

An  
Coimisiún  
Pleanála

## Inspector's Report

**PL-500330-DR-25**

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<b>Development</b>	Alterations to existing four storey structure with extensions at third floor level to provide 4 one-bedroom apartments.
<b>Location</b>	The Pottery, Baker's Point, Dun Laoghaire Industrial Estate, Pottery Road, Dun Laoghaire, Co. Dublin.
<b>Planning Authority</b>	Dun Laoghaire-Rathdown County Council.
<b>Planning Authority Reg. Ref.</b>	D25A/0692/WEB
<b>Applicant(s)</b>	Kouchin Properties.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant permission with conditions.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Kouchin Properties Limited.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	26/02/2026.

**Inspector**

Anthony Abbott King

## 1.0 Site Location and Description

- 1.1. The appeal site is located within a commercial estate (Dun Laoghaire Industrial Estate) accessed from Pottery Road, which comprises commercial and residential uses.
- 1.2. The estate has a campus style layout and is in transition with a large redevelopment site active to the east of “the Pottery” building.
- 1.3. The appeal site comprises part of the Pottery building, which is a substantial predominantly 4-storey structure positioned on an almost north-south axis. The lower 3-storey bookends at the southern and northern extremities of the linear block comprise the non-contiguous appeal site.
- 1.4. The mixed use building accommodates an electric mix of commercial uses and 9 loft apartments.
- 1.5. The front curtilage is characterised by a hard surfaced car parking and circulation area.
- 1.6. The public recreational space at Clonkeen Park forms the western boundary of the estate.
- 1.7. Site area is given as 0.040 hectares.

## 2.0 Proposed Development

- 2.1. The proposed development comprises alterations at third floor level to an existing four-storey mixed-use building to provide 4 one-bedroom apartments.

## 3.0 Planning Authority Decision

### 3.1. Decision

Grant permission subject to 11 conditions.

#### 3.1.1. Conditions

The following development contribution conditions are noted including condition number 6 the subject of this appeal:

Condition number 6 states (open space):

*The developer shall, before commencement or as otherwise agreed in writing with the Planning Authority, pay the sum of €157,500.00 to the planning authority, a financial contribution in lieu of public open space provision in accordance with the terms of the Development Contribution Scheme of the Planning and Development Act, 2000 as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the scheme at the time of payment. Details of the application of the terms of the scheme shall be agreed upon between the planning authority and the developer or in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the scheme.*

**REASON:** *To provide a financial contribution in lieu of the shortfall in the provision of public open space required to serve the development as provided for in the Dún Laoghaire-Rathdown Development Plan 2022-2028.*

Condition number 7 states (surface water infrastructure):

*The Developer shall, prior to commencement or as otherwise agreed in writing with the Planning Authority, pay the sum of €538.92 to the Planning Authority as a contribution towards expenditure that was/or is proposed to be incurred by the Local Authority in respect of the provision of Surface Water Infrastructure benefiting development in the area of the Planning Authority, as provided for in the Development Contribution Scheme 2023-2028 made by Dún Laoghaire-Rathdown County Council on the 9th of October 2023. These rates of contribution shall be updated effective from 1 January each year during the life of the Scheme in accordance with the SCSl Tender Price Index commencing from 1st January 2025. Contributions shall be payable at the index-adjusted rate pertaining to the year in which implementation of the planning permission is commenced, as provided for in Article 4.7 of the Scheme. Outstanding balances as of the 1st of January each year shall be subject to indexation and adjusted accordingly until the contribution has been paid in full. (See Article 8.3 of the Scheme).*

**REASON:** *It is considered reasonable that the payment of a contribution be required in respect of the provision of the Surface Water Infrastructure benefiting development in the area of the Planning Authority and that is provided, or that is intended will be provided, by or on behalf of the Local Authority. Note on above Condition: Please note that with effect from 1st January 2014 Uisce Éireann are now the statutory body responsible for*

*both water and wastewater services. Accordingly, the contribution payable has been reduced by the amount of the contribution associated with these services. Further details/clarification can be obtained from Uisce Éireann at Tel. 1800 278 278. Countywide Transport Infrastructure.*

Condition number 8 states (transport infrastructure):

*The Developer shall, prior to commencement or as otherwise agreed in writing with the Planning Authority, pay the sum of €8,084.04 to the Planning Authority as a contribution towards expenditure that was/or is proposed to be incurred by the Local Authority in respect of the provision of the Transport Infrastructure benefiting development in the area of the Planning Authority, as provided for in the Development Contribution Scheme 2023-2028 made by Dún Laoghaire-Rathdown County Council on the on the 9th of October 2023. These rates of contribution shall be updated effective from 1 January each year during the life of the Scheme in accordance with the SCSl Tender Price Index commencing from 1st January 2025. Contributions shall be payable at the index-adjusted rate pertaining to the year in which implementation of the planning permission is commenced, as provided for in Article 4.7 of the Scheme. Outstanding balances as of the 1st of January each year shall be subject to indexation and adjusted accordingly until the contribution has been paid in full. (See Article 8.3 of the Scheme).*

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

Condition number 9 states (community & parks facilities & Recreational amenities):

*The Developer shall, prior to commencement or as otherwise agreed in writing with the Planning Authority, pay the sum of €45,270.60 to the Planning Authority as a contribution towards expenditure that was/or is proposed to be incurred by the Local Authority in respect of the provision of the Community & Parks facilities & Recreational amenities benefiting development in the area of the Planning Authority, as provided for in the Development Contribution Scheme 2023-2028 made by Dún Laoghaire-Rathdown County Council on the 9th of October 2023. These rates of contribution shall be updated effective from 1 January each year during the life of the Scheme in accordance with the*

SCSI Tender Price Index commencing from 1st January 2025. Contributions shall be payable at the index-adjusted rate pertaining to the year in which implementation of the planning permission is commenced, as provided for in Article 4.7 of the Scheme. Outstanding balances as of the 1st of January each year shall be subject to indexation and adjusted accordingly until the contribution has been paid in full. (See Article 8.3 of the Scheme).

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

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- The decision of the CEO of Dun Laoghaire-Rathdown County Council reflects the recommendation of the planning case officer.

The planning case officer in the matter of public open space detailed that a contribution-in-lieu was required (15% of the site area) in the instance of the proposed development, as public open space provision was not feasible and as established under the previous application D24A/0999.

The case officer considered that the site area was not limited to the floor area of the subject residential units but also to all ancillary areas within the building necessary for the operation of the subject units, including circulation, plant areas etc. Accordingly, the planning authority in the instance of the proposed development would consider the site area to correspond with the footprint of the subject building (0.14 hectares). The contribution in-lieu of public open space should be calculated accordingly.

#### Development Contributions

<b>Residential:</b>	
New Units proposed	4 no. units proposed as per this application. Note 9 no. units exist as per Exempt Development SA/60002-

	Change of use from commercial to residential.
Sq. Metres proposed new floor area	326 sq. m
Building footprint	0.14ha – for the purposes of Public Open Space contribution levy.
Sq. Metres Proposed Demolition	Demolition of non-habitable space.

For the purposes of calculating Development Contributions.

### 3.2.2. Other Technical Reports

- Drainage no objection subject to condition.
- Transportation planning considered that the provision of no car parking for the proposed development is acceptable given the proximity of the proposal to the E2 and L26 bus services at Deansgrange. The Division had no objection subject to prior to commencement conditions including the provision of bicycle parking spaces.

### 3.3. Third Party Observations

There are no third party submissions on file.

## 4.0 Planning History

### 4.1. The following planning history is relevant:

- Under Re. Ref. D24A/0999 planning permission was granted for works to the existing four-storey over basement level mixed-use block comprising (i) extensions at third floor level to provide 4 one-bedroom apartments, each served by private amenity space in the form of a balcony, atop existing three-storey elements; (ii) provision of bicycle parking inclusive of 2 no. visitor parking stands (4 spaces) at ground level and 3 no. resident parking stands (6 spaces) at basement level; and (iii) all ancillary works necessary to facilitate the development.

Conditions 7-10 of the grant of permission attached development contributions for open space, surface water, transport infrastructure and community and parts facilities / recreational amenities totalling €349,168.56.

It is noted that the planning authority before granting permission requested clarification of a number of items by way of further information, including Item 7 (open space). The planning authority requested the applicant to demonstrate how it is proposed to accord with the requirements for Public Open Space and Communal Open Space on the subject site, in accordance with Section 12.8.3 'Open Space Quantity for Residential Development' of the Dun Laoghaire-Rathdown County Development Plan 2022-2028.

## 5.0 Policy Context

### 5.1. Development Plan

The Dun Laoghaire-Rathdown County Development Plan 2022-2028 is the local planning policy document. The following policy objectives are relevant:

The area zoning objective is "E" (Map 7): *To provide for economic development and employment.*

- Chapter 2 (Core Strategy), Policy Objective CS11 – Compact Growth - is relevant and states:

*It is a Policy Objective to deliver 100% of all new homes, that pertain to Dublin City and Suburbs, within or contiguous to its geographic boundary. (Consistent with RPO 3.2 of the RSES).*

It is noted that Figure 2.9 (Core Strategy Map) defines the boundary of Dublin City and Suburbs. The development site is located within the boundary.

- Chapter 12 (Development Standards) is relevant. Section 12.8.3.1 (Public Open Spaces) is relevant and states:

All residential schemes must provide a minimum provision of public open space in accordance with the table above, which has regard to the content of the Section 28 Guidelines 'Sustainable Residential Development in Urban Areas' (2009).....

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

On overall sites of less than 0.25 ha, the Council may also consider levying a contribution in lieu of public open space.

Public Open Space may be taken-in-charge, by the Local Authority, or may be privately managed.

Table 12.8 (Public Open Space Requirements for residential developments) is relevant:

Location	Public Open Space Standards (minimum)
Residential Development in new Residential communities	15% (of site area)
Residential Development in the existing built up area	15% (of site area)
Institutional and Redevelopment of SNI use.	25% (of site area)

## 5.2. Relevant National or Regional Policy / Ministerial Guidelines

- The Development Management Guidelines for Planning Authorities (2007).

## 6.0 EIA Screening

- 6.1. This case relates to a first party appeal against a financial contribution condition attaching to the planning authority decision to grant permission. Having regard to the

nature of the appeal and the provisions of s.48(10)(c), I conclude that the proposed development does not come within the definition of a 'project' for the purposes of EIA, that is, it does not comprise construction works, demolition or intervention in the natural surroundings. Refer to Form 1 in Appendix of this Report.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

The appeal is summarised below:

- The appeal relates to condition number 6, applied in regard to open space, attached to the notification to grant permission (30/10/25) for the proposed development of 4 additional residential units.
- The applied development contribution in lieu of open space provision amounts to €157,000. The appellant claims that the Dun Laoghaire-Rathdown Council Development Contribution Scheme 2023-2028 has not been applied correctly and that a reduced contribution is valid.
- The basis of the levy calculation is an area of 0.14 hectares, which is understood, from a reading of the planner's report, to be the entire footprint of the existing office / apartment building within which the development is contained.
- The appellant highlights Section 12.8.3.1 (public open space) of the development plan, which requires open space to be provided for 15% of the site area.
- Notwithstanding the manner in which the planning authority applied Section 12.8.3.1, the appellant claims that the area required for the purpose of calculating public open space is the application site comprising the red line boundary an area of 0.04 hectares.
- The site area used for the calculation of the contribution by the planning authority has not been limited to the floor area of the subject residential units. The contribution has also been applied to all the ancillary areas within the building which are necessary for the operation of the subject units, including circulation, plant areas etc.

- The appellant states that the calculation of the open space contribution based on a site area of the building footprint is inaccurate. It is claimed that the calculation of the contribution using the building footprint is a contravention of the guidance set out in the development plan, which specifies that contributions in lieu of public open space provision is calculated at a minimum of 15% of the site area.
- The appellant claims based on the site area, as included in the application form (Appendix A of the appeal statement contains an extract of the application form) validated by the planning authority (0.04 hectares), that the correct contribution to be applied would be comparative reduction to total a payment of €45,000 [€7,500,000 x 0.006 hectares (15% of 0.04 hectares) - I note that an additional zero is included in the calculation table contained within the appeal statement, which read €7,5000,000 hectares / I consider this a typo].
- The appellant asks the Commission to have due consideration of the impact of the higher contribution in lieu of open space attached by the planning authority in regard to the viability of the development scheme to deliver 4 apartments to the housing stock. It is claimed that the higher contribution would compromise viability, as the contribution applied by the planning authority is 3.5 times the submitted site area calculation contribution.
- The appellant highlights the contribution of the 4 apartment units, representing compact growth, to the achievement of the core strategy contained in Chapter 2 of the Dun Laoghaire-Rathdown County Development Plan 2022-2028, which has a stated housing target of 18,515 numbers residential units between Q2 / 2022 and Q1 / 2028.
- Therefore, it is claimed that the contribution as applied by the planning authority would contravene development targets in the development plan, as the 4 additional units would not be constructed.
- Finally, the appellant submits that the revision of the contribution applied would be in accordance with the Development Management Guidelines, the Development Contribution Scheme Guidelines and the provisions of the Planning and Development Act 2000.

## 7.2. Planning Authority Response

- The planning authority responded on the 16/12/2025 referring the Commission to the planner's report. It is considered that the grounds of appeal do not raise any new matter, which in the opinion of the planning authority would justify a change in attitude to the proposed development.
- Subsequently, the planning authority responded on the 18/12/2025 with the following comments:
  - The principle of the development was established under Plan Reg. D24A/0999, which comprised extension to the existing building at third floor level to provide 4 one-bedroom apartments each served by a balcony, bicycle parking inclusive of 2 visitor parking stands (4 number spaces) at ground level and 3 resident parking stands (6 number spaces) at basement level.
  - The entire site boundary was used to determine the development contribution levies for the proposed development. Therefore a development levy total was applied to the development of €295,275 levied for open space (condition number 7) €538.92 levied for surface water (condition number 8) €8,084.04 levied for Transport Infrastructure (condition number 9) and €45,270.6 levied for Community, Parks facilities and Recreational amenities.
  - This application was not appealed by the applicant. The applicant did not enter into discussion with the planning authority in the matter of the charges.
  - The applicant subsequently applied for a substantially similar development under appeal (D25A/0692) albeit with a significantly reduced site boundary. The site is detailed as the footprint of the proposed units.
  - The planning authority in the assessment of the development proposal noted that the applicant did not make adequate provision including for access to the apartments, waste storage and communal areas.
  - The planning authority considered that the existing site servicing arrangements were clear and the application was not invalidated in the interests of reasonableness.
  - Therefore, it was considered that the building footprint should be considered to be the site area for the purposes of the development contribution calculations.

- The levies are considered to be reasonable and proportionate on the basis of the nature of the development and its reliance on public amenities to service the development.
- It was considered that the exclusion from the site boundary of the essential access and communal services would not prohibit the consideration of the development, as the proposed development cannot function independently of the existing permitted development and no additional works were proposed to the wider existing development.
- The planning authority note that the applicant has the benefit of 9 apartments through the exempted process. Therefore at no time has the applicant made contribution to public infrastructure and facilities serving the site with particular regard to Clonkeen Park (open space).
- The planning authority consider that the development contributions levied as attached to the development under appeal is reasonable and warranted. The planning authority request the Commission to uphold the decision to apply levies.

### 7.3. Further Responses

The applicant made an invited response observation on the 26/01/2026 to the letter dated 08/01/2026 from the Commission in relation to the planning authority response of the 18/12/2025 . The submission is summarised below:

- The planning authority submission raises issues with the manner in which the applicant submitted the application. The appellant notes that the subject application was lodged following the approval of a similar proposal under Reg. Ref. D24A/0999, which received a significant contribution levy in lieu of the provision of public open space.
- The site area of the application under appeal extended to 0.04 hectares as stated on the planning application form, which was validated by the planning authority. The applicable contribution in lieu of open space using the site area as the basis of calculation is €45,000.
- The submission reiterates that the applicant / appellant is not opposed to paying a contribution in lieu of open space (as stated in the planning report at application

stage) but considers the contribution to be applied unreasonable in the instance of the subject development.

- The payment of €157,500 as applied by the planning authority, using the extent of the existing building footprint, would represent a significant development cost relative to a small-scale commercial development no matter the locational context and it is claimed is contrary to mandated housing delivery.
- Furthermore, it is noted that Table 12.8 (Public Open Space Requirements for residential development) of the Dun Laoghaire-Rathdown County Development plan 2022-2028 makes specific reference to site area as the basis for calculating the applicable minimum provision of public open space.
- The appellant considers that the proposal to apply the contribution based on the building footprint (a bespoke calculation for contribution levies) rather than the site area methodology stated within the development plan would provide a concerning precedent.
- The appellant highlights commentary within the planners report in the matter of 9 apartments delivered through exempted development. It is claimed this is not a relevant matter in the context of the development under appeal for 4 additional apartment units and the application of a contribution to the subject units in lieu of public open space.
- The appellant expresses concern that the planning authority would apply a similar logic to other applicants who have availed of the exemption process prior to lodging planning applications for residential development.
- The appellant considers that the planning authority reference to Clonkeen Park is reasonable given the proximity of the public park site. It is noted that the appellant is responsible for improving local access to the subject park (under reg. ref. D19A/0181 as amended under reg. ref. D24A/0400/WB).

## 8.0 Assessment

- 8.1. This is a first party appeal under s.48(10), against a development contribution condition (no.6) attached to the planning authority decision to grant permission. There has been no other third-party appeal against the decision. In this regard and in

accordance with s.48(10), I propose to confine consideration to whether the terms of the scheme were properly applied by the planning authority and will not consider the merits or otherwise of the Scheme itself.

The consideration of the Commission is restricted to whether the terms of the Scheme have been properly applied and there is no discretion to the Commission to selectively apply those terms.

- 8.2. Therefore, I consider that the only planning matter at issue in this case is Condition number 6 of the notification of decision to grant planning permission and that no other planning matters need to be considered by the Commission.

Condition number 6 the subject of this appeal requires the payment of a development contribution of €157,500 in lieu of the provision of public open space. The substantive ground of appeal is that the open space in lieu contribution was incorrectly applied by the planning authority in terms of the basis of its calculation and a reduced development contribution should apply.

*Relevant section of the contribution scheme*

- 8.3. The relevant section of Dun Laoghaire-Rathdown County Council Development Contribution Scheme 2023-2028 is Section 6 (in lieu of public open space).
- 8.4. Section 6.1 states that in the event the standards for public open space cannot be facilitated within a development, an additional contribution may be required by way of condition when granting planning permission.
- 8.5. Section 6.2 states that where the planning authority considers that the development plan standards for public open space are not met and / or that public open space cannot be facilitated within the development concerned, an additional financial contribution of €7,500,000 per hectare shall apply calculated on a pro rata basis on the quantum of the shortfall of public open space. The monies paid in accordance with such a condition shall be applied to the provision of and / or enhancement of amenities in the area.

*Requirement for a public open space contribution*

- 8.6. The planning case officer states in the assessment of the appeal development that the applicant has not detailed any public open space for the development.

- 8.7. The planning case officer notes the shortfall in public open space and the requirement for a development contribution resulting from the constrained site and the precedent of the previous application (D24A/0999).
- 8.8. I note that the applicant / appellant stated *inter alia* in the covering letter accompanying the application that it is acknowledged that the proposal would require a public open space contribution in accordance with Section 12.8.3 Of the Dun Laoghaire-Rathdown County Development Plan 2022-2028.
- 8.9. Section 6.1.3 of the letter of application notes that the requisite quantum of public open space is 15% of the site area. The applicant acknowledges the requirement for a financial contribution and the letter confirms the applicant's willingness to proceed on that basis.
- 8.10. The planning case officer in the assessment of the development proposal applied the public open space in lieu requirement, as the provision of meaningful public open space was not feasible in the instance of the proposed development. I concur with the planning case officer.
- 8.11. The appellant does not dispute the action of applying the public open space in lieu provision. Rather the methodology of the application of the provision is the principal ground of appeal.
- 8.12. The appellant claims that the provision has been applied incorrectly. The basis of the calculation is in dispute, as the planning authority in the calculation of the open space development contribution did not use the site area of 0.040 hectares, stated on the application form. The planning authority used the footprint of the overall "Pottery Building" rather than the site area as the basis of calculation.
- 8.13. I note that Section 2.0 (Site Description) of the letter of application accompanying the submitted drawings and particulars *inter alia* states that the overall site area is 0.26251 hectares.
- 8.14. I also note that the planning authority did not use the stated site area on the application form (0.040 hectares) or the site area as described and quantified in the letter of application, as the basis of calculation.

- 8.15. The development contribution assessment sheet shows a calculation based on a site area of 0.14 hectares to arrive at a financial contribution of €157,500 [0.02100 (15% of site area) x €7,500,000].
- 8.16. The planning authority effectively states that the basis of calculation is not arbitrary rather it is the de facto site area of the development represented by the footprint of the mixed use building on which the proposed residential units are dependent on access and essential service.
- 8.17. This logic is disputed by the appellant claiming that it would set a precedent for other applicants including applicants who have previously availed of exempted development residential units on site.
- 8.18. Furthermore, the appellant states that the commercial viability of the small scale development proposal to provide 4 additional residential units is compromised by the open space financial contribution applied by the planning authority, which is 3.5 times the financial contribution that would apply if the site area validated on the application form was the basis of the calculation.
- 8.19. The appellant claims that the application of an incorrect and unreasonable financial contribution would be inconsistent with core strategy objectives, which *inter alia* seeks to deliver a stated housing target of 18,515 number residential units between Q2 / 2022 and Q1 / 2028.
- 8.20. The planning authority highlights that a development levy totalling €295,275 applied to a similar development granted permission under reg. ref. D24A/0999. Furthermore, the planning authority notes that this grant of permission for 4 residential units was not appealed by the applicant.
- 8.21. Notwithstanding I note the concerns of the appellant. I consider that a high level of certainty must apply in the exposure of a development proposal to financial contributions, including transparency within the relevant development plan and development contribution scheme.

*Development contribution in lieu of public open space*

- 8.22. In the matter of public open space contributions, I consider that Section 6.2 of the Dun Laoghaire-Rathdown County Development Contribution Scheme 2023-2029 is clear and transparent.

- 8.23. The relevant section of the contribution scheme *inter alia* states that where the planning authority considers that the development plan standards for public open space are not met and / or that public open space cannot be facilitated within the development concerned, an additional financial contribution of €7,500,000 per hectare shall apply calculated on a pro rata basis on the quantum of the shortfall of public open space.
- 8.24. Similarly, the development plan is clear and transparent. Section 12.8.3.1 (Public Open Spaces) of the Dun Laoghaire-Rathdown Development Plan 2022-2028 requires all residential schemes to provide a minimum provision of public open space in accordance with Table 12.8 (Public Open Space Requirements for residential development), which has regard to the content of the Section 28 Guidelines 'Sustainable Residential Development in Urban Areas' (2009).
- 8.25. The development plan acknowledges that in certain instances it may not be possible to provide the above standards of public open space. High density urban schemes and/or smaller urban infill schemes for example may provide adequate communal open space but no actual public open space.
- 8.26. In these instances where the required percentage of public open space is not provided the Council will seek a development contribution under Section 48 of the Planning and Development Act 2000.
- 8.27. Furthermore, Section 12.8.3.1 highlights that the contribution in lieu to be paid for any shortfall in the quantum of public open space to be provided will be used for the provision of improved community and civic infrastructure and/or parks and open spaces, in the vicinity of the proposed development that can be used by occupiers of the development.
- 8.28. Table 12.8 (Public Open Space Requirements for residential development) of the development plan clearly states that a minimum of 15% of the site area shall be the open space standard for development in existing built up areas such as the appeal development.
- 8.29. In conclusion, in the instance of the proposed development where no public open space is facilitated on site a financial contribution of €7,500,000 per hectare in lieu of public open space is payable and shall be applied on a pro rata basis to a minimum of 15% of the applicant site area in order to achieve a monetary equivalent.

### *Other matters*

- 8.30. Finally, the planning authority note that the applicant has the benefit of 9 apartments through the exempted process. Therefore at no time has the applicant made contribution to public infrastructure and facilities serving the site and in particular with particular regard to Clonkeen Park.
- 8.31. The appellant acknowledges the status of Clonkeen Park, as the proximate amenity to the subject development. I note the appellant is responsible for improving local access to the subject park, as stated in the further response.
- 8.32. However, the appellant considers that that the planning authority statement in the matter of the 9 exempted development apartments is irrelevant to the application under appeal. I agree with the appellant.
- 8.33. The planning authority may have made a statement of fact. However, it is not relevant to the planning application for the additional 4 residential units, which is the development proposal the subject of this appeal.

### *Conclusion*

- 8.34. The site area is clearly stated on the planning application form as 0.040 hectares.
- 8.35. The submitted drawings clearly show the site area, which is not contiguous outlined in red on the site location map. The adjoining lands in the ownership of the applicant are outlined in blue.
- 8.36. The appellant notes that the planning authority validated the application with the site area of 0.040 hectares. This is the site area de jure.
- 8.37. The open space in lieu contribution requires a pro rata application of €7,500,000 per hectare on the quantum of the shortfall of public open space.
- 8.38. Table 12.8 (Public Open Space Requirements in residential developments) of the development plan clearly states that a minimum of 15% of the site area shall be the minimum open space standard for development in existing built up areas.
- 8.39. I conclude that the planning authority have the discretion to increase the public open space provision greater than 15% of the site, as 15% is a stated minimum. However, the site area is as stated on the application form and as shown demarcated in red on

the submitted site location map stamp dated 05/09/2025, as validated by the planning authority.

- 8.40. Therefore, the correct application of a minimum 15% site area public open space requirement would result in a contribution of €45,000 ( $€7,500,000 \times 0.006$  hectares).

## 9.0 AA Screening

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

The subject site is located within an established urban area and is connected to piped services and is not immediate to a European Site. The proposed development comprises the construction of an infill apartment development as an extension of an existing mixed-use building.

No significant nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site given the small-scale nature of the development.

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.

Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

## 10.0 Water Framework Directive

- 10.1. The site is located in a suburban location. It is not proximate to a visible watercourse.

The development comprises extension works to an existing building.

No water deterioration concerns were raised in the planning appeal.

I have assessed the development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status

(meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

The reason for this conclusion is the small scale and nature of the development.

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

## 11.0 Recommendation

11.1. I conclude that, in accordance with Section 48 of the Planning and Development Act, 2000, as amended, and based on the reasons and considerations set out below, that the terms of the Development Contribution Scheme for the area have not been properly applied in respect of Condition number 6, and recommend that the Council be directed to amend said condition as follows and the contribution payable thereunder for the reasons stated:


The developer shall, before commencement or as otherwise agreed in writing with the Planning Authority, pay the sum of €45,000.00 to the planning authority, a financial contribution in lieu of public open space provision in accordance with the terms of the Development Contribution Scheme of the Planning and Development Act, 2000 as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the scheme at the time of payment.

**REASON:** To provide a financial contribution in lieu of the shortfall in the provision of public open space required to serve the development as provided for in the Dún Laoghaire-Rathdown Development Plan 2022-2028.

## 12.0 Reasons and Considerations

The Dun Laoghaire-Rathdown County Council Development Contribution Scheme 2023-2028 makes provision in Section 6.0 for the payment of a contribution in lieu of public open space provision on site. A financial contribution of €7,500,000 per hectare shall apply calculated on a pro rata basis on the quantum of the shortfall of public open space in the instance of the appeal development 15% of the site area. Condition number 6 of the decision to grant planning permission applied this charge incorrectly. The application has a stated and validated site area of 0.040 hectares. The development contribution should be calculated on the basis of the site area stated on the planning application form and as demarcated in red on the site location map. Therefore Condition 6 should be amended based on the following calculation: [€7,500,000 x 0.006 (15 % of the site area = €45,000 ).

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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

  
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Anthony Abbott King  
Planning Inspector

03 March 2026

### Appendix 1: Form 1 EIA Pre-Screening

<b>Case Reference</b>	PL-500330-DR-25
<b>Proposed Development Summary</b>	4 one-bedroom apartments as extension of existing building.
<b>Development Address</b>	The Pottery, Baker's Point, Dun Laoghaire Industrial Estate, Pottery Road, Dun Laoghaire, Co. Dublin.
<b>IN ALL CASES CHECK BOX / OR LEAVE BLANK</b>	
<b>1. Does the proposed development come within the definition of a 'Project' for the purposes of EIA?</b>	<input type="checkbox"/> Yes, it is a 'Project'. Proceed to Q.2.
	<input checked="" type="checkbox"/> No, No further action required.
<p>(For the purposes of the Directive, "Project" means:</p> <ul style="list-style-type: none"> <li>- The execution of construction works or of other installations or schemes,</li> <li>- Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)</li> </ul>	
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	<b>State the Class here</b>
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	

<p><b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b></p>	
<p><input checked="" type="checkbox"/> 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.</p> <p><b>No Screening required.</b></p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p><b>EIA is Mandatory. No Screening Required</b></p>	<p><b>State the Class and state the relevant threshold</b></p> <p>N/A</p>
<p><input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p><b>Preliminary examination required. (Form 2)</b></p> <p><b>OR</b></p> <p><b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b></p>	<p><b>State the Class and state the relevant threshold</b></p> <p>N/A</p>
<p><b>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</b></p>	
<p>Yes <input type="checkbox"/></p>	<p>Screening Determination required (Complete Form 3)</p>
<p>No <input checked="" type="checkbox"/></p>	<p>Pre-screening determination conclusion remains as above (Q1 to Q3)</p>

Inspector: A. [Signature]

Date: 03/03/2026