meter room, sprinkler tank room, comms room, bin storage, bicycle stores, green roofs, hard and soft landscaping, attenuation area and all

associated works and infrastructure to facilitate the development including connections to foul and water supply and surface run off.

Website: www.balallylrd2.com

Decision

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

In making its decision, the Commission had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

1. The proposed development comprises an overly dominant proportion of new residential floorspace and an inadequate range, type, and quantum of commercial and community floorspace, whereby opportunities for new and varied uses are markedly restricted at this neighbourhood centre location. As such, the proposed development is contrary to the 'NC' Neighbourhood Centre zoning objective of the Dún Laoghaire Rathdown County Development Plan 2022-2028, which is applicable to the site, that seeks 'To protect, provide for and/ or improve mixed-use neighbourhood centre facilities'. Further, the proposed development fails to comply with other development plan provisions which seek to protect and support the vitality and viability of the neighbourhood centre including Policy Objective MFC1, Policy Objective RET7, policy in Section 12.6.1, and Policy Objective PHP6. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development is of a design which fails to create active street frontages, form distinctive urban edges, enhance the character of the

neighbourhood centre, and constitute a comprehensive framework for the renewal or regeneration of the neighbourhood centre, and is of a layout which is dominated by access arrangements and surface car parking, without high-quality public realm and usable public open space, and deficient in suitable levels of amenity for future residents and other users of the neighbourhood centre. As such, the proposed development fails to comply with several policies and objectives of the Dún Laoghaire Rathdown County Development Plan 2022-2028 which require the provision of high-quality design in developments, meaningful public realm and public open space, and distinctive place-making including Policy Objective PHP42, policy in Section 12.6.1, Policy Objective MFC3, and policy in CDP Sections 12.8.5 and 12.8.5.1. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The proposed development, by reason of its height, scale and massing which are considered to be excessive, inappropriate and injurious, fails to achieve the necessary threshold of high-quality design, to comply with the Building Height Strategy, to protect the amenities of adjacent properties, to avoid abrupt transitions in scale, and to have adequate regard to the existing scale of development in the receiving area. In so doing, the proposed development fails to comply with Policy Objective PHP42, Policy Objective PHP20, and policy in CDP Section 13.1.2 of the Dún Laoghaire Rathdown County Development Plan 2022-2028.
4. The majority of communal open space (c.94%) in the proposed development is configured as roof gardens, with a nominal space provided at street/ ground floor level (c.6%). Section 12.8.3.4 of the Dún Laoghaire Rathdown County Development Plan 2022-2028 stipulates that no more than 30% of the communal open space shall be provided by way of roof gardens. As such, the proposed development materially contravenes Section 12.8.3.4 and the significant overprovision of communal open space as roof gardens would negatively impact on the residential amenity of future residents.

5. The proposed development generates a requirement for a childcare facility in accordance with the Childcare Facilities, Guidelines for Planning Authorities, 2001. The proposed development fails to make provision for such a facility, and the applicant has inadequately demonstrated that such a facility would not be required to serve the proposal and/ or that the NC site is not an appropriate location for a childcare facility. Accordingly, the proposed development fails to comply with the provisions of Section 28 Ministerial planning guidelines and Policy Objective PHP6 of the Dún Laoghaire Rathdown County Development Plan 2022-2028.

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.

Phillippa Joyce

Senior Planning Inspector

17th October 2025

Appendix 1: Appropriate Assessment – Screening Determination

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

The project is for a 1-9 storey development with 100 apartments, two retail units, and all associated site development works on a brownfield site within an established built-up neighbourhood location. The project includes connections to existing public water services for water supply, wastewater and surface water drainage. Surface water on-site attenuation includes SuDS measures and underground attenuation tank storage.

The site is brownfield in nature within a built-up suburban neighbourhood area. There are no watercourses at or adjacent to the site. Carrickmines Stream is the closest watercourse, located c.379m to the southeast of the site (crow-flies).

The applicant has prepared an Ecological Impact Assessment (EclA) and an Appropriate Assessment Screening Report (AASR) for the project. These reports confirm there is no evidence of habitats or species with links to any European sites (i.e., no ecological connections), nor is there any link via a surface water and/ or groundwater body (i.e., no direct and/ or meaningful indirect hydrological connections) to any European sites.

The project is located inland of two European site designations associated with southern Dublin Bay. These are South Dublin Bay and River Tolka SPA (site code 004020) and South Dublin Bay SAC (site code 000210). These sites are the closest Natura 2000 designations to the project, located just over of c.4km to the northeast of the site. The QIs of the SPA include several bird species, wetland (habitat) and waterbirds, and those of the SAC include mudflats, sandflats, dunes (habitats) and annual vegetation of drift lines and colonising mud and sand (species). The Conservation Objectives for both sites are to maintain the favourable conservation conditions of the QIs.

The applicant's AASR for the project concludes 'that the possibility may be excluded that the Proposed Development will have a significant effect on any of the European sites'. Similarly, the planning authority screened out the need for appropriate assessment, and no nature conservation concerns are raised in the planning appeal.

In 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 European site. This conclusion is based on the:

- Objective information presented in the case file (e.g., AASR, EclA) and from verified sources (e.g., EPA, NPWS, planning authority).
- Qualifying interests and conservation objectives of the European sites.
- Absence of any meaningful pathways to any European site.
- Distances from the European sites.

- Standard pollution controls and project design features that would be employed regardless of proximity to a European site and the effectiveness of same.

I conclude that the project would not have a likely significant effect on any European site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (Stage 2) under section 177V of the Planning and Development Act 2000 is not required.

Inspector: _____ **Date:** _____

Appendix 2: Environmental Impact Assessment – Pre Screening

1. Does the proposed development come within the definition of a ‘project’ for the purposes of EIA?	
(“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)	
☒ Yes, it is a ‘Project’. Proceed to Q2.	
☐ No, no further action required.	
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1.	
☒ No, it is not a Class specified in Part 1. Proceed to Q3.	
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?	
☐ No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.	
☐ Yes, the proposed development is of a Class and meets/ exceeds the threshold.	
☒ Yes, the proposed development is of a Class but is sub-threshold. Proceed to Q4.	Class 10(b)(i)/(iv), and Class 13(a)(ii) with relevant thresholds: - Class 10(b)(i): more than 500 dwelling units. - Class 10(b)(iv): urban development in an area greater than 10ha. - Class 13(a)(ii): result in an increase in size greater than 25% or an amount equal to 50% of the appropriate threshold (Class 10(b)(i)/ (iv)), whichever is the greater.
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)?	
☒ Yes	Screening Determination required.

Inspector: _____

Date: _____

Appendix 3: Environmental Impact Assessment – Screening Determination Form

A. CASE DETAILS		
	Yes/ No/ N/A	Comment (if relevant)
1. Was a Screening Determination carried out by the planning authority?	Yes	The planning authority screened out the need for an Environmental Impact Assessment.
2. Has Schedule 7A information been submitted?	Yes	An Environmental Impact Assessment Screening Report (EIASR) has been submitted with the application (and updated in the first party appeal response to the third-party appeals) and considers the content of the EIA Directive (2011/92/EU, as amended by 2014/52/EU).
3. Has an AA screening report or NIS been submitted?	Yes	An Appropriate Assessment Screening Report (AASR) has been submitted with the application and considers the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC).
4. Is an IED/ IPC or Waste Licence (or review of licence) required from the EPA?	No	N/A
5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other	Yes	- An Ecological Impact Assessment (EcIA) considers the Habitats Directive (92/43/EEC), Birds Directive (2009/147/EC), and Water Framework Directive (2000/60/EC). - A Site Specific Flood Risk Assessment (SSFRA) considers content arising from EU Floods Directive (2007/60/EC). - A Hydrological and Hydrogeological Risk Assessment (HHRA) considers the Water Framework Directive (2000/60/EC).

relevant Directives – for example SEA.		- An Environmental Noise Survey considers content arising from the Environmental Noise Directive (2002/49/EC). - A Resource and Demolition Waste Management Plan (RDWMP) considers the Waste Framework Directive (2008/98/EC). - SEA was undertaken by the planning authority in respect of the Dún Laoghaire Rathdown County Development Plan 2022-2028.		
B. EXAMINATION		Yes/ No/ Uncertain	Briefly describe the characteristics of impacts (nature and extent) and any mitigation measures (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) (where relevant, specify features or measures proposed by the applicant to avoid or prevent a significant effect)	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
This screening examination should be read with, and in light of, the rest of the Inspector's report attached herewith				
1. Characteristics of proposed development* (including demolition, construction, operation, or decommissioning)				
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	No	The project comprises the construction of a mid-scaled, medium-density mixed use (predominantly residential) scheme on NC zoned lands. The project does not differ significantly from the surrounding area in terms of use (commercial (including retail) uses are established at the NC site, and residential uses exist in the adjoining area). The project differs in character and scale (modest single and two storey buildings surrounding the site, proposed block is 8-10 storeys in height) to its existing surroundings, albeit not significantly as the apartment typology is evident in the area.		No

1.2 Will construction, operation, decommissioning, or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	The project works would cause physical changes to the topography and land use, including minor demolition of covered walkways and construction of façade upgrades to the existing units, the public realm improvements, and the introduction of residential development over the existing/ proposed commercial units. The proposed land uses would be consistent with the NC zoning for the site. The works would be appropriately managed in accordance with a Construction Management Plan (CMP) and a RDWMP. In combination with the proposals outlined in the Engineering Planning Report and the mitigation measures included in the EcIA, CEMP, and HHRA, the project would not exert any significant effects on waterbodies.	No
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/ minerals, or energy, especially resources which are non-renewable or in short supply?	Yes	The project uses standard construction methods, materials and equipment, and the process would be managed through the implementation of the CEMP. Waste arising from the construction phase would be managed through the implementation of the RDWMP. There is no significant use of natural resources anticipated. The project involves an intensification of the current lands at the NC site, which are zoned for development and serviced. In this regard, the project would use land more efficiently and sustainably than at present (commercial uses in single storey buildings intensified through provision of mid-scaled, medium-density mixed use (predominantly residential) scheme). Otherwise, the operational phase of the project would not use natural resources in short supply.	No

		The project connects to the public water supply, wastewater drainage and surface water drainage systems which have sufficient capacity to cater for demands arising from the project (no issues raised by Uisce Eireann or the planning authority). The project includes an energy efficient design and is located in close proximity to several amenities and services in the Sandyford area.	
1.4 Will the project involve the use, storage, transport, handling, or production of substance which would be harmful to human health or the environment?	Yes	Construction phase activities require the use of potentially harmful materials, such as fuels and create waste for disposal. The use of such substances is typical of construction sites. Dust emissions during the minor demolition and construction phase of the project would be likely. These works would be managed through implementation of the CEMP. The operational phase of the project would not involve the use, storage, or production of any harmful substance. Conventional waste produced from residential and retail activity would be managed through the implementation of the Operational Waste Management Plan (OWMP). Accordingly, I do not consider this aspect of the project likely to result in significant effects on the environment in terms of human health or biodiversity.	No

1.5 Will the project produce solid waste, release pollutants or any hazardous/ toxic/ noxious substances?	No	Conventional waste would be produced from site preparation, minor demolition, and construction activities, which would be managed through the implementation of the CEMP and/ or RDWMP, as outlined above. Operational phase of the project (i.e., the occupation of the residential apartments and retail units) would not produce or release any pollutant or hazardous material. Conventional operational waste would be managed through the implementation of the OWMP to obviate potential environmental impacts.	No
1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?	Yes	The project involves site preparation works to facilitate buildings, paths, and site services. Standard construction methods, materials and equipment are to be used, and the process will be managed through the implementation of the CMP, CEMP and the RDWMP. The project has no direct or meaningful indirect hydrological connection to any waterbody (ground and/ or surface water). There is no flood risk identified at the site. The project would be connected to public water services systems. Accordingly, as risks of contamination to water bodies are mitigated and managed, I do not consider this aspect of the project is likely to result in a significant effect on the environment.	No

1.7 Will the project cause noise and vibration or release of light, heat, energy, or electromagnetic radiation?	Yes	Noise and vibration impacts during the site development works would be likely. These works are short term in duration, and impacts arising would be temporary, localised, and be managed through implementation of the CMP/ CEMP. The operational phase of the project would likely result in noise and light impacts associated with the residential and retail uses which are considered to be typical of such mid-scaled, medium-density schemes as proposed. Traffic impacts would be mitigated by the implementation of measures in the TTA and MMP, both of which contain objectives to minimise private car use and potential lighting impacts would be mitigated by the provision of a public lighting plan. Accordingly, I do not consider this aspect of the project likely to result in significant effects on the environment in terms of air quality (noise, vibration, light pollution).	No
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	Yes	The potential for water contamination, noise and dust emissions during the construction phase is likely. Construction phase works will be managed through implementation of the CMP/ CEMP. Site development works are short term in duration, and impacts arising would be temporary, localised, addressed by the mitigation measures. Operational phase of the project would not likely cause risks to human health through water contamination due to	No

		the nature (residential, retail uses) and design (includes SuDS features) of the project, connection to public water services systems, and mid-scale of residential use/ activities arising. Construciton and operational phase risks to human health through noise and air quality are subject of the Environmental Noise Survey, which include several mitigation measures to ameliorate potential impacts. Accordingly, in terms of risks to human health, I do not consider this aspect of the project likely to result in a significant effect on the environment.	
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No	There is no risk of major accidents given the nature of the project, and surrounding land uses.	No
1.10 Will the project affect the social environment (population, employment)	Yes	The project would increase localised temporary employment activity at the site during site development works (i.e. site enabling and construction phases). The site development works are short term in duration and impacts arising would be temporary, localised, addressed by the mitigation measures in the CMP/ CEMP. The operational phase of the project (i.e. the occupation of the residential units) would result in a potential increase of c.300 persons, or a c.3.39% increase in the population of the Electoral Division of Dundrum-Balally. Such an increase is not considered to constitute a significant impact in scale of effect.	No

		The receiving area is a developing suburban location, in relatively close proximity to wider education, amenities, services, public transport, and has the capacity to accommodate the impacts associated with the population increase. Accordingly, I do not consider this aspect of the project likely to result in a significant effect on the social environment of the area.	
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	Yes	The site is zoned for NC Neighbourhood Centre in the CDP. The zonings at the site and in the vicinity manage the development of the Sandyford area. The development of the site therefore is plan-led and the CDP has undergone SEA. As such, the site is part of a wider large-scale change in the area as envisaged by the planning authority. Notwithstanding, the site is serviced, the project is standalone, and not reliant on infrastructure/ services that are yet to be commenced/ provided. Within this planned context, cumulative significant adverse effects on the area would not be reasonably anticipated.	No
2. Location of proposed development			
2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following: a) European site (SAC/ SPA/ pSAC/ pSPA) b) NHA/ pNHA	No	The project is not located in, on, or adjoining any European site, any designated or proposed NHA, or any other listed area of ecological interest or protection. The project has no direct or meaningful indirect hydrological connection to any waterbody (ground and/ or surface water).	No

c) Designated Nature Reserve d) Designated refuge for flora or fauna e) Place, site or feature of ecological interest, the preservation/ conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan		The AASR, considered in combination with the EclA, HHRA, SSFRA, and CEMP, present information on potential impacts of the project on the European sites. I have undertaken an Appropriate Assessment screening determination (see section 9.0 and Appendix 1 of this report) and concluded that the project would not have a likely significant effect on either of the European sites, alone or in combination with other plans or projects. Accordingly, I do not consider this aspect of the project likely to result in a significant effect on the environment in terms of ecological designations or biodiversity.	
2.2 Could any protected, important, or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?	Yes	The EclA has surveyed and classified the habitat, flora and fauna at the site and surrounding area. There are no protected habitats, plant species or terrestrial mammals of conservation importance. Any loss of habitat would be of limited value and mitigation measures have been included to address same (primarily new landscaping, biodiversity rich planting). The site is not significant for wintering bird species and suitable mitigation measures have been included to protect common bird species. Bat species were observed foraging and commuting at the site. No evidence of bat roosts was identified. The potential loss of bat roosting features (trees and buildings) is acknowledged, and appropriate mitigation measures have been included. The lack of bat activity on site would indicate that impacts would not be significant in terms of	No

		commuting/ foraging habitat or flight lines. Accordingly, I do not consider this aspect of the project likely to result in a significant effect on the environment in terms of protected flora and/ or fauna species.	
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	No	There are no landscape designations or protected scenic views at the site. As outlined in subsection 8.6 Building Height of this report, the project has been assessed as adversely affecting localised views in/ of/ to the area which, while injurious and overbearing, are not considered to be significant in effect in overall landscape impact terms. There are no protected structures or architectural conservation area designations at the site. An Archaeological Assessment has been prepared for the project which concludes that no further investigations would be required. Accordingly, I do not consider this aspect of the project likely to result in a significant effect on the environment in terms of archaeology and cultural heritage.	No
2.4 Are there any areas on/ around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/ coastal, fisheries, minerals?	No	There are no such resources on or close to the site. Accordingly, I do not consider this aspect of the project likely to result in a significant effect on the environment in terms of impact on natural resources.	No

2.5 Are there any water resources including surface waters, for example: rivers, lakes/ ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	No	Based on information in the Engineering Planning Report, HHRA, SSFRA, EcIA, AASR, I have undertaken a Water Status Impact Assessment screening determination (I direct the Board to section 11.0 and Appendix 4 of this report). I have concluded that the project will not result in a risk of deterioration to any waterbody (rivers, lakes, groundwaters, transitional and coastal) or otherwise jeopardise any waterbody in reaching its WFD objectives. Accordingly, I do not consider this aspect of the project likely to result in a significant effect on the environment in terms of watercourses and waterbodies.	No
2.6 Is the location susceptible to subsidence, landslides or erosion?	No	There is no evidence identified of these risks.	No
2.7 Are there any key transport routes (e.g. National Primary Roads) on or around the location which are susceptible to congestion, or which cause environmental problems, which could be affected by the project?	No	The project would be accessed via the local road network, which in turn connects with the regional Drummartin Link Road and the M50. During the site development works, the project would result in an increase in traffic activity (HGVs, workers) as construction equipment, materials, and waste are delivered to/ removed from the site. Site development works would be short term in duration and impacts arising would be temporary, localised, and managed under in the CMP/ CEMP. The TTA considers operation phase impacts for the project (i.e., new residential and retail use and existing NC use)	No

		and the extant DLRCC Part 8 and predicts total vehicle trips (combined arrivals and departures) of 197 trips during the AM and PM peak hours. Junctions assessed all indicate sufficient capacity for the project traffic up to the Design Year 2043. Accordingly, key transport routes in the vicinity of the site would not be congested due to or otherwise affected by the project.	
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?	Yes	There are sensitive community facilities located in proximity to the site, including a primary school (west), church (north), and family resource/ scouts' den facility (northeast). There are also existing residential dwellings located to the south, north, and west of the site (and extant permission for apartments to the east). However, the separation distances to these surrounding land uses/ community facilities are such that there is no realistic prospect of undue overlooking or overshadowing. As outlined in subsection 8.6 Building Height of this report, the project has been assessed as being injurious to the visual amenities of the receiving area and overbearing on residential amenity, are not considered to be significant in effect. Site development works would be implemented in accordance with the CMP/ CEMP which includes mitigation measures to protect the amenity of adjacent properties and residents.	No

		The operational phase of the project would cause an increase in activity at the site which would be typical of such mid-scaled, medium density schemes as proposed, in suburban NC locations such as the receiving area, and would be anticipated as being within acceptable parameters for same.	
3. Any other factors that should be considered which could lead to environmental impacts			
3.1 Cumulative Effects: Could this project together with existing and/ or approved development result in cumulative effects during the construction/ operation phase?	No	Existing and/ or approved planning consents in the vicinity of the site and the wider Sandyford area have been noted in the application documentation and associated assessments, e.g. in respect of the EIASR, AASR, SSFRA, HHRA, TTA, and Landscape Visual Impact Assessment (LVIA). These developments are of a nature and scale that have been determined to not have likely significant effects on the environment. Accordingly, there are no cumulative significant effects on the area that are reasonably anticipated.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	There are no transboundary effects are arising.	No
3.3 Are there any other relevant considerations?	No	No	No
C. CONCLUSION			
No real likelihood of significant effects on the environment.	X	EIAR Not Required	

Real likelihood of significant effects on the environment.		EIAR Required
D. MAIN REASONS AND CONSIDERATIONS		
Having regard to: - - The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, in particular: - the nature and scale of the proposed mixed use (predominantly residential) development (which is below the mandatory thresholds for Class 10(b)(i), Class 10(b)(iv) and Class 13(a)(ii) of the 2001 Regulations), the brownfield nature of the site and its location in a neighbourhood/ outer suburban area which is served by public services and infrastructure. - the absence of any significant environmental sensitivity in the vicinity. - the location of the development outside of any sensitive location specified in article 109(4)(a) of the 2001 Regulations. - The results of other relevant assessments of the effects on the environment submitted by the applicant and the results of the strategic environmental assessment of Dún Laoghaire Rathdown County Development Plan 2022-2028 undertaken in accordance with the SEA Directive (2001/42/EC). - The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise have been significant effects on the environment. The Commission concluded that the proposed development would not be likely to have significant effects on the environment and that an environmental impact assessment and the preparation of an Environmental Impact Assessment Report would not, therefore, be required.		

Inspector: _____ **Date:** _____

Assistant Director Planning: _____ **Date:** _____

Appendix 4: Water Status Impact Assessment – Screening Determination

The project is for a 1-9 storey development with 100 apartments, two retail units, and all associated site development works on a brownfield site within an established built-up neighbourhood location. The project includes connections to existing public water services for water supply, wastewater and surface water drainage. Surface water on-site attenuation includes SuDS measures and underground attenuation tank storage.

There are no watercourses at or adjacent to the site. Carrickmines Stream is the closest watercourse, located c.379m to the southeast of the site (crow-flies). The stream is part of the Carrickmines Stream_010 waterbody (EPA: IE_EA_10C040350), which has a Water Framework Directive (WFD) status of 'good', an environmental objective of 'good', a 'not at risk' status of not achieving its WFD objective, and no identified pressures on the waterbody. The underlying groundwater body is Wicklow (EPA: IE_EA_G_076), which has a WFD status of 'good', an environmental objective of 'good', an 'at risk' of not achieving its WFD objective, and with agriculture and unknown pressures identified on the waterbody.

Due to the site's location and current land use (built-up area, no agricultural practices), the absence of any watercourses at the site, notable distances to other watercourses, and the design of the project (water drainage discharges to enclosed public infrastructure systems), there are no direct and/ or meaningful indirect hydrological connections to any surface water bodies or the groundwater body.

I have assessed the project and have considered the objectives as set out in Article 4 of the WFD which seek to protect and, where necessary, restore surface water bodies and ground 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 water and/ or ground waterbodies either qualitatively or quantitatively.

The reason for this conclusion is as follows:

- Objective information presented in the case documentation (e.g., Engineering Planning Report, SSFRA) and from verified sources (EPA, planning authority).
- Hydrological and hydrogeological characteristics of proximate waterbodies.
- Absence of any meaningful pathways to any waterbody.
- Standard pollution controls and project design features.

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

Inspector: _____ **Date:** _____