First Party Appeal

Residential Development at

Falmore, Falls road

Shankill, Dublin 18

DLR Reg. Ref. D26A/0640/WEB

On behalf of

J. Coffey Property (Falmore) Ltd.

November 2026

Brock McClure
PLANNING & DEVELOPMENT CONSULTANTS

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1 Executive Summary

This appeal has been prepared by Brock McClure Planning & Development Consultants, with input from Eamon Galligan Senior Counsel, Plus Architecture, and Meinhardt, on behalf of J. Coffey (Falmore) Ltd, against the decision of An Coimisiún Pleanála to refuse permission for a residential development comprising 62 no. units at Falmore, Falls Road, Shankill, Dublin 18 (D26A/0640/WEB).

Permission for the subject development was refused for a single reason, centred around the zoning of the site as 'A1', which lists residential development as a permissbile use, but requires devleopment to be brought forward in accordance with an approved Local Area Plan or Framework Plan for the relevant area. The subject site is located within the Rathmichael area, and is envisaged by Dún Laoghaire Rathdown County Council to be located within the boundary of a forthcoming Framework Plan for the Rathmichael Area. There is currently no draft version of this forthcoming Plan on display, or a confirmed timeframe for publishing of same, past the Planning Authority noting that they are working towards the publication of a Draft Plan for consultation in 2027.

This Appeal sets out that the appellant's response to the refusal reason issued, centred around the fact that it is the opinion of the appellant and design team that the scheme should not have been subject to a refusal of permission for development on the basis of prematurity, when there is no Plan currently in place, or in draft, for the subject area.

The appellant has sought the Opinion of Counsel from Eamon Galligan, Senior Counsel, in this regard. The Legal Opinion issued in respect of the subject appeal supports the fact that, whilst the Planning Authority were correct in concluding that the proposal contravenes the requirements of the zoning objective for the site, An Coimisiún Pleanála is empowered to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates. While the requirement for a Local Area Plan or framework plan is stipulated in the A1 residential zoning objective, the planning considerations that would be identified in any such Framework Plan have not yet been identified and therefore, do not form part of the adopted Development Plan.

Therefore, it is considered that there is no evidence that the proposed development would prejudice the implementation of a future Framework Plan or variation of the Dún Laoghaire Rathdown County Development Plan 2022-2028, and the Planning & Development Act 2000 (as amended) does not provide any basis for a planning permission to be refused pending a future Plan or variation. A planning application must be determined by reference to the Development Plan or other statutory Plan that is in force at the date of determination of the application.

Save for the refusal reason pertaining to prematurity, it is submitted that none of the Dún Laoghaire Rathdown County Council Techncial Department's Reports published with the decision, recommended that the scheme be subject to a refusal of permission. Any items raised within the Technical Department's Reports could be addressed by a request for Further Information, or by Condition attached to a grant of permission, should An Coimisiún Pleanála deem this necessary.

We trust that An Coimisún Pleanála will have regard for the contents of this First Party Appeal, and will overturn the decision of Dún Laoghaire Rathdown County Council to refuse permission for the subject development, on the basis that the propoal is of high quality and in compliance with all currently applicable National, Regional and Local Planning Policy documents.

2 Introduction

We, Brock McClure Planning & Development Consultants, 63 York Road, Dun Laoghaire, Co. Dublin have been instructed by **J. Coffey Property (Falmore) Ltd, Unit 8 Abbey House, Main Street, Clonee, Meath**, to prepare this First Party Appeal against the decision of Dún Laoghaire-Rathdown County Council to refuse permission for a residential development proposal comprising 62 no. units at a site of approximately 1.06 ha at Falmore, Falls Road, Shankill, Dublin 18 (D26A/0640/WEB).

A decision was made on the 20th October 2026 and therefore we note that the relevant appeal deadline is Monday 16th November 2026. This appeal is lodged within the required timeframe. The statutory fee of €1500 is also enclosed herewith – as per appeal class A3 as follows:

> *'You want to appeal the decision of a planning authority on an application you lodged with it. The appeal does not include retention; The appeal does relate to commercial development; and The appeal or application does not include an EIAR or NIS'.*

This Appeal has been prepared by Brock McClure Planning & Development Consultants, with inputs from the project team as follows:

- J. Coffey Property (Falmore) Ltd
- Plus Architecture
- Meinhardt
- Eamon Galligan Senior Counsel

We confirm that whilst preparing this appeal, a review has been undertaken of the reports published by the Dún Laoghaire Rathdown Planning Department associated with the decision issued to refuse permission for the subject development.

This appeal responds to all issues raised within Dún Laoghaire-Rathdown County Council's decision notice and the associated assessment within the Planner's Report and other published departmental reports. It is submitted that this Appeal Report provides a robust justification for the proposal and demonstrates its compliance with key national planning policies.

From the outset, we note that the subject proposal has been designed specifically for this site and in our view has had regard to the existing context of the immediate area and contributes positively to its location.

It is submitted that the proposed development is in accordance with the proper planning and sustainable development of the area and as such, we respectfully request that An Coimisiún Pleanála overturn the decision of Dún Laoghaire-Rathdown County Council and grant permission for the proposed development.

3 Formal Details

We can confirm the following details for this appeal:

Appeal:	First Party Appeal Against a Planning Authority Decision to Refuse Permission
Fee:	€1500 (ABP category 'A3' development for the purpose of fees)
Planning Authority:	Dún Laoghaire-Rathdown County Council
Reg. Ref:	D26A/0640/WEB
Appeal Deadline:	16th November 2026 (Decision made 20th October 2026)
Applicant & Appellant Name:	J. Coffey Property (Falmore) Ltd
Applicant & Appellant Address:	Unit 8 Abbey House, Main Street, Clonee, Meath
Agent Name	Brock McClure Planning & Development Consultants
Agent Address	63 York Road, Dún Laoghaire, Co. Dublin, A96 T0H4
Development Address:	Falmore, Falls Road, Shankill, Dublin 18, D18K5P3
Development Description	The proposed development comprises the following: Demolition of the existing 2 storey residential dwelling and associated ancillary structures (c. 626 sq.m). Construction of a 3-6 storey over basement residential development comprising 62 no. units arranged in 4 no. blocks. The proposed units include 15 no. 3 bed townhouses, 25 no. 1 bed apartments, 21 no. 2 bed apartments and 1 no. 3 bed apartment. All apartment units and houses are provided with private open space in the form of balconies/ terraces and gardens. Provision of 2 no. site entrance points. A proposed entrance point is located at the current site access point for pedestrians/ cyclists/ vehicles, and a new pedestrian/ cyclist access point is provided in the form of a bridge at the northeast boundary of the site connecting the proposed development to Parc na Silla Rise. The development proposes 1,160 sq.m of public open space and 295 sq.m of communal amenity open space as landscaped areas throughout the site, including the provision of a play area. The proposal includes 44 no. car parking spaces, 128 no. bicycle parking spaces (94 no. private, 4 no. cargo bike spaces and30 no. external visitor spaces), secure bin stores for all units, provision of an ESB substation, hard and soft landscaping and all other associated site works and provision of services above and below ground on an overall site area of 1.06 ha.

4 Site Context

The development granted by Dún Laoghaire Rathdown County Council originally sought permission for 62 no. units at a site of approximately 1.06 ha at Falmore, Falls Road, Shankill, Dublin 18 (D26A/0640/WEB). A summary of the main planning points surrounding the subject development are outlined below for the convenience of An Coimisiún Pleanála:

Subject Site:	The subject site is located at Falmore, Falls Road, Shankill, Dublin 18. 1 no. residential property and associated ancillary structures and private garden are currently located on the site of c. 1.06 ha. The site is located within an established residential area, along Falls's Road to the north-west of Shankill Village. The pattern of surrounding development is primarily low rise, low density detached and semi-detached 2 storey homes. There is an existing apartment block development consisting of 4 no. blocks ranging in height from 3-4 storeys located at the Park na Silla Avenue located to the north-west of the site, which represents the tallest and highest density of development in the area immediately surrounding the site. Ardvarna, a protected structure (RPS Ref. 1796) is located approximately 280 metres to the south-west of the development site. The site northern boundary is characterised by planting of small trees and shrubbery along the boundary. The old Harcourt Street line borders the site to the north and is proposed as a corridor for an extension of the LUAS Green Line to Bray. The site's eastern boundary consists of dense tree and hedge cover and planting. The site is bound to the east by the M11 Motorway. The sites southern boundary is characterised by the existing wall and fencing running the length of the boundary at this location, abutting the public footpath and roadway along Falls Road. The site western boundary extends for approximately is characterised by a boundary wall and planting extending the entire length of the boundary. The existing access and egress point to the site for vehicles and pedestrians is located along Falls Road. The site is in an elevated position relative to the M11 and contains a number of trees around the boundaries. The site is currently in use as a single large dwelling. It was proposed to demolish the existing Edwardian three-storey building on the site to facilitate the proposed development. Whilst the dwelling currently located on the subject site is habitable, it is considered that its demolition is warranted in this case, as the proposed development provides an intensification of residential use on the site in line with National, Regional and Local Planning policies in respect of density of residential development. The existing unit on the site is located in the central area of the site and is not of any architectural significance. The site is located in a well-established area proximate to Shankill Village and is well served by social infrastructure and amenities including footpath networks, public transport and local facilities and services, which will allow for a well - connected site within the wider community. The site is located approximately 1 km to the west of Shankill Village, which is an established residential area meaning there are a variety of services and facilities in existence surrounding the site.

	The site is also in proximity to a number of amenities and services within 1500 metres, including schools, supermarkets, sports facilities, libraries hospitals. The site is also proximate to the Cherrywood Strategic Development Zone, located approximately 800m from the site to the north, which is an employment hub, and is currently being developed as a new town which will feature additional services and amenities in the future. The site is located within 1500 metres (or approximately a 15-minute walk) of an abundance of high quality landscaped public open spaces featuring playing fields, seating areas and defined walking routes, including Shanganagh Park to the southeast of the site. The subject site is well served by public transport. The N11 is a designated BusConnects Core Bus Corridor served by a range of high-frequency, reliable bus services that are part of the wider BusConnects network, which aims to provide efficient and sustainable public transport solutions across the Greater Dublin Area. Shankill Dart Station is located approx. 1.4 km east of the subject site and can be accessed by foot or bicycle within 20 or 7 minutes respectively. Shankill Train Station is served by DART routes which connect the proposed development to Malahide and Howth to the north and Bray and Greystones to the south, as well as several key train stations within the city centre. The subject site sits approx. 2 km walking distance from the Brides Glen Luas Stop. The Luas service offers direct routes to prominent locations such as Sandyford, Dundrum, and the city centre at a high frequency. In terms of access to local amenities, the site is well-served by retail, social and community facilities. The subject site is situated approx. 900 m (12 minute walk) from Shankill Neighbourhood Centre which offers a range of retail outlets, social facilities, and community services. In addition, the subject site is located approx. 1.9 km (27-minute walk) from Cherrywood, a vibrant area with an expanding range of shops, restaurants, cafés, supermarkets, and various other amenities. It is our considered view that the subject site is an exceptionally well-located suburban site, in close proximity and within walking distance to a variety of services, amenities, public transport and active travel routes. We refer An Coimisiún Pleanála to Section 2 of the Planning Report submitted to Dún Laoghaire Rathdown County Council at application stage for a full overview of the context of the subject site.
Planning History:	Two previous applications for development have been made on the subject site as follows: • **ABP-312347-21 –** Permission was Refused on the 22nd of April 2022 for a Strategic Housing Development of 100 no. Units on the subject site. 1 no. reason was attached to the refusal of permission issued, citing height, scale and massing and noting that the development would not sufficiently

connect to services in the local area, and would therefore be contrary to the proper planning and sustainable development of the area.

- **Reg. Ref. D09A/0305 –** Permission was Granted on the 27th April 2010 for the change of use and conversion of Falmore from residential to residential institution (nursing home) and the construction of a 3 storey over basement extension)

It was considered that the subject development addressed all refusal reasons listed by An Bord Pleanála (now An Coimisiún Pleanála) in respect of the previous SHD development on the site and was consistent with an emerging pattern of development within the Shankill area, where a number of large single dwellings on extensive sites have been replaced/ redeveloped with medium density residential redevelopment proposals. In this regard the following schemes were noted:

- **D25A/0004 –** Permission was Granted on the 27th February 2025 for the demolition of an existing 1 storey dwelling and the construction of 25 no. new units at The Poplar's Quinn's Road, Shankill Dublin 18.

- **D23A/0806 –** Permission was Granted on the 15th July 2024 for the construction of 23 no. units within the grounds of a protected structure at Saint Annes, Shankill, Dublin 18.

- **D20A/0184** - Permission was Granted on the 20th January 2021 for the demolition of an existing 2 storey house, 'Rathbeg', and the construction of 54 no. units at Rathbeg, Shankill, Dublin 18.

Similar to the subject development, the above listed schemes involve the demolition/ redevelopment of existing large single dwelling units to be replaced with medium density low rise houses/ apartments and duplex units, or involve utilising the grounds of existing large single dwellings to provide residential development. It is clear that this is an established typology of development in the Shankill area, and the subject development has had regard to the emerging form of development on these sites formerly associated with large single dwellings.

The subject development contributes towards the delivery of medium density development in an appropriate location in proximity to Shankill village and a Core Bus Corridor. The development will ensure that the subject site is redeveloped to provide an appropriate type of development at an appropriate density, consistent with the requirements as outlined in the Compact Settlement Guidelines.

The proposal replaces the existing large single dwelling on the site with a residential development providing houses and apartment units, contributing towards the achievement of national, regional and local policies and objectives relating to the delivery of residential development and regeneration.

The proposal presents an opportunity to move away from the traditional single dwelling use on the site and contributes towards the creation of new high quality mixed typology neighbourhoods close to public transport connecting to Dublin city.

	We refer An Coimisiún Pleanála to Section 3 of the Planning Report submitted to Dún Laoghaire Rathdown County Council at application stage for a full overview of the relevant Planning History associated with the subject site.
Planning Context:	The site is zoned 'A1' within the Dún Laoghaire-Rathdown County Development Plan 2022-2028, with an objective: *'To provide for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans'* The following uses are listed as 'Permitted in Principle' on 'A1' zoned lands: *Assisted Living Accommodation, Carpark, Caravan Park-Residential, Community Facility, Craft Centre/ Craft Shop, Childcare Service, Cultural Use, Doctor/ Dentist etc., Education, Embassy, Enterprise Centre, Funeral Home, Garden Centre/Plant Nursery, Guest House, Health Centre / Healthcare Facility, Industry-Light, Off-License, Offices less than 600sq.m, Open Space, Service Station, Place of Public Worship, Public House, Public Services, Residential, Residential Institution, Restaurant, Service Garage, Shop-Specialist, Shop Neighbourhood, Shop District, Sports Facility, Tea Room/Café, Travellers Accommodation, Veterinary Surgery.* Residential development is a permissible land use under zoning objective 'A1'.It is considered that the proposed scheme presents a design solution that is appropriate for this location, and that the buildings will assimilate successfully into their surrounds. The sole reason listed for the refusal of the subject development centred around the zoning of the lands as 'A1' within the Dún Laoghaire Rathdown County Development Plan 2022-2028, and the view of the Planning Authority that the development was premature pending the publishing of a Draft Framework Plan for the Rathmichael Area. This is discussed within Section 7 of this Appeal. It is explicitly noted to An Coimisiún Pleanála at this point that the Planning Authority, within their assessment of the development proposal, did not raise concerns regarding the development compliance with any other relevant National, Regional or Local Planning Policy documents. We refer An Coimisiún Pleanála to the following sections of the Planning Report submitted to Dún Laoghaire Rathdown County Council at application stage for details: • Section 5 – Strategic Planning Context • Section 6 – Section 28 Ministerial Guidelines • Section 7 – Statutory Planning Context

5 Planning Application Lodged

The appellant and design team are of the view that the development lodged to Dún Laoghaire Rathdown County Council at application stage stands up to scrutiny, and therefore, we ask An Coimisiún Pleanála to consider the development proposal de novo. For the benefit of An Coimisiún Pleanála, we now wish to provide a clear overview of the development lodged to Dún Laoghaire Rathdown County Council for consideration:

The proposed development consists of 62 no. new residential units comprising 15 no. 3 bed houses, 25 no. 1 bed apartments, 21 no. 2 bed apartments and 1 no. 3 bed apartment. The proposed site layout is shown on figure 1 below for the benefit of An Coimisiún Pleanála:

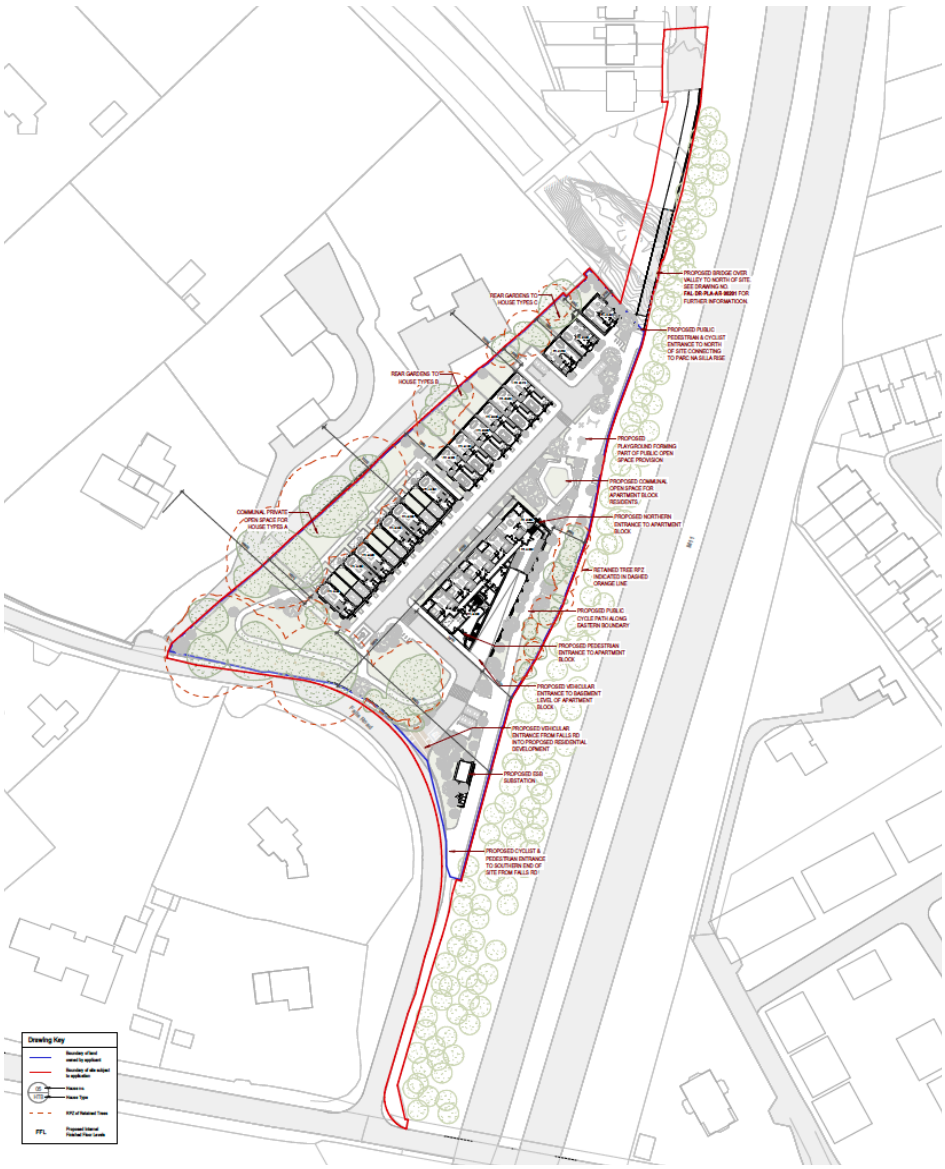


Figure 1 – Proposed Site Layout Plan

The development was described as follows within the statutory notices:

> *"J. Coffey Property (Falmore) Ltd intends to apply for permission for development at Falmore, Falls Road, Shankill, Dublin 18 (D18 K5P3).*

The proposed development comprises the following: Demolition of the existing 2 storey residential dwelling and associated ancillary structures (c. 626 sq.m). Construction of a 3-6 storey over basement residential development comprising 62 no. units arranged in 4 no. blocks. The proposed units include 15 no. 3 bed townhouses, 25 no. 1 bed apartments, 21 no. 2 bed apartments and 1 no. 3 bed apartment. All apartment units and houses are provided with private open space in the form of balconies/ terraces and gardens. Provision of 2 no. site entrance points. A proposed entrance point is located at the current site access point for pedestrians/ cyclists/ vehicles, and a new pedestrian/ cyclist access point is provided in the form of a bridge at the northeast boundary of the site connecting the proposed development to Parc na Silla Rise. The development proposes 1,160 sq.m of public open space and 295 sq.m of communal amenity open space as landscaped areas throughout the site, including the provision of a play area. The proposal includes 44 no. car parking spaces, 128 no. bicycle parking spaces (94 no. private, 4 no. cargo bike spaces and30 no. external visitor spaces), secure bin stores for all units, provision of an ESB substation, hard and soft landscaping and all other associated site works and provision of services above and below ground on an overall site area of 1.06 ha."

The following supporting drawings and documents were prepared by an experienced multidisciplinary design team, and lodged to Dún Laoghaire Rathdown County Council as part of the application pack, to ensure that the relevant departments had access to a comprehensive suite of material detailing the development design to inform their scheme assessment:

No	Items	Consultant
1	Planning Report	Brock McClure
2	Community Infrastructure Audit	Brock McClure
3	Building Lifecycle & Operational Management Plan	Brock McClure
4	Landowner Letter of Consent (DLRCOCO)	Applicant
5	Applicant Consent to Agent	Applicant
6	Part V Validation Letter	Applicant
7	Part V Costings	Applicant
8	Architectural Design Report	Plus Architecture
9	Architectural Drawing Pack (Including Housing Quality Assessment, Schedule and Part V Details)	Plus Architecture
10	Infrastructure Report (Appendices Separate)	Meinhardt
11	Flood Risk Assessment	Meinhardt
12	Construction Environmental Management Plan	Meinhardt
13	Resource Waste Management Plan	Meinhardt
14	Transport Statement	Meinhardt
15	Full Civils Drawing Pack (Including Document Register)	Meinhardt
16	Appropriate Assessment Screening Report	Altemar
17	Ecological Impact Assessment Report	Altemar
18	Biodiversity Enhancement Plan	Altemar
19	Arborists Report	Arborist Associates

20	Arborists Drawing Pack	Arborist Associates
21	Operational Waste Management Plan	AWN Consulting
22	Architectural Heritage Assessment	IAC Archaeology
23	Site Lighting Report	IN2
24	Site Lighting Drawing Pack	IN2
25	M&E Utilities & Energy Analysis Report	IN2
26	Daylight, Sunlight & Overshadowing Assessment	Modelworks
27	Landscape Visual Impact Assessment	Modelworks
28	Verified Photomontages	Modelworks

A full detailed summary overview of the scheme lodged was provided within Section 4 of the Planning Report lodged to Dún Laoghaire Rathdown County Council. We refer An Coimisiún Pleanála to the Planning Report, and full suite of application materials lodged as listed above, for details of the subject development.

6 Application Decision

This section has been prepared to detail the decision made by the Planning Authority to refuse permission for the subject development, and to provide a detailed review of the Planner's Assessment and all Departmental Reports published with the decision.

6.1 Decision of Dún Laoghaire-Rathdown County Council

On 20th of October 2026, Dún Laoghaire-Rathdown County Council issued the decision to refuse permission for the proposed development for 1 no. reason as follows:

> *"Under the Dun Laoghaire-Rathdown County Development Plan 2022-2028, the site is subject to zoning objective A1, which seeks "to provide for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans or approved Framework Plans." The site is located within the Rathmichael / Ferndale local Area Plan boundary, for which a Framework Plan will be prepared. Section 2.6.1.3 Local Area Plan Plan-Making Programme of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 notes that within the A1 zoned lands at Rathmichael there are a number of existing properties and 'minor modifications and extensions to these properties can be considered in advance of the relevant Local Area Plans.' The proposed development which comprises the construction of a 62no. units, having regard to its nature and scale, would not constitute 'minor modification and extensions to existing property'. Accordingly, the proposed development would be contrary to the provisions of Section 2.6.1.3 of the Dún Laoghaire-Rathdown County Development Plan 2022-2028, would set an undesirable precedent for other similar developments and would be materially contrary to the A1 zoning objective of the area, which seeks "to provide for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans or approved Framework Plan." It is considered that the proposed development undermines the intended plan-led and co-ordinated approach to residential development in the Rathmichael area as provided for in the Dun Loaghaire Rathdown County Development Plan 2022-2028. Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area."*

It is explicitly noted to An Coimisiún Pleanála that the sole reason for the refusal of the scheme relates to a high level Dún Laoghaire Rathdown County Council Plan Making Programme, citing that the development would be premature pending the preparation of a Draft Framework Plan for the Rathmichael Area. A response to this refusal reason is provided within Section 7 of this Appeal. We now wish to take the opportunity to provide a detailed overview of the commentary provided within the Planner's Report and Departmental Reports published with the decision to refuse permission for the development. None of the Dún Laoghaire Rathdown Technical Departments recommended that the development be refused, save for the Forward Planning section of the Planning Department, citing the scheme being premature as noted.

6.2 Planning Officer's Assessment – Supportive Commentary

It is worth noting at this point that the Planning Authority, as highlighted in the Planning Officer's Report, supported a number of the fundamental elements of the proposal as follows - the suggestion being that the key indicators of high quality and appropriate design are present in the proposal:

6.2.1 Climate Action & Energy

Climate Action Plan 2025 sets out that the "residential sector is on track to meet its 2021- 2025 sectoral emissions ceiling and is ahead of its 2025 indicative reduction target of - 20%. It is considered that the proposed development will further support the national target to reduce emissions within the built environment through the development of energy efficient buildings, retention and enhancement of natural features and SuDS measures.

The Planning Authority accepted the assessments of the assessments prepared in respect of Mechanical and Electrical Utilities and Energy Analysis, Building Lifecycle, EV Charging, retention of existing planting on the site and provision of SuDS measures, and considered that the proposed development supported national targets to reduce emissions.

6.2.2 Density Achieved

The Planning Authority consider that the net density achieved (approx. 67.4no. units per ha - net) is appropriate given it context, having regard for:

- *The location of the application site in proximity to public transport options,*
- *The location of the application site proximity to existing services (Shankill Village),*
- *The scale of the proposed development having regard for the existing adjoining residential development (impact on residential amenity assessed separately below),*
- *Existing site constrains including site topography and existing mature trees.*

The Planning Authority accepted that the site was exceptionally well located and did not impact on residential amenity experienced by neighbours, and the density proposed was deemed appropriate on this basis.

6.2.3 Residential Mix

Having regard for Section 12.3.3.1 Residential Size and Mix of the Development Plan, the proposed unit mix is also acceptable.

The Planning Authority accepted that the mix of the development, comprising 25 no. 1 bed units, 21 no. 2 bed units and 16 no. 3 bed units was appropriate.

6.2.4 Apartment Floor Areas

The proposed development accord with the requirements of the Section 12.3.5.5 Minimum Apartment Floor Areas of the Development Plan.

The Planning Authority accepted that all apartment units provided met and exceeded the minimum required floor areas.

6.2.5 Dual Aspect

Section 12.3.5.1 Dual Aspect of the Development Plan specifies that a minimum of 25% of units within a development shall be required to be dual aspect. 55% of the proposed apartments are dual aspect, therefore, in accordance with the requirements with Section 12.3.5.1 Dual Aspect of the Development Plan.

The Planning Authority accepted that the development met and exceeded the minimum requirement for the provision of dual aspect units.

6.2.6 Orientation of Units

The Housing Quality Assessment, prepared by PLUS Architecture outlines that none of the proposed apartments are north facing, therefore, in accordance with the requirements with Section 3.4 - Dual Aspect Ratios of the Apartment Guidelines 2025.

The Planning Authority accepted that the arrangement of the apartment units resulted in no north facing units being provided.

6.2.7 Floor to Ceiling Heights/ Stair Core Arrangements

Section 12.3.5.6 Additional Apartment Design Requirements of the Development Plan sets out the minimum floor to ceiling height for ground floor apartments which is 2.7m. Additionally, it is set out that there is no requirement within an individual scheme in respect of a minimum number of units per floor per core. All of the ground floor apartment units have a floor to ceiling height of 3.075m while the upper floors achieve a floor to ceiling height of 2.4m. Additionally, the proposed apartment block is served by a stair / lift core. Accordingly, the apartment units proposed are in accordance with Section 12.3.5.6.

The Planning Authority accepted that the floor to ceiling heights provided, and stair core arrangements, within the proposed apartment block were in accordance with the relevant standards for same.

6.2.8 Private Amenity Space

The Floor Plan Drawings and a Housing Quality Assessment, prepared by PLUS Architecture show that the minimum private amenity space standards for all of the proposed apartments has been achieved in accordance with the requirements of the Section 12.8.3.3(ii) Private Open Space for Apartment Developments of the Development Plan and the Apartment Guidelines 2025.

The Planning Authority accepted that the private amenity spaces provided for all apartment units achieved minimum required standards.

6.2.9 Waste Collection

Environmental Enforcement has reviewed the proposal (Reports outlined in full above) and raised no objection in relation to waste management proposals subject to attachment of condition in the event of a grant of planning permission.

The Planning Authority accepted that the waste collection arrangements proposed for the development were acceptable, subject to conditions being attached to a grant of permission.

6.2.10 Communal Amenity Space

The communal open space is provided is adjacent the apartment block (295 sq. m) and is considered convenient and accessible for future residents. The communal open space receive at least 2 hours of sunlight on 21st March resulting in attractive and usable spaces for residents (refer to discussion on Sunlight and Daylight Access below). Overall, the proposed communal space is considered to accord with Section 12.8.3.2 Communal Open Space of the Development Plan.

The Planning Authority deemed that the provided communal open space was of high quality and in excess of minimum requirements.

6.2.11 Children's Play

The Planning Authority is satisfied that the quantum and location of the play space. It allows future residents convenient access form the apartment block.

The Planning Authority was satisfied that the play space provided was of high quality.

6.2.12 House Floor Areas

The internal standards of the proposed houses comfortably exceed the minimum requirements for a 3-bed (three storey) set out in the Housing Guidelines 2007 as required by Section 12.3.4.2 of the County Development Plan. Accordingly, the Planning Authority have no concerns with regard residential standards.

The Planning Authority accepted that the floor areas of all houses provided on the subject site comfortably met and exceeded minimum requirements.

6.2.13 Private Amenity Space – Houses

The proposed rear gardens range from approx. 56.63 sq. m to 61.15 sq. m which is in excess of the requirements set out in the Development Plan. Therefore, this is considered acceptable to the Planning Authority.

The Planning Authority accepted that the rear garden areas provided for all houses were in excess of minimum requirements.

6.2.14 Daylight/ Sunlight/ Shadow

> *'Overall, it is considered that a high level of amenity is afforded to future occupants of each unit of the proposed development. Therefore, the proposed amendments accord with Section 12.3.4.2 Habitable Rooms of the Development Plan.'*
>
> *'All of the spaces tested receive at least two hours of sunlight on 21st March (compliance rate of between approx. 92 - 100% with minimum being 50%). Accordingly, the amenity areas serving the new residential development will provide high quality and usable public and communal open space'.*
>
> *'Having regard to the design and layout of the proposed development, it is considered that the proposed development will not result in the undue overshadowing / overbearing of the neighbouring residential properties'.*

The Planning Authority accepted that the proposed development achieved an acceptable level of daylight and sunlight to proposed units, all tested communal and public open spaces would achieve an acceptable level of light, and the proposed development did not present any undue impact to neighbouring properties by way of overbearing or overshadowing.

6.2.15 Community Infrastructure

> *While the application site is located in a semi-rural area it is located within proximity (2km) of a range of facilities, in particular within the established area of Shankill. Accordingly, it is considered that the proposed development is consistent with Section 4.2.1.1 Policy Objective PHP2: Sustainable Neighbourhood Infrastructure of the Development Plan insofar as it does not detract from existing services serving the wider community.*

The Planning Authority accepted the findings of the Community Infrastructure Audit provided as part of the application pack and deemed that the proposed development represented a scheme that does not detract from services serving the wider community.

6.2.16 Separation Distances

> *The three storey dwellings located adjacent the northwestern boundary of the application site achieve a separation distance of between approx. 25 - 49m with the existing two storey dwellings to the west / northwest ('Hazeldene', 'Renvyle' and 'Woodstock'). Accordingly, the Planning Authority does not have any significant concerns with regard overlooking of existing properties. It is also note that the existing trees will be maintained along the northwestern boundary which will provide additional screening. This is considered to be in accordance with acceptable Section 12.8.7.1 Separation Distances of the Development Plan and therefore acceptable to the Planning Authority.*

The Planning Authority deemed that the separation distances provided from the proposed development to existing neighbouring dwellings were sufficient and acceptable in the context of protecting existing residential amenity.

6.2.17 Conservation

The Planning Authority has considered the content of the Architectural Heritage Assessment and are satisfied that sufficient rationale has been provided to support the demolition of the existing dwelling from the perspective of architectural heritage.

The planning authority accepted that the existing dwelling on the site is not of such quality that would warrant its retention and features no designations requiring its protection. Therefore the demolition of the existing dwelling on the site was deemed acceptable from a heritage standpoint.

6.3 Planning Officer's Assessment – Further Information Recommended Items

We now wish to submit to An Coimisiún Pleanála that whilst the general commentary provided by the Planning Authority was supportive of the development and acknowledged the quality and design integrity of the scheme throughout, there were a number of items flagged within the Planner's Assessment that were flagged as requiring addressing through the provision of Further Information. It is the view of the appellant and design team that, if a refusal of permission had not been issued in respect of the scheme on prematurity grounds, that all items noted to be addressed through the provision of Further Information, could have been addressed by the appellant and design team.

Given this, the appellant now wishes to itemise out these items listed within the Planner's Assessment, and provide a response to all, detailing at a high level how all items could have been addressed via the preparation of revised application inputs at Further Information stage:

Planner's Assessment FI Recommended Items	Applicant/ Appellant Response
No justification has been provided for the demolition and replacement of the existing dwelling having regard for the provision of Section 3.4.1.2 Policy Objective CA6: Retrofit and Reuse of Buildings and Section 12.3.9 Demolition and Replacement Dwellings of the Development Plan.	It is submitted to An Coimisiún Pleanála that had the appellant been afforded the opportunity through a request for Further Information, a Demolition Justification Report could have been prepared in respect of the existing dwelling on the site. It is submitted that this could be addressed via condition attached to a grant of permission, or through a further information request issued by An Coimisiún Pleanála under Section 132 of the Planning & Development Act 2000 (as amended).
Section 12.3.5.5 Minimum Apartment Floor Areas of the Development Plan which requires that a 25% of the apartment proposed must exceed the minimum floor area by 10%. The Housing Quality Assessment, prepared by PLUS Architecture	It is submitted to An Coimisiún Pleanála that had the appellant been afforded the opportunity through a request for Further Information, minor reconfigurations could have been made to the apartment layouts by the project

outlines that 17% of the units exceed the minimum floor areas by 10%.	Architect, Plus Architecture, to ensure that 25% of the units provided exceeded the minimum required floor area by 10%. It is submitted that this could be addressed via condition attached to a grant of permission, or via a request for further information, should this be deemed necessary by An Coimisiún Pleanála.
A number of units have storage area which exceed 3.5 sq. m (e.g. Unit 2.8, 3.8) which is not in accordance with the of requirements Section 12.3.5.3 Internal Storage and External Storage.	It is submitted to An Coimisiún Pleanála that had the appellant been afforded the opportunity through a request for Further Information, minor reconfigurations could have been made to the apartment layouts by the project Architect, Plus Architecture, to ensure that all storage provided for the apartment units was in line with Dún Laoghaire Rathdown County Council standards. It is submitted that this could be addressed via condition attached to a grant of permission, or via a request for further information, should this be deemed necessary by An Coimisiún Pleanála.
Section 12.3.5.3 Internal Storage and External Storage of the Development Plan sets out that apartment schemes should provide external storage for bulky items outside individual units (i.e. at ground or basement level), in addition to the minimum apartment storage requirements. No external storage has been proposed within the apartment block.	It is submitted to An Coimisiún Pleanála that had the appellant been afforded the opportunity through a request for Further Information, minor reconfigurations could have been made to the apartment building layouts by the project Architect, Plus Architecture, to ensure that bulky storage was provided for the apartment units in line with Dún Laoghaire Rathdown County Council standards. It is submitted that this could be addressed via condition attached to a grant of permission, or via a request for further information, should this be deemed necessary by An Coimisiún Pleanála.
Apartment Unit No. 0.05 has a wintergarden and bedroom window immediately adjacent a public footpath which impacts on the level of amenity / privacy provided afforded to same.	It is submitted to An Coimisiún Pleanála that had the appellant been afforded the opportunity through a request for Further Information, minor reconfigurations could have been made to Apartment Unit No. 0.05 by the project Architect, Plus Architecture, to ensure that privacy within this unit was improved, and there was an appropriate buffer provided between the unit and the adjacent public footpath.

	It is submitted that this could be addressed via condition attached to a grant of permission, or via a request for further information, should this be deemed necessary by An Coimisiún Pleanála.
The proposed development comprises buildings ranging in height from 3 - 6 storeys. It is noted that the prevailing heights in the immediate vicinity is 1.5 - 2 storey houses. Given the height of the proposed apartment block (six storeys) and noting the prevailing height of the nearest residential development it is considered that an assessment of Table 5.1 of Appendix 5: Building Height Strategy of the Development Plan is required to fully consider the matter.	It is submitted to An Coimisiún Pleanála that had the appellant been afforded the opportunity through a request for Further Information, additional justification could have been prepared to justify the height of the proposal in line with Table 5.1 of Appendix 5: Building Height Strategy included within the Dún Laoghaire Rathdown County Development Plan 2022-2028. It is explicitly noted to An Coimisiún Pleanála at this point that the Planner's Assessment of the scheme in relation to adjacent existing properties determined that no overshadowing or overbearing would occur resultant of the proposed development. It is submitted that this could be addressed via condition attached to a grant of permission, or via a request for further information, should this be deemed necessary by An Coimisiún Pleanála.
Parks and landscape Services have reviewed the proposal (Report outlined in full above) and have requested Further Information in relation to the location of trees within the private gardens of the proposed dwellings (Nos. 07 - 15) adjoining the northwestern boundary of the application site and water / SuDS features within the roof of the apartment block. As a result of the above, adjustment may be required to the proposed layout.	It is submitted to An Coimisiún Pleanála that had the appellant been afforded the opportunity through a request for Further Information, minor adjustments could have been made by the project landscape designer, Plus Architecture, to ensure that the location of trees did not conflict with the back garden layouts of the proposed dwellings. It is submitted that this could be addressed via condition attached to a grant of permission, or via a request for further information, should this be deemed necessary by An Coimisiún Pleanála.
In relation to the removal of the bat roost in the existing structure the Applicant should consider the High Court judgement in Hellfire Massy Residents Association v. An Bord Pleanála (No.5) [2023] IEHC 591 (and the associated CJEU decision - Case C-166/22). A derogation licence may be required in advance of planning permission being granted.	It is submitted to An Coimisiún Pleanála that had the appellant been afforded the opportunity through a request for Further Information, evidence of a derogation license being in place on the subject site could have been provided to the Planning Authority for review by the project ecologists, Altemar. A derogation license has been granted on the site.

	It is submitted that this could be addressed via a request for further information, should this be deemed necessary by An Coimisiún Pleanála.
The planning application is not accompanied by details setting out the extent of area to be taken in charge or to be maintained by a management company.	It is submitted to An Coimisiún Pleanála that had the appellant been afforded the opportunity through a request for Further Information, a Taking in Charge drawing could have been provided by the project Architect, Plus Architecture. It is submitted that this could be addressed via condition attached to a grant of permission, or via a request for further information, should this be deemed necessary by An Coimisiún Pleanála.
Having regard for the commentary provided by the Drainage Planning Department (Report outlined in full above) it would appear that drainage proposed to connect into the existing network extends beyond the application boundary (red line). The Applicant must provide all relevant consent for works proposed.	It is submitted to An Coimisiún Pleanála that had the appellant been afforded the opportunity through a request for Further Information, clarification regarding consents could have been provided to the Planning Authority. It is submitted that this could be addressed via condition attached to a grant of permission.
Dun Laoghaire Rathdown have had regard to the High Court (Humphreys J) judgement dated 27th July 2026 which announced its intention to refer a question to the Court of Justice of the European Union (CJEU) regarding the Environmental Impact Assessment (EIA) preliminary examination procedures- Judgement : (2026 IEHC 517). In the interim having regard to the proposed reference, the Planning Authority considers it prudent that an EIA screening determination under Schedules 7 and 7A of the Planning and Development Regulations 2001, as amended, is required.	It is submitted to An Coimisiún Pleanála that had the appellant been afforded the opportunity through a request for Further Information, an EIA screening determination could have been prepared and submitted to the Planning Authority for consideration. Given that the development is sub- threshold for an Environmental Impact Assessment Report, and the fact that the Appropriate Assessment Screening Report determined that it was unlikely that the proposed development would impact on any Natura 2000 sites, it is likely that an EIA would be screened out for the proposal. It is submitted that this could be addressed via a request for further information, should this be deemed necessary by An Coimisiún Pleanála.

6.4 Planning Officers Commentary – Refusal Item Listed

Despite the positive commentary provided within the Planner's Assessment in respect of the scheme, the Forward Planning & Active Land Management section of the Planning Department recommended that the development be refused permission. The sole reason pertaining to the recommendation for the refusal of the subject development centred around the zoning of the lands as 'A1' within the Dún

Laoghaire Rathdown County Development Plan 2022-2028, and the view of the Planning Authority that the development was premature pending the publishing of a Draft Framework Plan for the Rathmichael Area. No refusal items were recommended within any of the Dún Laoghaire Rathdown County Council Departmental Reports pertaining to the quality of the scheme. This is discussed further within Section 7 of this report.

6.5 Planning Officer's Assessment Conclusion

We trust that An Coimisiún Pleanála will take into consideration the commentary provided within the Dún Laoghaire Rathdown County Council Planner's Assessment when assessing the proposal de novo.

It is considered that the Dún Laoghaire Rathdown County Council Planner accepted the fundamental design of the proposal, and the quality of the scheme, which is reflected throughout the Planner's Assessment published with the decision to refuse permission for development. Where the Planning Authority noted any concerns regarding the development design, it was noted within the Planner's Assessment that these items could be addressed through the provision of further information. It is considered that all of the items recommended to be addressed through the provision of further information within the Planner's Assessment, if deemed relevant to the success and implementation of the scheme by An Coimisiún Pleanála, could generally be conditioned to be addressed via compliance submissions.

6.6 Dún Laoghaire Rathdown Departmental Reports

In addition to the Planner's Assessment accompanying the scheme, a suite of reports were provided by the Dún Laoghaire Rathdown County Council Technical Department's to Inform the Planning Authority's application decision. We now wish to provide an overview of all comments raised by the relevant Dún Laoghaire Rathdown County Council Technical Departments in respect of the proposal, for consideration of An Coimisiún Pleanála. We wish to bring to the attention of An Coimisiún Pleanála at this point that none of the Dún Laoghaire Rathdown County Council Technical Departments recommended that a refusal of permission be issued in respect of the subject development.

6.6.1 Drainage Department Report

The Dún Laoghaire Rathdown County Council Drainage Report recommended that a Further Information Request be issued in respect of the subject development. All recommended Further Information Items are now listed in the table below, accompanied by a response from the appellant detailing how all items could have been easily addressed, if the appellant was afforded the chance to make a Further Information submission. It is explicitly noted that the Drainage Department did not recommend that a refusal of permission be issued in respect of the subject development:

DLR Comment	Appellant Response
The applicant has indicated in that an extensive green roof is to be provided on the 5 story apartment block. For clarity, the applicant is requested to provide a calculation demonstrating the percentage coverage of green roof area, noting that the minimum coverage requirement in accordance with Appendix 7.2: Green Roof Policy of the County Development Plan 2022-2028.	It is submitted to An Coimisiún Pleanála that had the appellant been afforded the opportunity through a request for Further Information, clarification and minor regarding the proposed roof layout and design, and percentage coverage of green roof area (70% for extensive green roofs or 50% for intensive green roofs) could have been prepared by the project Engineer Meinhardt and

In addition, a green roof drawing showing all elements of green roof should be included. It is noted a blue roof has also been proposed. Plan and cross sectional details of the proposed roof build ups should be provided, including dimensions, demonstrating that the green roof is designed in accordance with BS EN 12056-3:2000 and The SuDS Manual (CIRIA C753). Further to this, on the Landscaping Masterplan drawing, and within the that submitted drawing "Nature based solutions details/Intensive green roof details /biodiverse extensive green roof detail" there is a proposal for a brown roof on both the apartment block and the housing on the eastern side of the site. This is an interesting concept, with varying depths of soil and small pond like features on the roof. While this is welcomed, Drainage Planning request a consistent representation of the nature based solutions at roof level be presented.	project Architect Plus Architecture and submitted to the Planning Authority. It is submitted that this could be addressed via condition attached to a grant of permission, or via a request for further information, should this be deemed necessary by An Coimisiún Pleanála.
The applicant has proposed to connect into an existing drainage network in Parc Na Silla Rise. While this is acceptable in principle, further details are required. The applicant appears not to have brought the orange line (lands outside the applicant's ownership) up to the existing network. In addition, the surface water invert levels indicated in the Causeway analysis do not appear to work with the existing invert level the applicant is tying into. The applicant is requested to clearly show on the drawings the invert levels of the drainage network from the site to the proposed connection point.	It is submitted to An Coimisiún Pleanála that had the appellant been afforded the opportunity through a request for Further Information, minor adjustments could have been made by the project Engineer, Meinhardt to ensure the proposed invert levels tie in with the existing invert levels. and to provide clarification regarding the extent of the red line boundary. This information could have been provided to the Planning Authority. It is submitted that this could be addressed via condition attached to a grant of permission, or via a request for further information, should this be deemed necessary by An Coimisiún Pleanála.
The proposed development includes a bridge connection across the existing viaduct corridor linking the subject site to the adjoining Parc na Silla. The applicant is requested to provide further details of the bridge crossing, including levels of the bridge deck, existing and proposed ground levels at both bridge landings, including cross-sections showing the relationship between the bridge deck and ground levels. Details of the proposed drainage network arrangements across the bridge, including the location, method of support, protection, maintenance access etc. should also be included.	It is submitted to An Coimisiún Pleanála that had the appellant been afforded the opportunity through a request for Further Information, a bridge connection design including details on existing and proposed ground levels at bridge landings, cross sections showing relationship between bridge and ground levels as well as drainage network design across the bridge could have been prepared and submitted to the Planning Authority for consideration. It is submitted that this could be addressed via condition attached to a grant of permission, or via

	a request for further information, should this be deemed necessary by An Coimisiún Pleanála.

6.6.2 Transportation Department Report

The Dún Laoghaire Rathdown County Council Transport Department recommended that a Further Information Request be issued in respect of the subject development. All recommended Further Information Items are now listed in the table below, accompanied by a response from the appellant detailing how all items could have been easily addressed, if the appellant was afforded the chance to make a Further Information submission. It is explicitly noted that the Transport Department did not recommend that a refusal of permission be issued in respect of the subject development:

DLR Comment	Appellant Response
The site layout plans are deficient in survey data ground level marks, notably along the shared and pedestrian/cycle bridge and the pedestrian/cycle track on extending from Parc na Silla Rise to Stonebridge Road interface with Falls Road, internal site shared pedestrian/cycle track and pedestrian/cycle bridge extending to Parc na Silla Rise. In addition, some of the supporting documentation drawings appear to show conflicting ground levels, for example, the Proposed Site Section and Bridge Detail plans. To allow a comprehensive assessment of the proposal, the applicant is requested to submit by way of further information, additional site plans that accurately demonstrate the existing ground levels and proposed design ground levels, chainages, cross sections & long sections. Levels should be presented along the full extent of the proposed pedestrian/cycle route from Parc na Silla Rise to the Falls Road and Stonebridge Road interface.	It is submitted to An Coimisiún Pleanála that had the appellant been afforded the opportunity through a request for Further Information, additional drawings detailing the proposed levels for all shared pedestrian/cyclist paths, existing ground levels and sections could have been prepared by the project engineer, Meinhardt in conjunction with the Landscape Architect, Plus Architecture. It is submitted that this could be addressed via condition attached to a grant of permission, or via a request for further information, should this be deemed necessary by An Coimisiún Pleanála.
The proposal includes the provision of a pedestrian/cycle bridge at the northeast boundary of the site connecting the proposed development to Parc na Silla Rise. It is also noted that the bridge will also be used to facilitate surface and foul water drainage connections into Parc na Silla Rise. The supporting site drawings do not sufficiently demonstrate how the proposed pedestrian/cycle bridge will tie-in with the existing ground levels at both Parc na Silla Rise and within the application lands. This is required to show the functionality and practicality of the bridge for users and connectivity extending	It is submitted to An Coimisiún Pleanála that had the appellant been afforded the opportunity through a request for Further Information, additional drawings could have been prepared by the project engineer, Meinhardt outlining additional cross sections and long sections to demonstrate the existing ground levels and bridge design levels including connection into Parc na Sille Rise. It is submitted that this could be addressed via condition attached to a grant of permission, or via

beyond the site boundary. The applicant is requested to submit by way of further information, additional drawings, cross sections and long sections that demonstrate the existing ground levels and proposed bridge design levels and the proposed connection into Parc na Silla Rise for users. The supporting documentation should demonstrate that there is no conflict with any proposed SW and FW drainage components. Active Travel requires that a connection be made between Parc na Silla Rise and the pedestrian/cycle bridge.	a request for further information, should this be deemed necessary by An Coimisiún Pleanála.
Insufficient details are provided in relation to the proposed bridge including proposed lighting and surface finishes along the pedestrian/cycle route on Falls Road. Such details are important to ensure accessibility for all users, safety and comfort for users during daytime and nighttime hours. The applicant is requested to provide by way of further information the following: (i) details of the bridge finishes including decking finish (ii) lighting details pertaining to the pedestrian/cycle bridge and access routes, and (iii) demonstrate that the bridge and associated access points are compliant with the NTA's Cycle Design Manual (latest Revision).	It is submitted to An Coimisiún Pleanála that had the appellant been afforded the opportunity through a request for Further Information, further details regarding bridge finishes and lighting could have been provided by a specialist bridge engineer/architect. Demonstration of compliance with the NTA's Cycle Design Manual could have also been provided by the project engineer, Meinhardt, through a request for Further Information. It is submitted that this could be addressed via condition attached to a grant of permission, or via a request for further information, should this be deemed necessary by An Coimisiún Pleanála.
The proposed shared pedestrian/cycle route proposed along the eastern side of the Falls Road south to Stonebridge Road adjoins the embankment with the M11. The applicant is requested to submit by way of further information the following: (i) cross sections and chainages to demonstrate that a shared pedestrian/cycle route of suitable width and in accordance with the Cycle Design Manual (latest revision) can be achieved on Falls Road. (ii) Confirmation that the shared pedestrian/cycle route on Falls Road is not extending beyond DLRCC lands onto TII controlled lands.	It is submitted to An Coimisiún Pleanála that had the appellant been afforded the opportunity through a request for Further Information, additional drawings showing cross sections and chainages for the proposed shared pedestrian/cycle route along Falls Road could have been provided. The issue of land ownership confirmation was discussed at length with DLRCC through the letter of consent process, it is Meinhardt's understanding that it is unclear as to the ownership of the lands between CIE and TII. It is submitted that this could be addressed via condition attached to a grant of permission, or via a request for further information, should this be deemed necessary by An Coimisiún Pleanála.
It is not clear from the supporting documentation if the proposed pedestrian/cycle bridge provides sufficient height clearance for the Luas infrastructure and operation below along the proposed future Luas extension corridor. The	It is submitted to An Coimisiún Pleanála that any proposed Luas extension in the area does not have funding past a pre-feasibility stage and while mentioned in the GDA Transport Strategy, it outlines that 'the alignment and the locations to

applicant is requested to demonstrate that any future Luas extension plans, construction works, infrastructure and operation will not adversely impact on the use and serviceability of the pedestrian/cycle bridge route. The applicant is requested to submit supporting information that addresses this concern.	be served between Bride's Glen and Bray have yet to be determined and will be subject to detailed design and planning work'. It is therefore considered premature and unreasonable to constrain the design of the proposed pedestrian/cycle bridge on the basis of a potential future transport project for which neither a defined alignment nor detailed engineering requirements have been established. In the absence of any approved route, design parameters or statutory consent for the proposed Luas extension, the appellant submits that it is not possible to meaningfully assess the interface between the bridge and a future Luas scheme. Furthermore, safeguarding for unidentified infrastructure should not preclude the delivery of sustainable transport infrastructure that is required and capable of implementation at this time. Should a future Luas extension progress beyond its current preliminary stage, any interaction with the proposed bridge can be appropriately considered and addressed as part of the detailed design and planning process for that project. It is submitted that this could be addressed via condition attached to a grant of permission, or via a request for further information, should this be deemed necessary by An Coimisiún Pleanála.
The application proposes 44 basement car parking spaces, comprising 15 spaces for houses and 29 spaces for apartments including 2 accessible spaces. The applicant should provide enlarged scaled parking layout drawings demonstrating: Compliance of all parking bays with current standards. Parking bay dimensions. Aisle widths and manoeuvring areas. Accessible parking bay dimensions and transfer spaces. Visibility at parking ramp and basement junctions. Turning movements associated with all parking spaces. The Planning Authority is not satisfied that the operational functionality of the basement parking area has been fully demonstrated. The applicant has proposed a significantly reduced parking provision relative to Development Plan standards, providing 44 spaces where a conventional assessment would generate a substantially higher requirement. The	It is submitted to An Coimisiún Pleanála that had the appellant been afforded the opportunity through a request for Further Information, additional drawings and reports as outlined by the Planning Authority could be provided by the project engineer, Meinhardt, regarding the basement car park and other car parking provision throughout the site. It is submitted that this could be addressed via condition attached to a grant of permission, or via a request for further information, should this be deemed necessary by An Coimisiún Pleanála.

applicant should provide: A Parking Management Plan. Allocation methodology between residents. Visitor parking management arrangements. Car-share arrangements Measures to prevent overspill parking on surrounding roads.	
The application provides two accessible parking spaces. Further Information is requested to demonstrate: Compliance with Part M and Universal Design requirements. Continuous accessible routes from parking spaces to all principal building entrances. Gradients, level changes and crossing arrangements along these routes. Details of lift access from basement level.	It is submitted to An Coimisiún Pleanála that had the appellant been afforded the opportunity through a request for Further Information, compliance with Part M and Universal Design requirements could have been shown through the provision of additional drawings prepared by the project engineer, Meinhardt in conjunction with the Project Landscape Architect, Plus Architecture. Details on lift access from basement level could have been provided by the Project Architect, Plus Architecture. It is submitted that this could be addressed via condition attached to a grant of permission, or via a request for further information, should this be deemed necessary by An Coimisiún Pleanála.
The proposed provision of 128 cycle spaces is welcomed. However, further clarification is required regarding: Detailed layout of all cycle stores. Bicycle stand type and spacing. Aisle widths. Access arrangements to cycle stores. Cargo bike parking dimensions and access routes. Details of e-bike charging facilities, if proposed. The applicant shall demonstrate full compliance with the DLR Cycle Parking Standards an current Active Travel guidance.	It is submitted to An Coimisiún Pleanála that the appellant provided details of bicycle stand type and spacing with regular Sheffield stands at a 1m spacing and cargo Sheffield stands at a 2m spacing provided as per the DLR Standards for Cycle Parking. In the basement, both double stacker bike storage and Sheffield stands are provided. At surface level, footpath widths on route to all bike parking are clearly annotated on Meinhardt drawing 4419-MHT-XX-ZZ-DR-C-0100. Furthermore, had the appellant been afforded the opportunity through a request for Further Information, additional details e-bike charging facilities could have been provided by the project engineer, Meinhardt. It is submitted that this could be addressed via condition attached to a grant of permission, or via a request for further information, should this be deemed necessary by An Coimisiún Pleanála.
The planning report refers to EV charging infrastructure but does not clearly identify the final level of active and passive provision. The applicant should submit: Number of active charging points. Number of passive spaces.	It is submitted to An Coimisiún Pleanála that the appellant provided details on EV charging infrastructure in report 4419-MHT-XX-ZZ-RP-T-0001 outlining that 2 no. on-street car parking spaces will be provided within the site with all other surface and basement level spaces provided appropriate infrastructure to enable EV charging

Future expansion strategy. Details of e-bike charging facilities.	points to be installed in the future. Had the appellant been afforded the opportunity through a request for Further Information, further details on the future expansion strategy and e-bike charging facilities could have been provided by the project engineer, Meinhardt. It is submitted that this could be addressed via condition attached to a grant of permission, or via a request for further information, should this be deemed necessary by An Coimisiún Pleanála.

6.6.3 Public Lighting Department Report

The Dún Laoghaire Rathdown County Council issued 1 no. minor comment in relation to the proposed development. This is listed in the table below, accompanied by a response from the appellant noting how this could have been easily addressed through a further information request or via condition attached to a grant of permission. It is explicitly noted that the Public Lighting Department did not recommend that a refusal of permission be issued in respect of the subject development:

DLR Comment	Appellant Response
Lights PL-11 and PL-13 are in the middle of a pathway and need to be moved to the back of the path for pedestrian safety.	The public lighting poles have been shown as orange dots on the landscape masterplan and are depicted at the back of the footpath. It is possible that the Public Lighting Department understood the privacy strip in front of each terraced house to be part of the public footpath, however this is not the case.

6.6.4 Parks Department Report

The Dún Laoghaire Rathdown County Council Parks Department recommended that a Further Information Request be issued in respect of the subject development. All recommended Further Information Items are now listed in the table below, accompanied by a response from the appellant detailing how all items could have been easily addressed, if the appellant was afforded the chance to make a Further Information submission. It is explicitly noted that the Parks Department did not recommend that a refusal of permission be issued in respect of the subject development:

DLR Comment	Appellant Response
The applicant is requested to submit revised plans and landscape plans addressing the following points: a) The block of housing situated to the northwest of the site should comprise the same front-to-back arrangement as the housing located along the southwestern boundary of the site, so that the existing trees are not located in rear private gardens but	In the formulation of the masterplan, it was identified by the consulting arborist (Mr Felim Sheridan) that the terraced house typology to the south should be undertaken in such a way that the rear gardens are not defined up to the eastern boundary and 'privatised'. Rather, the area behind the houses should be designed so as to allow the tree canopies and Root Protection Areas to fall

rather are located on open space and long-term remain retained and protected.	within the communal open area of the estate. This approach allowed some confidence that the future management, pruning and health of the trees could be undertaken by a single responsible entity (the management company of the estate) and not risk individual householders felling trees that would become part of their rear gardens. One downside of this approach is the security of the immediately adjacent neighbour can be compromised. The communal area created in this approach, beneath the tree canopy, is not secured or illuminated in the way a row of private rear gardens might be. However, in the case of the southern terraced houses, these adjoin a private road on the opposite side of the boundary, so the security consideration is lessened. The southern terraced houses are also adjacent to some particularly good quality trees; the long-term protection of these trees was an important early masterplan strategy. Additionally, the trees to the rear of the southern terraced house are very tall, so the effect of inexpert tree pruning, that might endanger the health or destabilise these trees, could be severe. The terrace of houses to the north adopted a slightly different approach. These houses abut a private residence, so the security concerns of the neighbour were more pertinent. The trees are not particularly tall, are lower category trees and are not as significant as those to the south. Accordingly a different strategy was adopted, that private gardens to the northern terraced houses would be appropriate and, on balance, a more suitable design response, especially in relation to the neighbours security.
b) The proposed path layout on the open space to the south should be revised to be located outside the RPAs of the mature trees to be retained, as far as possible and should also be highlighted as being cell-web paths	The landscape masterplan was cognisant of the concern raised by the Parks Department in the design of the landscape masterplan and detail set out. Given the extensive nature of RPAs on site, within the area of the open space, it is not possible to relocate paths outside of the RPAs of the mature trees to be retained (to do so would require that no paths would be possible in the open space, limiting the use and accessibility of the open space). The approach taken has been to set the detail levels of the path above existing levels, to ensure a 'no dig' construction method is the approach. This is

	highlighted on the landscape drawing FAL-DR-PLA-L-15001, Proposed Trees for Retention/ Removal with services coordination overlay: *Where new surface treatment is required for landscape treatment within tree constraint / RPA zone this shall be constructed as per arborist's recommendation where a 'no dig' construction method shall be deployed. Levels in these areas are indicated as proposed above existing levels with minimal subbase depth as may be determined by the civil engineer's detail above the existing ground level deploying a 'cellweb' layer to avoid compaction in the 'no dig zone'* Furthermore, a detail drawing was submitted, confirming this detail approach and build-up, FAL-DR-PLA-L-15006 No dig tree pit detail / Proposed new tree pit detail/Proposed podium detail/ proposed tree support detail in real ground.
c) There should be no blue/water features on the rooftop (communal) open spaces.	For the purposes of clarity, the rooftop proposed in the development is inaccessible to residents and does not form part of the Communal Open Space Strategy. The roof is defined as a combined Blue Roof/ Green Roof. The Blue Roof component is for rainwater storage/ SUDs. The Green Roof Component is for biodiversity enhancement, provision for ecological habitats etc. In some instances, the green roof depicts localised water pooling, which is a recognised strategy for the provision of water borne habitats/ bird baths etc. to widen the ecological habitats potential for the roof. The roof is accessible only to suitably trained maintenance personnel. Segregation of future PV cells, along with required fire breaks at parapets has been depicted on the submitted drawings.

6.6.5 Environmental Enforcement Report

The Dún Laoghaire Rathdown County Council Environmental Enforcement Department noted no objection to the development subject to conditions.

6.6.6 Housing Department Report

The Dún Laoghaire Rathdown County Council Housing Department noted no objection to the development subject to conditions.

6.7 Dún Laoghaire Rathdown Departmental Reports Conclusion

It is submitted to An Coimisiún Pleanála that the suite of Departmental Reports, issued by the Dún Laoghaire Rathdown County Council Drainage Department, Transportation Department, Public Lighting Department, Parks Department, Environmental Enforcement Department and Housing Department set the scene with regards to the quality of the development, in addition to the commentary provided within the Planner's Assessment. It is clear from a review of the suite of Departmental Reports published with the subject application decision, that the proposal represented a high quality scheme on the subject site, pending minor items requiring addressing through the submission of Further Information.

It is the view of the appellant and design team that the refusal of permission issued in respect of the development relating to the prematurity of the scheme pending the publishing of a Draft Framework Plan for the Rathmichael Area, is not associated with the quality of the development proposed, but rather a high level sequential development objective of Dún Laoghaire Rathdown County Council. We ask An Coimisiún Pleanála to consider this when assessing the scheme de novo. Section 7 below now provides a direct response and rebuttal of the refusal reason issued in respect of the proposed development.

7 Grounds of Appeal

As outlined within the decision document issued in respect of the development by Dún Laoghaire Rathdown County Council, the singular reason for the refusal of the development centred around the delivery of the proposed development being premature in respect of a draft Framework Plan for the Rathmichael area being delivered.

We wish to demonstrate to An Bord Pleanála our firm conviction that the Planning Authority has erred in issuing a decision to refuse permission for the subject development and we fundamentally disagree with the conclusions they have arrived at.

The reason for refusal is now set out below, followed by the appellants response and rebuttal of same:

> *"Under the Dun Laoghaire-Rathdown County Development Plan 2022-2028, the site is subject to zoning objective A1, which seeks "to provide for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans or approved Framework Plans." The site is located within the Rathmichael / Ferndale local Area Plan boundary, for which a Framework Plan will be prepared. Section 2.6.1.3 Local Area Plan Plan-Making Programme of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 notes that within the A1 zoned lands at Rathmichael there are a number of existing properties and 'minor modifications and extensions to these properties can be considered in advance of the relevant Local Area Plans.' The proposed development which comprises the construction of a 62no. units, having regard to its nature and scale, would not constitute 'minor modification and extensions to existing property'. Accordingly, the proposed development would be contrary to the provisions of Section 2.6.1.3 of the Dún Laoghaire-Rathdown County Development Plan 2022-2028, would set an undesirable precedent for other similar developments and would be materially contrary to the A1 zoning objective of the area, which seeks "to provide for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans or approved Framework Plan." It is considered that the proposed development undermines the intended plan-led and co-ordinated approach to residential development in the Rathmichael area as provided for in the Dun Loaghaire Rathdown County Development Plan 2022-2028. Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area."*

7.1 Grounds of Appeal No. 1 – Response to Refusal Reason

At this point the appellant wishes to provide a direct response to the refusal reason issued in respect of the development. The appellant has sought an Opinion of Counsel from Eamon Galligan, Senior Counsel. In the first instance we wish to include, in full, the conclusions made by Senior Counsel following a review of the refusal reason issued, for the consideration of An Coimisiún Pleanála. This is also submitted as a separate document supporting this appeal for the benefit of An Coimisiún Pleanála.

7.1.1 Opinion of Counsel

The following conclusions were provided by Eamon Galligan SC, within the Opinion of Counsel provided following a review of the refusal reason for the subject development, we refer An Coimisiún Pleanála to the accompanying Opinion of Counsel document for full detail:

While the A1 zoning of the application site supports the appropriateness of the location for residential development, the planning authority did not have power to grant planning permission in material contravention of the development plan, other than by following the material contravention procedure under section 34(6) of the 2000 Act. This procedure is rarely invoked in practice.

The planning authority was correct in its conclusion that the proposed development "*would be materially contrary to the A1 zoning objective of the area, which seeks 'to provide for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans or approved framework plans.*"

It is clear that the planning authority gave very careful consideration to the application and did not consider that there were any fundamental reasons for refusing planning permission, other than the requirement for a local area plan (LAP) or Framework Plan to have been adopted under the A1 zoning objective.

While the planning authority had some issues with some design details of the proposed development, it indicated that these matters could have been dealt with by way of a request for further information. None of the departments raised any objections to the proposal that could not be addressed in this way and the planning authority accepted that services were available. This was confirmed in relation to water services by a letter of confirmation of feasibility from Uisce Eireann (UE).

The Commission is obliged "*to determine the application as if it had been made to the Commission in the first instance*" (PDA, S. 37(1)(B)). The Commission is empowered "*to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates*" (Section 37(2)(a)).

In *Mulhaire v an Bord Pleanala* [2007] IEHC 478, at §30) it was held by the High Court that the requirements of Section 37 of the PDA 2000 are not cumulative and it is not necessary, therefore, that each of the four criteria specified therein be met before An Bord Pleanála can decide to grant planning permission in material contravention of the development plan: see *Simons on Planning Law* (third edition) page 502 at paragraph 6-305.

The position is explained by Simons J. at paragraph 43 of *Spencer Place Development Company v Dublin City Council* [2019], IEHC 384:

> "*An Bord Pleanála is also required 'to have regard' to the development plan. The Board is not, however, constrained by the development plan in the same way as is the planning authority. The Board can grant planning permission in material contravention without the necessity for invoking any special procedure. If, however, the planning authority at first instance had decided to refuse permission on the grounds that the proposed development materially contravenes the development plan, then* ***An Bord Pleanála can only grant planning permission if one of the four contingencies identified in section 37(2)(b) of the PDA 2000 is fulfilled.***" [Emphasis added]

The criteria to justify a grant of permission under sub-paragraph (iii) of sub-section 37(2)(b)(iii) of the PDA 2000 are as follows:

> "(iii) *permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under*

> *section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government,"*

The appeal submitted on behalf of the first party appellant, sets out the relevant provisions of the Revised National Planning Framework (NPF) and ministerial guidelines issued under section 28 of the PDA 2000, which, in the opinion, of the appellant's planning consultants, would justify a grant of permission in accordance with the Commission's powers under section 37(2)(b)(iii) of the PDA 2000. These matters relate principally to the national planning policy objectives to increase delivery of housing in the context of the urgent housing demand nationally. The Commission has power to grant permission by reference to such matters in accordance with section 37(2)(b).

In terms of the suggested prematurity of a grant of permission pending the adoption of a framework plan as a variation to the Development Plan, the decision in *Element Power v An Bord Pleanala* [2017] IEHC 50 is relevant. The court found that the Commission's first reason for refusal for a wind farm, which was that the proposed development was premature pending the adoption of the required policy framework, was unreasonable as the respondent had an obligation to evaluate the planning application under the Wind Energy Development Guidelines 2006 and the two existing county development plans which were applicable. At §70 of his judgment, Haughton J stated:

> *"Furthermore, I accept the submission of the applicant that t**he Board's determination that the proposed development was premature** (pending the adoption of national and local wind energy strategies with a spatial dimension) **did represent a fettering of its discretion** to determine whether the location of the proposed development was in accordance with proper planning and sustainable development in that area.... In my view, in adopting reason 1, and the underlying reasoning of the inspector in that regard, the Board **effectively foreclosed on full consideration and evaluation of the application.**"*

In my opinion, the Commission is required not fetter its "*full consideration and evaluation of the application*" in this case because a non-statutory plan is proposed and is likely to come into effect at some stage in the future and to be adopted as a variation to the development plan. The Commission has power to grant permission in material contravention of the A1 residential zoning objective, and it should not be constrained in evaluating the application, by a zoning objective which makes the development of housing contingent on the adoption of a local area plan or a non-statutory framework plan. The zoning objective recognises the appropriateness, in principle, of residential development at the location of the subject site.

In considering whether the proposed development is in accordance with proper planning and sustainable development, the Commission would necessarily be obliged to consider whether there are any material planning reasons as to why permission should be refused. It is significant in this context that the planning authority has not identified any material planning objections to the proposed development, other than the fact that the development would be in material contravention of the A1 residential zoning objective (because a non-statutory framework plan that has yet to be adopted).

In that regard, the fact that the proposed framework plan, which has not yet been published in draft form, is a non-statutory plan, or policy, is of some significance. While it is the intention of the planning authority that the future framework plan will be proposed as a variation to the statutory development plan, any such plan (which is not yet available in draft form) will have to be the subject

of public consultation and, at the present point in time, the content of the framework plan cannot be determined and there is at best uncertainty as to what its provisions may contain.

In *Ebonwood v Meath County Council* [2004] 1 ILRM 305 at 318, Peart J stated:

> *"It is of the utmost importance that* ***the public at large and in particular those persons seeking to develop their lands or property should have certainty and precision as to the relevant criteria by which any application for permission will be judged,*** *and the circumstances in which compensation may or may not be payable by the planning authority. The first reference point in their consideration will be the provisions of the development plan.* ***If planning authorities were to be entitled to have regard not only to the development plan but also to anything which they might at some stage in the future consider they might include in some future development plan, uncertainty and confusion would abound.*** *The passage which I have quoted above from Environment and Planning Law by Yvonne Scannell puts the matter persuasively in the context of the public's right from a constitutional point of view of being involved in and being consulted in the making of a development plan. The public's right in that regard is effectively set at nought if a planning authority could have regard to considerations not forming part of the adopted development plan."* [Emphasis added]

While the requirement for a local area plan or framework plan is stipulated in the A1 residential zoning objective, the planning considerations that would be contained in any such framework plan have not yet been identified and therefore, do not form part of the adopted development plan. A planning application must be determined by reference to the development plan or other statutory plan that is in force at the date of determination of the application: see *Crofton Management Company CLG v An Bord Pleanala* [2022] IEHC 704, §200; [2023] IEHC 240, §39.

There is no concrete suggestion in the reports of the planning authority that the proposed development would in any way prejudice the implementation of a future framework plan or variation to the Development Plan. While the second-last sentence in the planning authority's reason for refusal states that "*it is considered that the proposed development undermines the intended plan-led and co-ordinated approach to residential development in the Rathmichael area as provided for in the Dun Laoghaire Rathdown County Development Plan 2022-2028*", the assessment in the Planning Report does not identify any specific aspect of the development that would prejudice or undermine the implementation of a future framework plan or the provision of infrastructure in that context.

The probability of a non-statutory framework plan being adopted in the next couple of years should not provide a basis for any derogation from acting consistently with national policy objectives in relation to the delivery of housing to meet urgent housing demand, in circumstances where there is access to services currently and where the planning authority have no other objection to the proposed development (other than matters of detail which it has indicated could be addressed by way of a further information request). The thrust of the revised National Planning Framework and the recent Ministerial Guidelines entitled '*NPF Implementation: Housing Growth Requirements*' (2025), is to increase the rate of delivery of housing to meet the demand in that regard. Two of the national policy objectives are of particular note in that regard and are relevant to the jurisdiction of the Commission under section 37(2)(b)(iii):

> **National Policy Objective 42 -**

To target the delivery of housing to accommodate approximately 50,000 additional households per annum to 2040.

National Policy Objective 43 -

Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

Under ministerial guidelines issued under section 28 of the PTA 2000, including, in particular, Dún Laoghaire-Rathdown County Council is now required to deliver an additional 500 units or 3,585 units in total per annum within the county between 2025 and 2034 (see Guidelines, p.14, Appendix 1). An additional 50% headroom must also be provided.

In my opinion, these are material considerations for the Commission in considering whether a grant of planning permission is justified in relation to the proposed development, having regard to government policy and ministerial guidelines under section 37(2)(b)(iii) of the PDA 2000, including the Guidelines entitled *'NPF Implementation: Housing Growth Requirements'* (2025). The appeal submitted by Brock McClure sets out in more detail the contents of the objectives of government policy, including the Revised National Planning Framework, and ministerial guidelines issued under section 28 of the PDA 2000.

In conclusion, it is a matter for the Commission in the exercise of its expert planning judgment to determine whether the proposed development is in accordance with proper planning and sustainable development, having regard to the matters to which it is obliged to have regard under the PDA 2000. The only reason for refusal relates to the prematurity of the proposed development in the absence of a framework plan for Rathmichael. While the stated purpose of the proposed framework plan (which has yet to be published in draft form and is subject to public consultation) is to "*ensure the coordinated planning and delivery of essential infrastructure services*", the planning authority has not identified any infrastructural deficit or inadequacy in terms of service provision in the context of the proposed development or the particular area of Rathmichael in which it is located. There is no fixed timeframe for the adoption of the proposed framework plan and the logic of the Council's decision to refuse planning permission, which it was obliged to do in accordance with the zoning objective for the site (without invoking the material contravention procedure), is that all residential development in the Rathmichael area should be stalled until such time as a framework plan has been prepared and adopted as a variation to the Development Plan, following public consultation. Such an approach would appear to be in clear conflict with the requirement for the Council to deliver an additional 500 units or 3,585 units in total per annum under the Ministerial Guidelines entitled *'NPF Implementation: Housing Growth Requirements'* (2025)

From a legal perspective, the Commission has power to grant permission in accordance with section 37(2)(b)(iii) of the PDA 2000, by reference to Government policy objectives, including the national policy objectives for housing delivery under the revised NPF, and under ministerial guidelines issued on section 28 of the PTA 2000 including, in particular, the recent Ministerial Guidelines entitled 'NPF Implementation: Housing Growth Requirements' (2025).

We ask An Coimisiún Pleanála to give careful consideration to the Opinion of Counsel issued in respect of the subject proposal whilst assessing the development de novo.

In addition to the Opinion of Counsel prepared in respect of the subject development in response to the refusal reason issued, the appellant now wishes to provide a response to the comments provided

by the Forward Planning & Active Land Management Section, which gave rise to the Planning Authority decision to refuse permission for the development:

7.1.2 Forward Planning Comment – Principle of Development

It is highlighted from the outset that a cross-departmental team in the Local Authority is actively progressing the preparation of a Draft Framework Plan for the Rathmichael area and are working towards the publication of the Draft Plan for consultation in 2027. It is intended the Framework Plan will be given a statutory footing by way of a Variation of the dlr County Development Plan 2022-2028, in accordance with Section 58 of the Planning and Development Act 2024. The Framework Plan will set out the spatial framework for the future development of the Rathmichael area to ensure the coordinated planning and delivery of essential infrastructure and services in tandem with population growth. A considerable body of background work has been undertaken and is currently being undertaken in order to publish an evidence based Draft Framework Plan for the Rathmichael area in the near future.

Having regard to the location of the planning application at Falls Road, the Planning Authority note that the site and lands in this area are zoned Objective 'A1'- "To provide for new residential communities and Sustainable Neighbourhood Infrastructure in accordance with approved local area plans or approved Framework Plans.", in the dlr County Development Plan 2022-2028 (as varied). In this regard it should be noted that a Local Area Plan or Framework Plan has not been approved for Rathmichael and therefore it is considered the proposed development is not in accordance with the overarching zoning objective for these lands.

At this point we wish to explicitly submit to An Coimisiún Pleanála that the publishing of a Local Area Plan/ Framework Plan for the Rathmichael area has been a longstanding objective of Dún Laoghaire Rathdown County Council, however this has never come to fruition. The below table details the objectives of Dún Laoghaire Rathdown County Council for the Rathmichael area through previous development plan cycles, from 2004 to present:

Development Plan	Rathmichael Area Development Objective
2004- 2010	Included an objective to prepare a Local Area Plan for Rathmichael/ Ferndale Road.
2010- 2016	Explicitly stated that a Rathmichael/ Ferndale Road Local Area Plan would be prepared during the lifetime of the Development Plan, anticipating improved drainage/ water infrastructure and the delivery of a Luas extension.
2016-2022	The Rathmichael area was omitted from the Local Area Plan programme.
2022-2028	The Rathmichael area was reinstated as an area for which a new Local Area Plan would be prepared.

The appellant acknowledges that the zoning of the site, as Objective A1, seeks to provide for new development in accordance with approved Local Area Plans or approved Framework Plans. The site is envisaged to be located within the boundary of a forthcoming Framework Plan for the Rathmichael/ Ferndale Area. There is currently no draft version of this forthcoming Plan on display, or a confirmed timeframe for publishing of same, past the Planning Authority noting that they are working towards the publication of a Draft Plan for consultation in 2027.

The refusal of permission on the subject lands on the basis of prematurity pending the publishing of a Plan for the Rathmichael Area, which has been envisaged for preparation by Dún Laoghaire Rathdown County Council for over 20 years, should not preclude development from coming forward on the subject site. In refusing development on the basis of prematurity alone, the Local Authority is essentially sterilising all lands within the Rathmichael area for re-development, during a housing crisis, until the Local Authority publish a draft Framework Plan for the area.

We submit that this is directly contrary to the requirements of the direction issued by the Minister by way of Section 28 Guidelines entitled 'NPF Implementation: Housing Growth Requirements' in July 2025. These Guidelines directed each Planning Authority to review their Development Plans to ensure consistency with the new national housing targets set by the National Planning Framework (NPF) in April 2025. Specifically, the Guidelines called for Planning Authorities to assess their currently adopted Development Plans against the requirement to provide the capacity to develop housing to the extent identified in these guidelines. We note specifically that Dún Laoghaire-Rathdown County Council is now required to deliver an additional 500 units or 3,585 units in total per annum within the county between 2025 and 2034. An additional 50% headroom must also be provided for.

As detailed throughout Section 6 of this Report, none of the Dún Laoghaire Rathdown County Council Technical Departments raised any fundamental issues with the quality or design of the scheme. It is submitted that to refuse permission for a high quality residential development, on lands zoned for residential use, on the basis of prematurity pending the publishing of a forthcoming Plan for the area, is not consistent with national guidance pertaining to requirements for increased housing delivery.

We ask An Coimisiún Pleanála to have consideration for this point in their assessment of the development de novo.

7.1.3 Forward Planning Comments – Servicing and Infrastructure

The phasing and plan-led development of Rathmichael through the plan-making process is addressed in Section 2.4.6 of the dlr County Development Plan 2022-2028 (as varied) which states that: "…Old Connaught and Rathmichael are not currently serviced, and the future development of these areas is contingent upon the timely delivery of supporting infrastructure. It is considered that a plan-led approach to the development of both Rathmichael and Old Connaught is of paramount importance to ensure the proper planning and sustainable development of these new residential communities.
The southeast area of dlr is currently undergoing significant change in terms of existing and planned future development and the area requires significant infrastructure investment to support planned growth into the future. In 2025, dlr completed an Infrastructure Capacity Assessment Study (ICAS) for the south-east area of Dún Laoghaire-Rathdown. The ICAS, which included an Area Based Transport Assessment, identified the high-level strategic enabling infrastructure to facilitate the plan-led development of key growth areas in the County at Old Connaught and Rathmichael. Subsequent to the

completion of the ICAS, the Old Connaught Local Area Plan (LAP) was prepared and made, and it came into effect in December 2025.
The Core Strategy Table (Table 2.11) in the dlr County Development Plan (as varied) identifies lands at Rathmichael as 'Serviceable'. This reflects the strategic position, informed by statutory service providers, that the area-wide lands which includes the subject site are not currently serviced, and that the future development of the area is contingent upon the delivery of supporting infrastructure in a co-ordinated manner through the plan-making process.

We wish to submit to An Coimisiún Pleanála that whilst the wider Rathmichael Area lacks key services and infrastructure, this is not applicable to the subject site, which is adequately serviced in respect of water infrastructure, transport infrastructure, pedestrian infrastructure and access to services and facilities. In addition to the existing site servicing, it is submitted to An Coimisiún Pleanála that the subject development includes a proposal to provide a new connection to Parc Na Silla Rise, which will create a throughway for pedestrians and cyclists from the Rathmichael Area towards Loughlinstown Hospital and the N11. This is a key connection point that will unlock future development along Falls Road. Details of the site connectivity were provided within Section 2 of the Planning Report submitted to Dún Laoghaire Rathdown as part of the originally lodged application pack.

The Dún Laoghaire Rathdown Drainage and Transportation Departments did not raise any concerns regarding infrastructural constraints within their associated Reports published accompanying the application decision. A report on the proposal was also provided by Uisce Eireann, a prescribed body, which concluded the following:

> *The applicant has engaged with Uisce Éireann via a Pre-Connection Enquiry and Uisce Éireann can confirm that a Confirmation of Feasibility CDS25007929 has been issued to the applicant advising that water and wastewater connections are feasible without infrastructure upgrade by Uisce Eireann. In order to complete the proposed wastewater connection, the network will have to be extended by approximately 94 metres from Parc Na Silla Rise to the development site. The developer will be required to fund the extension works. It must be noted the proposed development connects via private land/s. At connection application stage the developer must provide evidence of consent from the Third-Party Landowner/s.Stormwater from basement car parks shall not be discharged to the wastewater network, Such discharge shall be directed to the existing stormwater sewer in accordance with the requirements of the Local Authority. Specific requirements may be required by the Local Authority for the prevention of storm water flows from basements via access points, provision of petrol/oil interceptors on storm drains, etc.*

Uisce Eireann therefore also raised no infrastructural concerns regarding the proposal, subject to minor extensions to the wastewater network being provided. In addition to this, the Planner's Assessment explicitly noted that the density of development was appropriate having regard for the location of the site in proximity to public transport options, and existing services within Shankill Village.

It is therefore considered that the comments from the Forward Planning & Active Land Management Section of the Planning department, noting that the site is not serviced, are wholly unfounded and incorrect. We ask An Coimisiún Pleanála to have consideration for this point in their assessment of the development de novo.

7.1.4 Forward Planning Comments – Future Transport infrastructure

the Planning Authority made the strategic decision to commence a review of the Area Based Transport Assessment (ABTA) that was undertaken for the Old Connaught and Rathmichael Plan areas, with the intention of preparing a new ABTA for the southeast area of the County, incorporating a range of updated inputs and policy changes, to ensure transport planning proposals in the southeast of the County aligned with and supported existing and proposed settlement strategy changes. The ABTA is currently in progress and key state bodies, and service providers including the National Transport Authority and Transport Infrastructure Ireland are part of the Working Group progressing the South East ABTA. This ABTA is pertinent to the proper planning and sustainable development of the Rathmichael area where it is acknowledged that strategic and local transport deficiencies exist, which need to be addressed at an area wide level and in a co-ordinated manner through the ABTA and plan-making process. The planned timeframe for completion of the ABTA is to align with the preparation of the Draft Rathmichael Framework Plan, which is in program to be placed on public display in 2027. As part of the ABTA process, the Planning Authority in conjunction with the NTA and TII will be assessing a range of transport options to support planned growth in the Rathmichael area for all transport modes – active travel, public transport and vehicle. Significant transport interventions may be required to support planned growth, and it is fundamental that potentially strategic sites within the Rathmichael Framework Plan area are retained for consideration through the options assessment stage of the Transport Study in order for optimal transport solutions to be achieved. In this regard, we refer in particular to Section 12.3.6 of the Transport Strategy for the Greater Dublin Area 2022-2042 which states that, based on analysis undertaken the NTA are satisfied that sufficient demand exists for the extension of the Luas Green Line from Bride's Glen to Bray and that a project should be pursued to meet this demand. Measure LRT5 from the GDA Transport Strategy states the following:

> *"Measure LRT5 – Luas Bray It is intended to extend the Luas Green Line southwards in order to serve the Bray and Environs area."*

We would note the NTA has commenced a pre-feasibility study into potential light rail alignments serving lands to the south of Bride's Glen, including Rathmichael, Old Connaught, Fassaroe and Bray.

The appellant acknowledges that an Area Based Transport Assessment is being prepared for the South East Area of Dún Laoghaire Rathdown, that will inform the provision and future capacity of transport infrastructure required for the area, and that preliminary studies are underway to determine a potential Luas extension route through the Rathmichael area. It is submitted to An Coimisiún Pleanála that any proposed Luas extension in the area does not have funding past a pre-feasibility stage and while mentioned in the GDA Transport Strategy, it outlines that 'the alignment and the locations to be served between Bride's Glen and Bray have yet to be determined and will be subject to detailed design and planning work'. In the absence of any approved route, design parameters or statutory consent for the proposed Luas extension, the appellant submits that it is not possible to meaningfully assess the scheme against the envisaged Luas extension.

The appellant welcomes the preparation of these infrastructure studies; however we submit that precluding development on readily available, serviced lands with no infrastructural constraints and access to nearby services and amenities, on the basis of these studies being forthcoming, is contrary to national policy on housing delivery. A previously noted within this appeal document, the Planning Authority, in their assessment of the scheme, specifically referenced the locational benefits of the subject site. None of the Dun Laoghaire Rathdown Technical Departments raised any fundamental

objections to the development, and Uisce Eireann, the DLR Drainage Department and the DLR Transportation Department flagged no infrastructural constraints to bringing forward development on the subject site.

Furthermore, safeguarding for unidentified infrastructure should not preclude the delivery of development readily available for implementation. Should a future Luas extension progress beyond its current preliminary stage, any interaction with the proposed development can be appropriately considered and addressed as part of the detailed design and planning process for that project.

At this point, we wish to note to An Coimisiún Pleanála that the Old Connaught Local Area Plan 2025 came into effect on the 9th December 2025, for lands to the south of the Rathmichael lands to be included within a forthcoming Framework Plan. As part of this Plan preparation process, an Infrastructure Capacity Assessment Study was completed, for both the lands at Old Connaught, and lands within the Rathmichael Plan area. The subject lands are identified within 'Phase A' of lands to be developed at Rathmichael. In particular we wish to note to An Coimisiún Pleanála the following statement included within the Infrastructure Capacity Assessment Study in respect of the Rathmichael 'Phase A' lands:

> *'Based on the analysis undertaken as part of the ICAS Study,* ***it is recommended that residential development progresses at Phase A based on existing infrastructure capacity****, interim measures including active travel measures, and additional enabling infrastructure proportionate to the scale of development, see Table 3-6. It is highlighted that the lands identified as Phase A benefit from proximity to existing public transport, facilities and services in the wider area, including in particular at Cherrywood and Shankill.* ***It is considered that the progression of these lands as a first phase of residential development delivers consolidation with the existing built-up area and maximises the efficient use of existing infrastructure and services'***

It is considered that this further supports the conclusions made by the Dún Laoghaire Rathdown County Council Technical Departments, which did not reference any concerns with regards to infrastructural constraints in the area precluding development being brought forward.

The following statement is included within the Infrastructure Capacity Assessment Study with regards to medium and longer term infrastructural upgrades for the Rathmichael Area:

> ***Additional infrastructure requirements identified through the ICAS Study are recommended to be progressed over the medium / longer term. In terms of strategic enabling infrastructure this includes: the Luas Green Line extension to Bray****; the upgrade of the Ballycorus Road; the expansion and enhancement of Rathmichael Woods; the upgrade of Lehaunstown Lane/Heronford Lane; and the potential active travel link connecting Rathmichael and Cherrywood via the viaduct.*

The Green Line Luas extension is specifically cited as an upgrade that will take place over the medium to long term, which is reflective of current preliminary route selection stage, and it is therefore again noted to An Coimisiún Pleanála that this project should not preclude the development of the subject site, in absence of any approved route, design parameters or statutory consent for the project. We ask An Coimisiún Pleanála to have consideration for these points in their assessment of the development de novo.

7.2 Grounds of Appeal No. 2– Compliance with National, Regional and Local Planning Policy

It is submitted to An Coimisiún Pleanála that the subject development has been unduly refused on the basis of prematurity, despite its compliance with all relevant National, Regional and Local Planning Policy documents.

Save for the Planning Authority deeming that the zoning objective for the site requires a Local Area Plan/ Framework Plan in place prior to development coming forward on the lands, which resulted in a refusal of permission being issued, the Planner's Assessment, and the associated Reports published by the Dún Laoghaire Rathdown County Council Technical Departments, flagged no other issues with the principle of the development, that could not have been addressed through a request for Further Information or by Condition attached to a grant of permission.

Section 5, Section 6 and Section 7 of the Planning Report submitted with the application pack lodged to Dún Laoghaire Rathdown County Council detail the scheme compliance with the following relevant National, Regional and Local Planning Policy documents:

Project Ireland 2040: National Planning Framework (2025), Delivering Homes, Building Communities 2025 – 2030: An Action Plan on Housing Supply and Targeting Homelessness, Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031, Greater Dublin Area Transport Strategy 2022 – 2042, Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (2024), Planning Design Standards Guidelines for Planning Authorities (July 2025), Urban Development and Building Height Guidelines (2018), Greater Dublin Area Cycle Network Plan, Design Manual for Urban Roads and Streets, Climate Action Plan 2025, Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024), Planning Design Standards for Apartments: Guidelines for Planning Authorities, 2025, Urban Development and Building Height Guidelines (2018), The Planning System and Flood Risk Management (2009), Guidance on Appropriate Assessment for Planning Authorities (2009), Guidelines for Planning Authorities on Childcare Facilities (2001) and Dún Laoghaire-Rathdown County Development Plan 2022 – 2028.

We refer An Coimisiún Pleanála to the Planning Report submitted with the originally lodged application pack for details. We ask An Coimisiún Pleanála to have consideration for this point in their assessment of the development de novo.

8 Conclusion

On the basis of the information contained within this appeal document, We invite An Coimisiún Pleanála to overturn the decision of the Planning Authority and grant permission for the development as proposed.

The appellant and project team are of the opinion that this Appeal Report, and the accompanying Opinion of Counsel issued following a review of the Planning Authority decision to refuse permission for the subject development, provide a robust response to the refusal reason and associated commentary published by the Planning Authority supporting its decision to refuse permission for the subject scheme.

It is considered that the reason for refusal has been addressed in a comprehensive manner, and we now ask An Coimisiún Pleanála to consider the merits of the development and the appellants supporting case for same, de novo. The Legal Opinion accompanying this Appeal, prepared by Eamon Galligan Senior Counsel, provides supportive evidence that An Coimisiún Pleanála are empowered to grant permission for the subject development.

Save for the refusal reason pertaining to prematurity, it is submitted that none of the Dún Laoghaire Rathdown County Council Techncial Department's Reports published with the decision, recommended that the scheme be subject to a refusal of permission. Any items raised within the Technical Department's Reports could be addressed by a request for Further Information, or by Condition attached to a grant of permission, should An Coimisiún Pleanála deem this necessary.

We trust that An Coimisún Pleanála will have regard for the contents of this First Party Appeal, and will overturn the decision of Dún Laoghaire Rathdown County Council to refuse permission for the subject development, on the basis that the propoal is of high quality and in compliance with all currently applicable National, Regional and Local Planning Policy documents.