



THORNTON O'CONNOR
TOWN PLANNING

Material Contravention Statement

Kilternan Village SHD

Material Contravention Statement

In respect of a Strategic Housing Development comprising 383 No. residential units and a Neighbourhood Centre

At lands at Wayside, Enniskerry Road and Glenamuck Road, Kilternan, Dublin 18

Submitted on Behalf of Liscove Limited

June 2022

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2.0 INTRODUCTION

1.1 Summary of the Proposed Development

The subject planning application is categorised as a Strategic Housing Development as defined in Section 3 of the *Planning and Development (Housing) and Residential Tenancies Act 2016* (as amended) ("The SHD Act"), which states that Strategic Housing Development means:

- 'a) **the development of 100 or more houses on land zoned for residential use or for a mixture of residential and other uses,**
- b) *the development of student accommodation units which, when combined, contain 200 or more bedspaces, on land the zoning of which facilitates the provision of student accommodation or a mixture of student accommodation and other uses thereon.*
- c) *development that includes developments of the type referred to in paragraph a) and of the type referred to in paragraph b), or*
- d) *the alteration of an existing planning permission granted under section 34 (other than under subsection (3A)) where the proposed alteration relates to development specified in paragraph a), b) or c).'* [Our Emphasis]

Section 3 of the *Planning and Development (Housing) and Residential Tenancies Act 2016* (amended July 2018) further states that Strategic Housing Developments:

'may include other uses on the land, the zoning of which facilitates such use, but only if—

- (i) **the cumulative gross floor area of the houses or student accommodation units, or both, as the case may be, comprises not less than 85 per cent, or such other percentage as may be prescribed, of the gross floor space of the proposed development or the number of houses or proposed bed spaces within student accommodation to which the proposed alteration of a planning permission so granted relates, and**

- (ii) *the other uses cumulatively do not exceed—*

*(I) 15 square metres gross floor space for each house or 7.5 square metres gross floor space for each bed space in student accommodation, or both, as the case may be, in the proposed development or to which the proposed alteration of a planning permission so granted relates, subject to a **maximum of 4,500 square metres** gross floor space for such other uses in any development, or*

(II) such other area as may be prescribed, by reference to the number of houses or bed spaces in student accommodation within the proposed development or to which the proposed alteration of a planning permission so granted relates, which other area shall be subject to such other maximum area in the development as may be prescribed.'

As the proposed development comprises 383 No. residential units, it is therefore considered to be a Strategic Housing Development and the application must be lodged directly to An Bord Pleanála. Furthermore, the non-residential element of the proposed scheme (c. 2,512 sq m) represents c. 6% of the total gross floor space of the development and it is therefore considered to be a Strategic Housing Development and the application must be lodged directly to An Bord Pleanála.

1.2 Detailed Description of the Subject Development

Liscove Limited intend to apply to An Bord Pleanála for permission for a strategic housing development at this c. 10.8 Ha site at lands at Wayside, Enniskerry Road and Glenamuck Road, Kiltarnan, Dublin 18, which include a derelict dwelling known as 'Rockville' and associated derelict outbuildings, Enniskerry Road, Kiltarnan, Dublin 18, D18 Y199. The site is generally bounded by the Glenamuck Road to the north; Kiltarnan Country Market and the Sancta Maria property to the north and west; a recently constructed residential development named "Rockville" to the north-east; the Enniskerry Road to the south-west; dwellings to the south; and lands that will facilitate the future Glenamuck Link Distributor Road to the east.

Road works are also proposed to facilitate access to the development from the Enniskerry Road; to the approved Part 8 Enniskerry Road/Glenamuck Road Junction Upgrade Scheme on Glenamuck Road (DLRCC Part 8 Ref PC/IC/01/17); and to the approved Glenamuck District Roads Scheme (GDRS) (ABP Ref:HA06D.303945) on the Glenamuck Link Distributor Road (GLDR). Drainage and water works are also proposed to connect to services on the Glenamuck Road and Enniskerry Road.

At the Glenamuck Road access point, this will include works, inclusive of any necessary tie-ins, to the footpath and cycle track to create a side road access junction incorporating the provision of an uncontrolled pedestrian crossing across the side road junction on a raised table and the changing of the cycle track to a cycle lane at road level as the cycle facility passes the side road junction. Surface water and foul drainage infrastructure is proposed towards the north of the site into the drainage infrastructure to be constructed as part of the Part 8 scheme. Potable water is to be provided from the existing piped infrastructure adjacent to the site along Glenamuck Road. These interfacing works are proposed on an area measuring c. 0.05 Ha.

At the GLDR access point, this will include works, inclusive of any necessary tie-ins, to the footpath and cycle track to create a side road access junction incorporating the provision of short section of shared path and an uncontrolled shared pedestrian and cyclist crossing across the side road junction on a raised table. The works will also include the provision of a toucan crossing, inclusive of the necessary traffic signal equipment, immediately south of the access point to facilitate pedestrian and cyclist movement across the mainline road. All works at the GLDR access point will include the provision of the necessary tactile paving layouts and are provided on an area measuring c. 0.06 Ha.

At the Enniskerry Road, works are proposed to facilitate 3 No. new accesses for the development along with modifications to Enniskerry Road. The 3 No. side road priority access junctions incorporate the provision of an uncontrolled pedestrian crossing across the side road junction on a raised table. The modifications to Enniskerry Road fronting the development (circa 320 metres) includes the narrowing of the carriageway down to 6.5 metres (i.e. a 3.25 metres running lane in each direction) from the front of the kerb on western

side of Enniskerry Road. The remaining former carriageway, which varies in width of c. 2 metres, will be reallocated for other road users and will include the introduction of a widened pedestrian footpath and landscaped buffer on the eastern side of the road adjoining the proposed development. The above works are inclusive of all necessary tie-in works such as new kerb along eastern side of Enniskerry Road, drainage details, road marking, signage and public lighting. Potable water is to be provided from the existing piped infrastructure adjacent to the site along the Enniskerry Road. The interface works on Enniskerry Road measures c. 0.19 Ha.

Surface water and foul drainage infrastructure is proposed to connect into and through the existing/permitted Rockville developments (DLR Reg. Refs. D17A/0793, D18A/0566 and D20A/0015) on a total area measuring c. 0.09 ha. The development site area and drainage and roads works areas will provide a total application site area of c. 11.2 Ha.

The development will principally consist of: the demolition of c. 573.2 sq m of existing structures on site comprising a derelict dwelling known as 'Rockville' and associated derelict outbuildings; and the provision of a mixed use development consisting of 383 No. residential units (165 No. houses, 118 No. duplex units and 100 No. apartments) and a Neighbourhood Centre, which will provide a creche (439 sq m), office (317 sq m), medical (147 sq m), retail (857 sq m), convenience retail (431 sq m) and a community facility (321 sq m). The 383 No. residential units will consist of 27 No. 1 bedroom units (19 No. apartments and 8 No. duplexes), 128 No. 2 bedroom units (78 No. apartments and 50 No. duplexes), 171 No. 3 bedroom units (108 No. houses, 3 No. apartments and 60 No. duplexes) and 57 No. 4 bedroom units (57 No. houses). The proposed development will range in height from 2 No. to 5 No. storeys (including podium/undercroft level in Apartment Blocks C and D and in the Neighbourhood Centre).

The development also provides: pedestrian links from Enniskerry Road and within the site to the neighbouring "Rockville" development to the north-east and a pedestrian/cycle route through the Dingle Way from Enniskerry Road to the future Glenamuck Link Distributor Road; 678 No. car parking spaces (110 No. in the undercroft of Blocks C and D and the Neighbourhood Centre and 568 No. at surface level) including 16 No. mobility impaired spaces, 73 No. electric vehicle spaces, 1 No. car share space, 4 No. drop-off spaces/loading bays; motorcycle parking; bicycle parking; bin storage; the decommissioning of the existing telecommunications mast at ground level and provision of new telecommunications infrastructure at roof level of the Neighbourhood Centre including shrouds, antennas and microwave link dishes (18 No. antennas and 6 No. transmission dishes, all enclosed in 9 No. shrouds together with all associated equipment); private balconies, terraces and gardens; hard and soft landscaping; sedum roofs; solar panels; boundary treatments; lighting; substations; plant; and all other associated site works above and below ground. The proposed development has a gross floor space of c. 43,120 sq m in addition to undercroft levels (under Apartment Blocks C and D measuring c. 1,347 sq m and under the Neighbourhood Centre measuring c. 2,183 sq m, which includes parking spaces, external storage, bin storage, bike storage and plant).

1.3 Purpose of this Material Contravention Statement

The purpose of this Material Contravention Statement is to set out the justification for aspects of the proposed development which may be considered to materially contravene the

Dún Laoghaire Rathdown County Development Plan 2022-2028 (“*Development Plan*”) and/or the *Kilternan Local Area Plan 2013-2019* [extended to September 2023] (“*Kilternan LAP*”).

The scheme as proposed may be determined to materially contravene the *Development Plan* or *Kilternan LAP* with regard to the following matters:

- Phasing with reference to Chapter 10 of the *Kilternan LAP*;
- Building Height with reference to Appendix 5 of the *Development Plan*;
- Car Parking with reference to Table 12.5 of the *Development Plan*;
- Apartment Mix with reference to Table 12.1 of the *Development Plan*;
- Daylight and Sunlight with reference to Section 12.3.4.2 of the *Development Plan*;
- Separation Distances with reference to Section 12.3.5.2 of the *Development Plan*;
- Layout of the Neighbourhood Centre with reference to the Layout Shown in the *Kilternan Neighbourhood Framework Plan* (“*Kilternan NFP*”), which is an Appendix to the *Kilternan LAP*;
- Layout of the Office Space within the Neighbourhood Centre with reference to Chapter 11 of the *Kilternan LAP*;
- Multi Use Games Area with reference to Section 9.1 of the *Kilternan LAP*;
- Trees and Woodlands with reference to the Objective ‘To Protect and Preserve Trees and Woodlands’ Pertaining to the Site (Zoning Map No. 9);
- Parking Bays Dimensions with reference to Section 12.4.5.7 of the *Development Plan*; and
- Provision of a Bring Centre with reference to Section 12.9.6 of the *Development Plan* and Objective NCo4 of the *Kilternan LAP*.

This document will provide justification regarding the possible contravention of the provisions of the *Development Plan* and *Kilternan LAP* as outlined above.

2.0 STATUTORY BASIS FOR MATERIAL CONTRAVENTION

Section 9(6) of the *Planning and Development (Housing) and Residential Tenancies Act, 2016 (as amended)* sets out the following in relation to developments which materially contravene the policies and objectives of a *Development Plan*:

- (a) *'Subject to paragraph (b), the Board may decide to grant a permission for a proposed strategic housing development in respect of an application under section 4 even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned.'*
- (b) *'The Board shall not grant permission under paragraph (a) where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land.'*
- (c) *'Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development.'*

TOC Comment:

The subject site is zoned as both 'Objective A' and 'Objective NC' in the *Dún Laoghaire-Rathdown County Development Plan 2022-2028*, where the stated objectives are:

- 1. Objective A: *'To provide residential development and improve residential amenity while protecting the existing residential amenities.'*
- 2. Objective NC: *'To protect, provide for and/or improve mixed-use neighbourhood centre facilities.'*

The proposed development includes the following uses:

- 383 No. residential units
- Retail (857 sq m)
- Retail (convenience) (431 sq m)
- Creche (439 sq m)
- Office (317 sq m)
- Medical (147 sq m)
- Community Facility (321 sq m)

Please see summary table below which details the location of each proposed use in relation to the zoning applicable to the subject lands:

- Proposed on Neighbourhood Centre zoned lands 'Objective NC':

Residential	Permitted in Principle
Retail (857 sq m)	Shop-Neighbourhood = Permitted in Principle
Retail (convenience) (431 sq m)	Shop-Specialist = Open for Consideration
	Shop-District = Open for Consideration

Office (119 sq m)	Offices less than 300 sq m = Permitted in Principle
	Offices over 300 sq m = Open for consideration
Community Facility (321 sq m)	Permitted in Principle

- Proposed on Residential zoned lands 'Objective A':

Residential	Permitted in Principle
Creche (439 sq m)	Permitted in Principle (Where the use will not have adverse effects on the 'A' zoning objective, 'to provide residential development and improve and improve residential amenity while protecting existing residential amenities')
Medical (147 sq m)	Doctor/Dentist etc. = Permitted in Principle (Where the use will not have adverse effects on the 'A' zoning objective, 'to provide residential development and improve and improve residential amenity while protecting existing residential amenities')
Office (199 sq m)	Office less than 200 sq m = Open for Consideration

The Objective 'A' lands contains residential units and part of the new Neighbourhood Centre including the creche, medical unit and 199 sq m of office which are in accordance with the zoning objective as demonstrated in the table above. The creche and medical unit are permitted in principle 'where the use will not have adverse effects on the 'A' zoning objective, 'to provide residential development and improve and improve residential amenity while protecting existing residential amenities'.

It is our professional planning opinion that the proposed creche and medical unit will not have an adverse effect on the 'A' zoning objective. In particular, the future residents will have easy access to these services which is a significant benefit for the scheme and for the wider Kiltiernan community. In addition, the office is less than 200 sq m on the 'A' zoned lands which is also considered acceptable. The Objective 'NC' lands contain residential units, and the majority of the new Neighbourhood Centre including retail, 119 sq m of office and the community facility.

As demonstrated in the table above, the proposed development is fully in accordance with the zoning objectives. The subject scheme will result in the appropriate densification of an key underutilised site in the heart of Kiltiernan Village and the provision of a new Neighbourhood Centre for the Village will positively contribute to the regeneration of the subject site.

The subject site is also located within the *Kiltiernan Local Area Plan 2013-2019* [extended to September 2023] ("*Kiltiernan LAP*"). The *Kiltiernan Neighbourhood Framework Plan 2013*, which is an appendix document to the *Kiltiernan LAP*, sets out the development framework for the Neighbourhood Centre zone:

'Ideally there should be one Neighbourhood Centre to feature as the civic core for the LAP area. The provision of two centres, on opposite sides of Enniskerry Road, somewhat dilutes potential focus. It is intended that the southern-most NC node (Parcel No. 22) will be the primary node.'

'The Framework Plan envisages that the node centred around Our Lady of the Wayside Church will become the primary retail, commercial and community focus for the village, centred on a new 'village green' that will become the heart of the village.'

The proposed development includes a Neighbourhood Centre and is therefore consistent with this development framework.

This Material Contravention Statement relates to phasing, building height, car parking, daylight/sunlight, separation distances, layout of the Neighbourhood Centre, layout of the office space in the Neighbourhood Centre, provision of a Multi Use Games Area, trees and woodlands, parking bay dimensions and provision of a bring centre. We consider that the design, scale and massing of the proposed development is appropriate at this location and justifiable for the subject lands having regard to recently adopted National Policy as detailed throughout this report.

Section 37(2) of the *Planning and Development Act 2000 (as amended)* (Act of 2000) states the following in relation to material contravention:

- (a) *'Subject to paragraph (b), the Board may in determining an appeal under this section decide 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.*
- (b) *Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that—*
 - i. *the proposed development is of strategic or national importance,*
 - ii. *there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or*
 - iii. *permission for the proposed development should be granted having regard to regional planning guidelines 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, or*
 - iv. *permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.'*

In the event that the Board were to grant permission, the Board's "reasons and considerations" would have to reference the matters under Section 37(2)(b) of the 2000 Act upon which it relies to justify the granting of permission in material contravention of the *Development Plan* or *Local Area Plan*. It is apparent from Section 10(1)(3)(b) of the 2016 Act that such reasons and considerations must appear in the Board decision itself. Section 10(3) provides as follows:

'(3) A decision of the Board to grant a permission under section 9(4) shall state-

....

(b) where the Board grants a permission in accordance with section 9(6)(a), the main reasons and considerations for contravening materially the development plan or local area plan, as the case may be.'

In considering material contravention issues, it is also necessary to consider the requirements of Specific Planning Policy Requirements (SPPRs) under relevant ministerial guidelines issued pursuant to Section 28 of the Act of 2000. Such guidelines include in particular:

- *The Urban Development and Building Heights Guidelines for Planning Authorities (December 2018);*
- *The Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, 2020; and*
- *The Guidelines for Planning Authorities on the Sustainable Residential Development in Urban Areas (May 2009).*

Section 9(3) of the SHD Act refers to SPPRs and provides:

'(3) (a) When making its decision in relation to an application under this section, the Board shall apply, where relevant, specific planning policy requirements of guidelines issued by the Minister under section 28 of the Act of 2000.

(b) Where specific planning policy requirements of guidelines referred to in paragraph (a) differ from the provisions of the development plan of a planning authority, then those requirements shall, to the extent that they so differ, apply instead of the provisions of the development plan.

(c) In this subsection "specific planning policy requirements" means such policy requirements identified in guidelines issued by the Minister to support the consistent application of Government or national policy and principles by planning authorities, including the Board, in securing overall proper planning and sustainable development.'
[Our Emphasis]

On one legal view, the effect of subsection (3)(b) above is that if the SPPRs apply instead of conflicting provisions of the *Development Plan* or *Local Area Plan*, then no issue of material contravention can arise in relation to conflicting provisions of the *Development Plan* or *Local Area Plan*. However, this Material Contravention Statement has adopted a more conservative approach and has treated any material breach of any such conflicting provisions of the *Development Plan* or *Local Area Plan*, even where disapplied by the provisions of the relevant SPPR, as material contravention issues.

Having regard to the analysis set out below of the compliance with the proposed development with national planning policy and Section 28 Guidelines, and having considered the strategic nature of the site in the centre of Kiltiernan Village and the proposed development (providing 383 No. residential units and a Neighbourhood Centre for the Village), it is considered that there is sufficient justification for An Bord Pleanála to



grant permission for the proposed development, notwithstanding any material contravention of the *Development Plan* or *Local Area Plan*, by reference to sub-paragraphs (i), (ii), (iii) and (iv) of Section 37(2)(b) for the reasons set out below in Section 3.o.

3.0 JUSTIFICATION FOR THE MATERIAL CONTRAVENTION

3.1 For each of the Material Contravention Items – Strategic or National Importance

The proposed development is of strategic or national importance (Section 37 (2)(b)(i) of the Act)

The proposed development will deliver much needed residential units in response to the *Rebuilding Ireland - Action Plan for Housing and Homelessness* that was published by the Government on 19th July 2016, which identifies that accelerated *'delivery of housing for the private, social and rented sectors is a key priority for the Government'*. The supply of residential units remains a priority for the current Government. In addition, *'Housing for All – a New Housing Plan for Ireland'*, which was published on 2nd September 2021 sets out that:

'Our objective is that everybody should have access to sustainable, good quality housing to purchase or rent at an affordable price, built to a high standard, and located close to essential services, offering a high quality of life'.

The proposed development will assist in achieving this objective by providing high-quality residential units in the centre of Kiltarnan Village in proximity to essential services. In addition the development will provide a Neighbourhood Centre which will enhance services for the community and the scheme will thus offer a high quality of life.

The strategic or national importance of the proposed development is reinforced by the contribution it will make to the achievement of the guidelines and policies identified for the purposes of Section 37(2)(b)(iii) of the Act throughout this statement.

The significant shortfall in housing output to address current and projected demand is a national problem, with lack of housing having social and economic ramifications for sustainable national growth. The pressing need for housing development is recognised in the *National Planning Framework ("NPF")* (e.g. National Policy Objective 32: To target the delivery of 550,000 additional households to 2040; National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location).

In addition, the proposed development will contribute towards achieving the following 10 No. National Strategic Outcomes identified in the *NPF*:

- 1) Compact Growth;
- 2) Enhanced Regional Accessibility;
- 3) Strengthened Rural Economies and Communities;
- 4) Sustainable Mobility;
- 5) A strong Economy supported by Enterprise, Innovation and Skills;
- 6) High Quality International Connectivity;
- 7) Enhanced Amenity and Heritage;
- 8) Transition to a Low Carbon and Climate Resilient Society;
- 9) Sustainable Management of Water, Waste and other Environmental Resources; and
- 10) Access to Quality Childcare, Education and Health Services.

Consistency with National Strategic Outcomes			
No.	Objective	How is it Addressed by this development?	Meet criteria?
1:	Compact Growth;	Sustainable and efficient redevelopment of a key underutilised site at the centre of Kiltiernan Village.	Yes
2:	Enhanced Regional Accessibility;	The existing bus services, which connect to Dublin City Centre, will be enhanced as part of Bus Connects, the future bus network proposals providing frequent public transport from both the Enniskerry and Glenamuck Roads. The site is also located proximate to the Ballyogan Wood Luas stop which connects the site to the city centre and wider region.	Yes
3:	Strengthened Rural Economies and Communities;	<p>The site is located in the centre of Kiltiernan Village with access to a pub/restaurant, a country market, a petrol filling station and shop, a car garage and auto service, a creche and education facilities such as Kiltiernan Church of Ireland National School, Our Lady of the Wayside National School and Kiltiernan Adult Education Centre as well as religious services in the Village such as Kiltiernan Parish Church and Our Lady of the Wayside Church.</p> <p>The proposed development includes a Neighbourhood Centre and Village Green at the heart of the scheme that promotes community inclusivity and will strengthen the local economy of Kiltiernan.</p>	Yes
4:	Sustainable Mobility;	Promoting active and sustainable transport due to the provision of permeable pedestrian and cycle links through the site, including through the Dingle Way to the future Glenamuck Link Distributor Road and proximity of public transport (incl. the LUAS, bus routes and future Bus Connects links).	Yes
5:	A Strong Economy supported by Enterprise, Innovation, and Skills;	The proposed 383 No. new residential dwellings and Neighbourhood Centre including (commercial, retail, medial and creche) will benefit the local economy of Kiltiernan Village and create a stronger and more vibrant community and economy in the centre of Kiltiernan.	Yes

6:	High Quality International Connectivity;	N/A –Relates to Ports and Airports	N/A
7:	Enhanced Amenity and Heritage;	The scheme provides a high level of amenity space for future residents with the provision of 2,934 sq m communal open space, in addition to 18,879 sq m of public open space, including a new Village Green for the community. The scheme requires a minimum of 15% of the site area to be provided as public open space, resulting in a requirement for 16,144 sq m of public open space to be provided. The scheme provides significantly in excess of the minimum requirement and this, in conjunction the pedestrian/cycle links provided through the site, will enhance the amenity of Kiltiernan Village.	Yes
8:	Transition to a Low Carbon and Climate Resilient Society;	Sustainable modes of transport are encouraged through the pedestrian and cycle links to the surrounding area and the provision of bicycle parking. Green Roofs and SUDS infrastructure have been included within the design of the subject scheme and the scheme will achieve a high energy rating and compliance with building standards.	Yes
9:	Sustainable Management of Water, Waste and other Environmental Resources; and	Sustainable modes of transport are encouraged, and sustainable management of water use and waste output, as detailed in accompanying reports.	Yes
10:	Access to Quality Childcare, Education, and Health Services;	The subject scheme includes a creche and a medical unit within the Neighbourhood Centre, and there are schools such as Kiltiernan Church of Ireland National School, Our Lady of the Wayside National School and Kiltiernan Adult Education Centre in Kiltiernan Village. The Social Infrastructure Audit prepared by KPMG Future Analytics concludes that <i>'the future demand generated by the proposed development...is likely be absorbed by the existing schools' network...and other planned schools currently under development within the area'</i> .	Yes

Therefore, the proposed development is of both strategic and national importance.

3.2 Subject No. 1 – Phasing

Potential Material Contravention in Relation to Phasing - The Proposed Development Can be Facilitated Having Regard the Recent Pattern of Development in the Area (Section 37 (2)(b)(iv) of the Act)

The subject lands are located within the *Kiltiernan-Glenamuck Local Area Plan 2013-2019* [extended to September 2023] ("*Kiltiernan LAP*").

Chapter 10 of the *Kiltiernan LAP* sets out a phasing strategy for the delivery of housing in Kiltiernan, which represents an interim proposal to accommodate development in advance of the delivery of the Glenamuck District Roads Scheme (GDRS), which includes the Glenamuck District Distributor Road (GDDR) and Glenamuck Link Distributor Road (GLDR). The interim proposal set out by the *Kiltiernan LAP* is that 700 No. dwellings could be accommodated on the existing road network (noted as Phase 1), which is broken down into the following sub-phases:

Phase 1 (a) to comprise c. 350 dwelling units:

A. GLENAMUCK ROAD UPPER/NORTH PORTION (c. 200 dwelling units)

This area encompasses the lands designated as 'medium-higher density residential' at the northern section of Glenamuck Road (referred to as Phase 1 (a)(A) where relevant in this document).

B. NODE AT JUNCTION OF ENNISKERRY AND GLENAMUCK ROADS (c. 150 dwelling units)

This area includes the lands designated as 'medium density residential' to the east of the Enniskerry Road. Any proposed developments must include the improvement of Glenamuck Road (referred to as Phase 1 (a)(B) where relevant in this document).

Phase 1 (b) to comprise c. 350 dwelling units:

C. CONCENTRATED AT VILLAGE CORE / ALONG ENNISKERRY ROAD

These lands include the lands zoned as 'Neighbourhood Centre' and 'Residential' along the Enniskerry Road. Development is dependent on the delivery of the Traffic Calming Scheme and must include the improvement of the Enniskerry Road through the 'Village Core' (referred to as Phase 1 (b)(C) where relevant in this document).

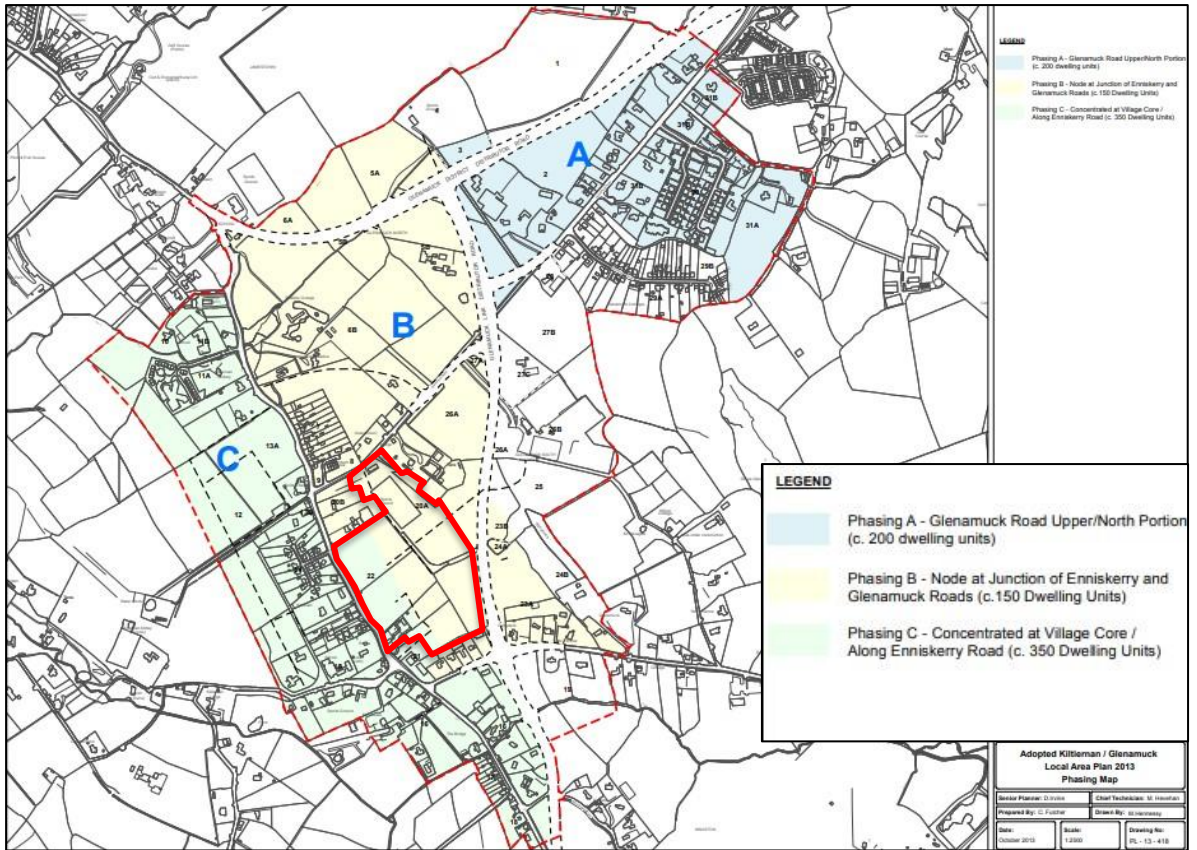


Figure 3.1: **Kiltiernan LAP Phasing Map with Developable Site Outlined Indicatively in Red**

(Source: **Kiltiernan LAP**, annotated by Thornton O'Connor Town Planning, 2022)

We note that the Glenamuck District Roads Scheme (GDRS) was granted permission by An Bord Pleanála on 18th December 2019 (ABP-303945-19) and is projected to begin construction in Q3/Q4 2022, with completion estimated for Q3/Q4 2024 (as advised by email by Gerry D'Arcy (Dun Laoghaire -Rathdown County Council) on 25th May 2022 – see below).

From: D'Arcy Gerry <[REDACTED]>
Sent: Wednesday 25 May 2022 12:11
To: Foley, Peter <[REDACTED]>; John Carr - DBFL Consulting Engineers <[REDACTED]>
Cc: Neil Durkan <[REDACTED]>; Patricia Thornton <[REDACTED]>
Subject: RE: GDRS - current status

Hi Peter,

I am pleased to confirm the following relating to the GDRS :

The GDRS shall be delivered as one scheme under a single tender.
 The GDRS has all necessary statutory consents.
 The GDRS has funding for its delivery in place.
 DLRCC shall go to tender in Q2 or early Q3 2022.
 DLRCC expect to be on site Q3/Q4 2022.
 Construction Program estimated 18 -24 months
 Scheme Completed estimated Q3/Q4 2024.

Regards,
Gerry.

Figure 3.2: Email Correspondence in Relation to the GDRS

(Source: Email Correspondence Between Peter Foley (Atkins) and Gerry D'Arcy (Dun Laoghaire-Rathdown County Council, May 2022)

Since the publication of the *Kiltarnan LAP*, a Part 8 application for the Glenamuck Road upgrade was permitted in 2017 (Ref. PC/IC/01/17), which will facilitate an additional 50% of units to be allowed in the *Kiltarnan LAP* area, up to a total of 1,050 No. units. This Part 8 is intended to be constructed at the same time as the GDRS.

As demonstrated in Figure 3.1 above, the subject site is located within both Phase 1 (a)(B) and Phase 1 (b)(C) on the Phasing Map (B and C on the map above). As detailed in the table accompanying Figure 3.3 below, planning permission has been granted for 657 No. dwellings within Phase 1 (a)(B) and for 565 No. dwellings within Phase 1 (b)(C) to date, which is a total of 1,222 No. dwellings. In addition, some 148 No. dwellings have been granted permission in Phase 1 (a)(A) with permission pending for 3 No. additional dwellings.

In total, there are c. 1,370 No. dwellings granted permission in the 3 No. Phases and an additional 3 No. units pending a decision. If permission is granted for the subject development of 383 No. units, this will bring the total to c. 1,753 No. dwellings (plus 3 No. dwellings pending) if the Board is minded to grant planning permission.

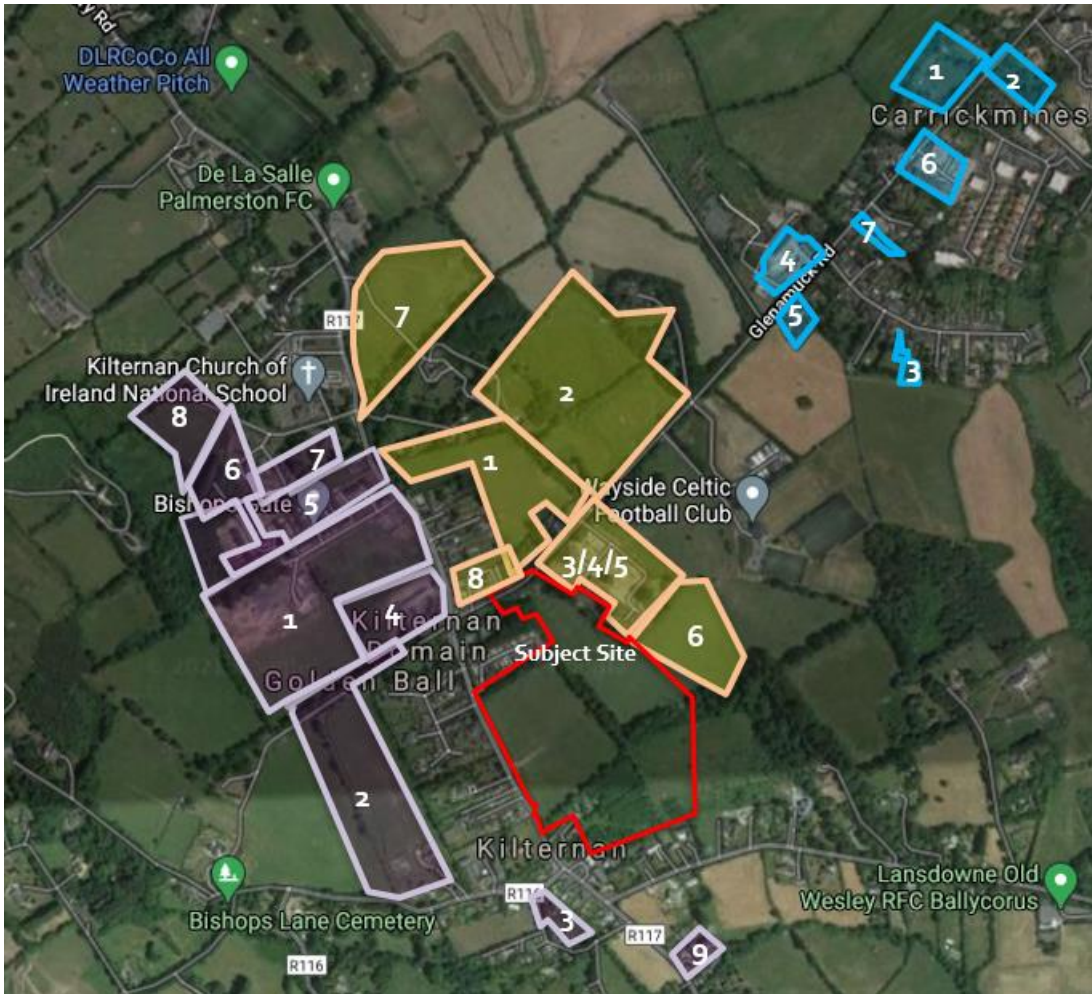


Figure 3.3: Planning Applications in Kiltiernan Village in the Vicinity of the Subject Site (Red Line is indicative Only)

(Source: Google Maps, annotated by Thornton O'Connor Town Planning, 2022)

The Table below lists the granted planning applications in Kiltiernan and relates to the numbered sites in the map (Figure 3.3) above.

Map Ref	Phasing Zone (LAP)	Site Location	Reg. Ref.	No. of Units	Final Grant Date	Commenced?	Live Permission or Expired
1.	A	The Leys, Glenamuck Road South	D21A/0100 [ABP-310089-21]	61 No. units	12 th November 2021	Yes	Live
2.	A	Drumkeen, Glenamuck Road	D17A/0520 [ABP-249144-17]	15 No. units	7 th February 2018	No	Live
3.	A	No. 13 Glenamuck Cottages	D16A/0154	2 No. units	29 th November 2016	Yes [complete]	Expired
4.	A	Willow Glen, Glenamuck Road	D15A/0443	31 No. units	1 st June 2016	Yes [complete]	Expired
5.	A	Brambledown, Glenamuck Road	D14A/0766	11 No. units	6 th May 2015	Yes [complete]	Expired
6.	A	Saxaroon and Inglenook, Glenamuck Road	D14A/0765 [ABP-244520-15]	28 No. units	1 st July 2015	Yes [complete]	Expired
7.	A	Tandesann, Glenamuck Road South	D21A/1002	3 No. additional units	Granted by Dun Laoghaire-Rathdown County Council on 15 th June 2022. Application in the Appeal period at time of lodging this planning application.	N/A	N/A
1.	B	Glenamuck Road/ Enniskerry Road SHD	ABP-306160-19	197 No. units	6 th April 2020	Yes	Live
2.	B	Glenamuck Road SHD	ABP-303978-19	203 No. units	26 th June 2019	Yes	Live
3.	B	Rockville Phase 1	D17A/0793	49 No. units	25 th January 2018	Yes [complete]	Live
4.	B	Rockville Phase 1	D19A/0242 [amendment to D17A/0793]	2 No. units	13 th November 2019	Yes [complete]	Live
5.	B	Rockville Phase 2A	D18A/0566 amended by D18A/1191 [ABP-303871-19]	5 No. units	8 th November 2018 / 24 th June 2019	Yes	Live
6.	B	Rockville Phase 2B	D20A/0015 [ABP-306999-20]	56 No. units	2 nd September 2020	No	Live
7.	B	Shaldon Grange SHD	Permission refused under ABP-307506-20 on Material Contravention technicality. Permission granted for relodged application under ABP-312214-21	130 No. units	11 th April 2022	No	Live
8.	A	Cromlech Close	PC/01/07 [Part 8 application]	15 No. units	11 th June 2007	Yes [complete]	Expired
1.	C	Enniskerry Road SHD [Adjoining Bishop's Gate]	ABP-309846-21	203 No. units	15 th July 2021	No – Due to commence in the Summer 2022	Live
2.	C	Suttons Field SHD	ABP-307043-20	116 No. units	28 th August 2020	Yes	Live
3.	C	Slievenamon	D18A/0347 [ABP-303491-19]	22 No. units	28 th June 2019	Yes	Live
4.	C	Golden Ball Pub	D16A/0090 [ABP Ref.PLo6D.246537] D17A/1022 D18A/1133 D18A/1239	61 No. units	Parent permission 27 th October 2016 [Extension of Duration Granted on 15 th November 2021 (D16A/0090/E)]	Yes	Live
5.	C	Bishop's Gate Phase 1	D10A/0716 [ABP Ref. PLo6D.239662]	68 No. units	31 st October 2012	Yes [complete]	Live (EOD Granted 6 th November 2017)

6.	C	Bishop's Gate Phase 2	D18A/0083	27 No. units	13 th September 2018	Yes [complete]	Live
7.	C	Rockhurst	D18A/0137 [ABP-303753-19]	18 No. units	15 th August 2019	No	Live
8.	C	Glebe Road	D16A/0586	38 No. units	24 th February 2017	Yes [near completion]	Live
9.	C	Kingston	Do7A/0899 [ABP Ref. PLo6D.227440] [extension of permission granted to 2018]	12 No. units	31 st October 2008	Yes [complete]	Expired

It can be seen from Figure 3.3 and the accompanying Table set out above, out of the 1,370 No. units granted permission, some 1,136 No. residential units have either commenced or completed construction at the time of writing this report (133 No. in Phase 1 (a)(A), 456 No. in Phase 1 (a)(B) and 547 No. in Phase 1 (b)(C)).

However as the GDRS is projected to begin construction in Q3/Q4 2022 and estimated to be completed by Q3/Q4 2024, this lines up with the estimated opening of Phase 1 of the subject development (Q3 2024). Therefore, the proposed development will not give rise to any planning difficulties as the infrastructure is soon to be constructed.

In their assessment of the Enniskerry Road SHD (ABP Reg. Ref. ABP-309846-19), which was granted permission on 15th July 2021, the following was stated in An Bord Pleanála's Order in relation to phasing:

*'The Board considered that the **proposed development is, apart from the phasing parameters of the Kiltiernan-Glenamuck Local Area Plan 2013, as extended to 2023, broadly compliant with the Dún Laoghaire-Rathdown County Development Plan 2016-2022 and the Kiltiernan- Glenamuck Local Area Plan 2013, as extended to 2023, and would, therefore, be in accordance with the proper planning and sustainable development of the area.***

*The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the Development Plan, **it would materially contravene the Local Area Plan with respect to the programme and phasing of development. The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act, 2000, as amended, a grant of permission in material contravention of the Local Area Plan would be justified for the following reasons and considerations:***

In relation to section 37 (2)(b)(i) of the Planning and Development Act 2000, as amended, the proposed development is in accordance with the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, and complies with the Government's policy to increase the delivery of housing as set out in Rebuilding Ireland Action Plan for Housing and Homelessness 2016.

In relation to section 37 (2)(b)(iii) of the Planning and Development Act 2000, as amended, the proposed development is in accordance with national policy as set out in the Project Ireland 2040 National Planning Framework, specifically, National Policy Objective 3(b) which seeks to deliver at least 50% of all new homes targeted in the five cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built up footprints. The proposed development would also supply 94 number high quality apartment units in compliance with the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2020.

*In relation to section 37 (2)(b)(iv) of the Planning and Development Act 2000, as amended, **the Board has previously granted planning permission for residential schemes in the immediate vicinity of the subject site, including 197 number residential units (An Bord Pleanála Reference Number ABP-306160-19) and 203***

number residential units (An Bord Pleanála Reference Number ABP-307043-20). The proposed development will reflect the pattern of these permitted developments.

Furthermore, the Bord considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum and density of development in this location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height, density and quantum of development and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.' [Our Emphasis]

In their assessment of the Shaldon Grange SHD (ABP Reg. Ref. ABP-312214-21), which was very recently granted permission on 11th April 2022 (130 No. units), the following was stated in An Bord Pleanála Inspector's Report in relation to phasing:

'To conclude, I do not have undue concerns in relation to traffic or transportation issues. As dealt with above, in the previous section on phasing, I am satisfied that the proposed development can be accommodated on the existing road network until such time as the GDDRS is completed and operational. I note that the Transport Division of the planning authority recommend refusal of permission in relation to phasing/prematurity (this matter is dealt with above), however as stated elsewhere within my assessment, it appears that works to begin construction of the GDDRS are imminent and that the timelines in relation to the construction of this proposed development and the roads scheme would be similar.' [Our Emphasis]

The An Bord Pleanála Order stated the following:

'The Board considered that a grant of permission could material contravene section 10 of the Kilternan-Glenamuck Local Area Plan 2013 in relation to phasing, which applies to the site, would be justified in accordance with sections 37(2)(b)(i),(iii) and (iv) of the Planning and Development Act 2000, as amended having regard to:

- (a) **The proposed development is considered to be of strategic or national importance** by reason of its potential to contribute to the achievement of the Government's Policy to increase delivery of housing set out in the Rebuilding Ireland Action Plan for Housing and Homelessness 2016, and to facilitate residential development in an urban centre close to public transport and centres of employment.
- (b) **It is considered that permission for the proposal should be granted having regard to Government policies as set out in the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031** which includes the Metropolitan Area Strategic Plan which identifies strategic residential and employment corridors.
- (c) **It is considered that permission for the proposal should be granted having regard to the Project Ireland 2040 National Planning Framework, National Policy Objective 3b** which seeks to 'deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints'.

(d) *It is considered that permission for the proposal should be granted having regard to the pattern of development and permissions in the vicinity since the adoption of the Kiltiernan-Glenamuck Local Area Plan 2013.*

In accordance with section 37(2)(b)(i)(iii) and (iv) of the Planning and Development Act 2000, as amended, was satisfied for the reasons and considerations set out in the decision. [Our Emphasis]

Therefore, having regard to this recent grant of permission and the earlier precedents which were considered in assessing this more recent application, it is clear that a material contravention of the phasing of development in Kiltiernan has been accepted and the same parameters pertain to the subject lands.

In addition, the *Kiltiernan LAP* sets out that precedence will be given to applications for planning permission which best achieve and satisfy 13 No. criteria, which are detailed and responded to below:

Criteria	Response
<p>1. Conformity with the Kiltiernan / Glenamuck Local Area Plan, 2013-2019 [now extended to 2023], and which promote and facilitate the achievement of its vision and objectives.</p>	<p>Please see Section 8.0 of the Planning Report & Statement of Consistency prepared by Thornton O'Connor Town Planning, which details how the proposed development is consistent with the <i>Kiltiernan LAP</i>, which has been extended until 2023. Other than as detailed in this Material Contravention Statement, the scheme is in accordance with the <i>Kiltiernan LAP</i>.</p>
<p>2. Demonstration of a high level of architectural quality and urban design and are sympathetic to the special character of Kiltiernan / Glenamuck.</p>	<p>As demonstrated in the enclosed <i>Design Statement</i> prepared by McCrossan O'Rourke Manning Architects, the subject scheme represents a high-quality scheme which will contribute to the special character of Kiltiernan. In particular the proposed Neighbourhood Centre and new Village Green fronting onto Enniskerry Road will activate the street frontage and will be a positive addition to the streetscape and form a new focal point for the Village. The Dingle Way Greenway link will also enhance permeability for the area.</p> <p>As detailed in the <i>Landscape Rationale</i> by Ronan MacDiarmada and Associates Landscape Architects & Consultants, the proposed Dingle Way connection through the site is 'a crucial design feature in making this a livable community, enhancing the marketability of the scheme, improving the quality of residents' lives, and providing</p>

	<p><i>space for sustainable drainage...Areas of congregation, informal recreation, and exercise provide a varied experience along the greenway, creating a sense of place’.</i></p>
<p>3. Achievement of local road / footpath improvement and traffic management measures.</p>	<p>The scheme will improve pedestrian facilities along Enniskerry Road by narrowing the carriageway down to 6.5 metres (i.e. a 3.25 metres running lane in each direction) from the front of the kerb on western side of Enniskerry Road. The remaining former carriageway, which varies in width of c. 2 metres, will be reallocated for other road users and will include the introduction of a widened pedestrian footpath and landscaped buffer on the eastern side of the road adjoining the proposed development. There will be a permeable connection from Enniskerry Road through to the future GLDR via the Dingle Way. Pedestrian connections will also be provided to the neighbouring Rockville developments and throughout the site.</p>
<p>4. Consolidation of the existing development node at Glenamuck Road (northern section), including ‘The Park’ development at Carrickmines.</p>	<p>The subject site is not located within the existing development node at Glenamuck Road (northern section), including ‘The Park’ development at Carrickmines. However, we submit that the proposed development will contribute towards the consolidation of Kilternan Village as noted in No. 5 below, due to the site’s location in the centre of the village and the provision of a new Neighbourhood Centre for the area.</p>
<p>5. Consolidation of Kilternan Village.</p>	<p>As the subject site is located in the centre of Kilternan Village and will provide the new Neighbourhood Centre for the village, the proposed development represents the sustainable and sequential consolidation of the village, in accordance with the proper planning and sustainable development of the area.</p> <p>The scheme can be appropriately assimilated into the village having regard to the heights and scale proposed and the opening of the site onto Enniskerry Road which includes a Neighbourhood Centre and public open space for the village, which</p>

	will enliven the streetscape and will improve legibility and permeability and will provide a focus and meeting point for the entire village.
6. Planned within the context of an overall outline Master Plan for individual and affiliated land holdings (in order to prevent piecemeal development).	The enclosed Site Layout Plan prepared by McCrossan O'Rourke Manning Architects, demonstrates how the proposed development will sit in the context of the surrounding environment and how the development will connect into the surrounding lands. In particular we note the connections into the neighbouring Rockville development to the north-east and the future Glenamuck Link Distributor Road to the east. As noted above, the development, which is located in the centre of the village, represents the consolidation of Kiltiernan Village and will fill in a gap between the Rockville development and Enniskerry Road. Therefore, it is clear that the subject development represents a logical, sequential and sustainable insertion to the village and avoids piecemeal development.
7. Compatibility with later phases of development.	<p>The subject development will not prejudice the development of future schemes in Kiltiernan. Please see enclosed <i>Landscape Rationale</i> prepared by Ronan MacDiarmada and Associates Landscape Architects & Consultants, which demonstrates linkages to surrounding developments, i.e. Rockville and the future Glenamuck Link Distributor Road in particular, and Enniskerry Road/Glenamuck Road.</p> <p>The subject scheme will sit comfortably in its context and will not impact on the deliverability of surrounding developments. The Neighbourhood Centre will also contribute towards allowing further phases of development to progress, as more services will be provided in the village.</p>
8. Facilitation of the orderly development of adjoining property/land holdings.	As noted under Nos. 6 and 7, the proposed development represents the sustainable development of lands in the centre of Kiltiernan Village which will appropriately consolidate the village, and avoids urban sprawl. The proposed development will

	<p>contribute towards delivering compact growth, especially as some of the recently granted developments in Kiltarnan are located further from the village core. Various linkages are provided from the site to the surrounding areas. Therefore, the subject development facilitates orderly development of adjoining landholdings.</p>
<p>9. Proximity to the Luas Line B1 and within the catchment area for the Section 49 Supplementary Development Contribution Scheme for Luas Line B1.</p>	<p>The subject site is outside of the catchment area of the Section 49 Supplementary Development Contribution Scheme for Luas Line B1. However the subject site is located within Kiltarnan Village and will provide a new Neighbourhood Centre and Village Green for the entire area, representing the consolidation of sustainable infill lands.</p>
<p>10. Availability of environmental services. Specifically, the Council will monitor and have regard to capacity at the Shanganagh Wastewater Treatment Works to ensure that wastewater from any proposed development in the LAP area can be accommodated in accordance with the Wastewater Discharge License for the Works.</p>	<p>A Confirmation of Feasibility has been received from Irish Water on 30th May 2022, and no issues were raised.</p>
<p>11. Incorporation of acceptable Sustainable Drainage System (SUDS) measures on each development site.</p>	<p>The following SUDS measures have been incorporated into the development as set out in the Engineering Infrastructure Report by Roger Mullarkey & Associates:</p> <ul style="list-style-type: none"> • Green roofs • Permeable paving • Filter drains, • Rainwater butts • Swales • Tree pits • Bio-retention area • Silt-trap / catchpit manholes hydrobrakes • Petrol interceptor; and • Stone lined voided arch retention storage devices.
<p>12. Likelihood of early construction.</p>	<p>The Applicant, Liscove Limited, is committed to developing the subject scheme as soon as possible after receipt of</p>

	<p>planning permission in relation to the proposed development. The Applicant and their associated family operations have a positive track record of developing sites shortly after receiving planning permission such as the nearby attractive Bishop's Gate development.</p>
<p>13. Provision of an appropriate level of active and passive open space and community facilities. Specifically, the Council, in conjunction with the Department of Education and Skills, will have regard to the capacity of local schools to accommodate development, in accordance with the "Code of Practice on the Provision of Schools and the Planning System"</p>	<p>The subject scheme provides c. 18,879 sq m of public open space and c. 2,934 sq m of communal open space, which will greatly enhance the open space provision for the area including the provision of a new Village Green and a connection through the site (the Dingle Way) from the Enniskerry Road to the GLDR. The provision of a Neighbourhood Centre containing a creche, medical facilities, office, retail and a community facility will also greatly enhance the community facilities for Kiltiernan. In addition, please see enclosed <i>Social Infrastructure Report and Retail Services Assessment</i> by KPMG Future Analytics which demonstrates that local schools will have sufficient capacity to accommodate the proposed development.</p>

To conclude this section, it is clear that permission can be granted for the subject development, notwithstanding that the proposed development may represent a material contravention of the phasing set out in the *Kiltiernan LAP*, especially having regard to recent precedents in Kiltiernan and the fact that the GDRS scheme will be commencing construction this year as confirmed by Dun Laoghaire-Rathdown County Council. It is considered that the addition of 383 No. units and Neighbourhood Centre will not give rise to any significant planning difficulties.

3.3 Subject No. 2 – Building Height

Potential Material Contravention in Relation to Building Height - The Proposed Development Can be Facilitated Due to Conflicting Policies in the Development Plan / Local Area Plan or the Objectives are not Clearly Stated (Section 37 (2)(b)(ii) of the Act), the Proposed Development can be Facilitated Through the Section 28 Guidelines (Section 37 (2)(b)(iii) of the Act) and Can be Facilitated Having Regard to the Pattern of Development, and Permissions Granted, in the Area since the making of the Development Plan (Section 37 (2)(b)(iv) of the Act)

The guidance with respect to height is defined in the *Building Height Strategy* set out in Appendix 5 of the *Dún Laoghaire-Rathdown County Development Plan 2022-2028* ("Development Plan"), which has been prepared in accordance with the principles espoused in *Urban Development and Building Heights Guidelines for Planning Authorities, 2018* ("Building Height Guidelines"). Whilst the Council recognises the County's historic patterns of low-rise development, it acknowledges the trend towards taller developments and the national policy and environmental factors that drive this in support of more sustainable and resilient urban development and compact growth.

The basis for additional height is driven by the principle of securing an increase in land-use intensities and residential densities, informed by planning policy at all levels that prioritises new development in existing urban areas rather than in greenfield locations. Therefore, with limited sites and site areas available, it is generally necessary, and indeed more sustainable, to 'build up, not out'.

In the *Kilternan LAP*, Dwg No. PL-13-417 on page 35 (Chapter 4) demonstrates that heights of 2-4 No. storeys shall be provided at the subject lands:



Figure 3.4: Building Height Map [Subject Site Indicatively Denoted by Blue Star]

(Source: *Kilternan LAP*, annotated by Thornton O'Connor Town Planning, 2022)

The *Kilternan LAP* further states that:

*'Having regard to the urban/rural edge location of the plan, generally it is considered that a higher rise built form may be acceptable in certain locations but that it should generally not rise above five storeys. Within the Medium-Higher Density Res. zone, while 3-4 storeys would generally be encouraged, up to five storeys will be acceptable but these elements should be focussed primarily on the proposed distributor road, and as corner elements at road junctions. **Within the Medium Density Res. zone 2-3 storeys would be encouraged with four storey elements to be concentrated along the proposed main and link distributor roads, and/or at key entrances to sites**'.* [Our Emphasis]

The subject site is located within a Medium Density Residential Zone, and the *Kilternan LAP* sets out that 2-3 No. storeys would be encouraged in these areas with 4 No. storey elements to be concentrated along proposed main and link distributor roads and/or at key entrances to the site. The proposed development is predominately in accordance with the heights prescribed in the *Kilternan LAP*, with the majority of the scheme ranging from 2-3 No. storeys across the site with a 4 No. storey Neighbourhood Centre. However Apartment Blocks C and D to the north-east of the site extend to 5 No. storeys including podium/undercroft level. The apartment blocks are located at the proposed entrance from Glenamuck Road where 4 No. storey elements are within the parameters of the *Kilternan LAP*. Therefore the proposed development only slightly exceeds the *Kilternan LAP* parameters by 1 No. storey in a small portion of the site.

In addition, the site is located on Land Parcel No. 20A of the *Kilternan LAP* (and No. 22), and a criteria of Land Parcel 20A is to provide 2 to 4 No. storeys with 4 No. storey elements to be at locations on road frontages, adjacent to the Neighbourhood Centre. In this regard, 4 No. storey elements have not been provided adjacent to the Neighbourhood Centre, however the Neighbourhood Centre itself is 4 No. storeys fronting the Village Green and onto Enniskerry Road, and it was decided to provide residential units over the commercial floorspace (and thus providing a 4 No. storey Neighbourhood Centre block). This will create natural passive surveillance over the areas surrounding the Neighbourhood Centre which we consider as a positive element of the scheme.

Of relevance to the proposed development is Policy Objective BHS 2 (Building Height in areas covered by an approved Local Area Plan or Urban Framework Plan (UFP must form part of the County Plan) of the *Development Plan* (Appendix 4) , which states the following:

'It is a policy objective to promote and support proposed heights as set out in any approved statutory Local Area Plans and as set out for certain areas in this County Development Plan (Sandyford Urban Framework Plan area, Dundrum Urban Framework Plan Area and Dun Laoghaire Urban Framework Plan area).

Having regard to the Building Height Guidelines and more specifically in order to apply SPPR 3 there may be instances where an argument can be made for increased height and/or taller buildings in the areas mentioned above on the basis of placemaking. In those instances, any such proposals must be assessed in accordance with the performance based criteria set out in table 5.1 which is contained in section 5. The onus will be on the applicant to demonstrate compliance with the criteria.

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

We note the *Kiltarnan LAP* was prepared well before the *Building Height Guidelines* were adopted. Therefore, to demonstrate the proposed development's compliance and accordance with the provisions of Table 5.1 in the *Development Plan's* Height Strategy, a series of responses to the criteria included in the Table is set out below:

At County Level	
Criterion	<i>"Proposal assists in securing objectives of the NPF, in terms of focusing development in key urban centres, fulfilling targets in relation to brownfield, infill development and delivering compact growth."</i>
Response	<p>The proposed development will strongly support the attainment of the <i>NPF's</i> objectives. The current site is comprised of a derelict dwelling and outbuilding, which is an unsustainable use of lands in the centre of Kiltarnan village. However, the proposed development's 383 No. units will yield a significantly more appropriate and sustainable net density of 45 units per hectare. This increase in housing delivery and density are supportive of, and in alignment with, the following National Policy Objectives (NPOs) of the <i>NPF</i> (amongst others):</p> <p>NPO 2a – <i>"A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs."</i></p> <p>NPO 3a – <i>"Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements."</i></p> <p>NPO 3b – <i>"Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints."</i></p> <p>NPO 5 – <i>"Develop cities, towns and villages of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity."</i></p> <p>NPO 35 – <i>"Increased residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights."</i></p> <p>These NPOs seek to focus future development in existing urban environments, more efficiently using land resources and developing the critical mass required to provide public transport and local services and to sustain local businesses. Importantly, they also underpin the <i>NPF's</i> primary National Strategic Outcome (NSO), 'Compact Growth'.</p> <p>Further discussion in respect of the proposed development's alignment with the <i>NPF</i> is included in Section 6.2 of the Planning Report & Statement of Consistency).</p>

Criterion	<i>"Site must be well served by public transport – i.e. within 1000 metre/10 minute walk band of LUAS stop, DART Stations or Core/Quality Bus Corridor, 500 metre/5 minute walk band of Bus Priority Route - with high capacity, frequent service and good links to other modes of public transport."</i>
Response	<p>The subject site is considered eminently suitable for development given the site's location in the centre of Kiltiernan Village with the Ballyogan Luas stop (green line) located c. 2.3 km – c. 2.7 km to the north-east (c. 26-31 minutes walking distance). Kiltiernan is also served by bus route Nos. 44, 63 and 118. These modes of transport provide direct connections to Dublin City Centre and institutions such as Dublin City University in Glasnevin, where residents can also easily transfer to other routes (red line) and modes (buses and trains) for onward connectivity. Although the site is not located within the stated distances of the Luas, Dart, Quality Bus Corridor or Bus Priority Route, it is considered that the site is well located proximate to modes of transport that provide direct connections throughout the city region, including the city centre, where residents can easily transfer to other routes and modes for onward connectivity.</p> <p>It is also noted that there are several proposed new bus routes for Kiltiernan within the Bus Connects scheme, such as Routes No. 88, L26, L13 and P13, which will all serve Kiltiernan Village and offer transport links to Dublin City Centre and other suburbs and education facilities in the greater Dublin area such as University College Dublin.</p> <p>The development itself proposes cycle parking that accords with the minimum standards, with permeable connections provided through the site to the surrounding area.</p>
Criterion	<i>"Proposal must successfully integrate into/enhance the character and public realm of the area, having regard to topography, cultural context, setting of key landmarks. In relation to character and public realm the proposal may enclose a street or cross roads or public transport interchange to the benefit of the legibility, appearance or character of the area."</i>
Response	<p>It is our professional opinion that the proposed scheme will successfully assimilate into the surrounding context, by sustainably densifying the subject site through the provision of medium density housing and a Neighbourhood Centre on underutilised lands at the heart of Kiltiernan Village, which will contribute positively towards addressing the national housing crisis and will provide a range of services and facilities for the future residents of the scheme and the existing and future residents of Kiltiernan. The location of the higher building aligns with the general location of the permitted higher building in the adjoining Rockville development. The existing topography of the site has been fully considered in the overall public realm and built fabric arrangements, particularly in the eastern portion of the lands where the streets and houses have been configured parallel to the prevailing contours. This enables Part M access to the achieved and easy gradients along streets and footpaths to be maintained.</p> <p>The proposed development will create a strong and defined frontage along Enniskerry Road and Glenamuck Road, and the Village Green and Neighbourhood Centre accessed from Enniskerry Road will be a significant</p>

	<p>planning gain for the local area. This will also support the activation of the site, which is currently muted due to inactive frontage provided at present.</p> <p>The design of the development and its layout is such that the taller 5 No. storey elements are provided closer to the taller elements in the neighbouring Rockville development and fronting Glenamuck Road. This ensures that the development integrates with the surrounding area, respecting the pattern of development present thereat, but allowing for a gradual uplift in height in a select location, and an increase in density overall. The 5 No. storey element fronting Glenamuck Road will enclose the streetscape and will benefit legibility, appearance and character of the area and the 4 No. storey Neighbourhood Centre fronting the Village Green along Enniskerry Road will also contribute towards achieving this aim. Therefore, the subject scheme will result in the appropriate densification of a key infill site, providing much needed residential units which will contribute towards addressing the national housing crisis.</p> <p>The subject scheme includes the provision of 18,879 sq m of public open space and 2,934 sq m of communal open space, which has been subject to detailed design by Ronan Mac Diarmada & Associates Landscape Architects & Consultants.</p> <p>A Daylight and Sunlight Analysis has been carried out by 3D Design Bureau, which demonstrates that no significant material impacts will occur to the surrounding properties.</p> <p>A Landscape Visual Impact Assessment has been carried out as part of the EIAR, which demonstrates that there will be no significant adverse visual impacts as a result of the proposed development. Any significant changes to the landscape of the site (i.e. some removal of trees and hedgerows and general construction activity) will be counterbalanced with the implementation of new planting and maintenance of important hedgerows. CGIs prepared by 3D Design Bureau are included, which demonstrate the high-quality design of the proposed scheme.</p>
Criterion	<i>"Protected Views and Prospects: Proposals should not adversely affect the skyline, or detract from key elements within the view whether in foreground, middle ground or background. A proposal may frame an important view."</i>
Response	It is not evident that the subject site is not proximate to the principal line of sight of any Protected Views or Prospects. The Landscape Visual Impact Assessment carried out as part of the EIAR demonstrates that no significant material impacts will occur to the surrounding properties.
Criterion	<i>"Infrastructural carrying capacity of area as set out in Core Strategy of CDP, relevant Urban Framework Plan or Local Area Plan."</i>
Response	In terms of roads capacity, Chapter 10 of the <i>Kiltarnan LAP</i> sets out a phasing strategy for the delivery of housing in Kiltarnan, which represents an interim proposal to accommodate development in advance of the delivery of the Glenamuck District Roads Scheme (GDRS), which includes the Glenamuck District Distributor Road (GDDR) and Glenamuck Link Distributor Road (GLDR). As noted previously, it is expected the GDRS will

	<p>commence construction in Q3/Q4 2022 and it is estimated that the scheme will be completed in Q3/Q4 2024. The first phase of the proposed development is predicted to be fully constructed in September 2024 which lines up with the completion of the GDRS which will significantly improve road capacity in the area.</p> <p>Generally, with respect to water services, the Confirmation of Feasibility issued by Irish Water confirmed the feasibility of connecting to their potable water and foul water networks. Further details of the proposals are contained in Roger Mullarkey & Associates Engineering Infrastructure Report.</p> <p>Atkins carried out a survey of the public transport capacity (bus and Luas) in the area which is included in Section 12 of the Traffic and Transport Assessment. It concluded that local buses and Luas services from Ballyogan Wood are '<i>operating with spare capacity that can accommodate additional loading associated with the development</i>'.</p> <p>In relation to social and community infrastructure, the <i>Social Infrastructure Audit</i> and <i>Retail Study</i> prepared by KPMG Future Analytics is of relevance. The Report indicates the availability of adequate childcare and school places within the environs of the subject site to meet the demand generated by the development and ample provision of a broad range of community facilities and services. The provision of a Neighbourhood Centre within the proposed development will also enhance the availability of services in the area.</p>
<p>At District/Neighbourhood/Street Level</p>	
<p>Criterion</p>	<p><i>"Proposal must respond to its overall natural and built environment and make a positive contribution to the urban neighbourhood and streetscape."</i></p>
<p>Response</p>	<p>The scheme has allowed and considered the future GLDR along the north-eastern boundary of the site and the upgrades to the Glenamuck Road to the north of the site (Part 8 development).</p> <p>The design layout includes a number of open spaces available to the public such as the village green, a woodland walk, pocket park and the Dingle Way, which will positively contribute to the natural environment. The scheme retains a large quantum of trees within established tree belts on site.</p> <p>In terms of the built environment, there are no Protected Structures, Recorded Monuments or Places, or Architectural Conservation Areas at the subject site. There are Protected Structures on neighbouring lands i.e. Rockville to the north-east and Our Lady of the Wayside Church to the south-west, which have been duly considered as part of the overall layout. There has already been housing provided surrounding the Rockville Protected Structure and the proposed development will comprise 3 No. storey duplexes and the Village Green opposite the Church, which will easily assimilate with this Protected Structure. Consequently, there are no protected or sensitive natural or built features at risk of negative impacts</p>

	<p>that may arise as a result of the realisation of up to 5 No. storeys at the subject site.</p> <p>The subject development predominately ranging in height from 2 to 5 No. storeys with the 5 No. storey apartment blocks fronting Glenamuck Road and the 4 No. storey Neighbourhood Centre fronting the Village Green (opening onto the Enniskerry Road), can be accommodated at the subject lands, whilst remaining respectful of the surrounding context. As noted above, the location of the 2 No. higher apartment blocks aligns with the general location of the permitted higher building in the adjoining Rockville development.</p> <p>The high-quality design of the proposed development will allow the development to be integrated into the surrounding area and as noted above, will positively enhance the legibility and streetscape of the surrounding area.</p> <p>The development will make a positive contribution to the neighbourhood and streetscape by: delivering various open spaces and permeable links; providing a Neighbourhood Centre which will serve the local community; activating the streetscape along Enniskerry Road and Glenamuck Road; enhancing the natural vegetation at the site by introducing a broad planting regimen; augmenting the critical mass required to sustain local service provision and businesses; and broadening the number and type of housing options available in the area.</p> <p>The design of the public and communal open space includes toddler’s play area, children’s play area, seating, lawns, planting and pedestrian paths, which will positively contribute to the natural environment.</p> <p>Given the context and size of the subject site, the site is suitable to accommodate building heights of 2 to 5 No. storeys, whilst remaining respectful of the surrounding context through the adoption of separation distances to boundaries and variation in height throughout the site. Therefore, it is our opinion that, through a high standard of design, siting and layout and large public open spaces and linkages through the site, the proposed development knits successfully with the surrounding context.</p>
Criterion	<i>"Proposal should not be monolithic and should avoid long, uninterrupted walls of building in the form of slab blocks. "</i>
Response	<p>The Design Statement prepared by MCORM Architects details the use of materials, the elevational treatment and modulated height arrangement which break up the massing of the proposed development.</p> <p>The development provides houses, duplexes, apartments and a Neighbourhood Centre which naturally provides a varied design and thus the scheme will not be monolithic.</p> <p>The Design Statement details the proposed materials and façade treatments which are also clear when viewing the Verified Views and CGIs prepared by 3D Design Bureau.</p>

	<p>It is clear that a significant effort has been made to provide a well-considered and interesting building form which enhances legibility, wayfinding and connectivity within the site for future residents and the existing wider area.</p>
Criterion	<i>"Proposal must show use of high quality, well considered materials. "</i>
Response	<p>As outlined in the <i>Design Statement</i> by MCORM, a mix of high-quality materials is proposed to deliver an attractive and hard-wearing development including:</p> <p><i>'...Depending upon the character areas within the site the materials vary. Between character areas there will be distinct differences between brick types and material choice, elevation treatment and building form in order to create variety and visual interest across the scheme.</i></p> <p><i>...The proposed buildings employ a controlled palette of materials with a mix of traditional and contemporary typologies. The primary materials for the development will be a mix of high-quality brick textures with complementary stone details in selected areas to the street elevations. The material choice will ensure that the buildings proposed are durable as well as being of high visual quality.</i></p> <p><i>...Each one of the 4 proposed character areas has legible unique features that will create a sense of identity and place, while applying a coherent architectural language through the use of repeating elements such as complementary brick types, window types, balcony treatments, stone surrounds and metal canopies.</i></p> <p><i>...The use of these high quality, durable and low maintenance materials within the scheme will contribute to the longevity, appearance and character of the proposed development.'</i></p> <p>Therefore, it is clear that high-quality materials have been well considered.</p>
Criterion	<i>"Proposal where relevant must enhance urban design context for public spaces and key thoroughfares and marine or river/stream frontage. "</i>
Response	<p>The scheme includes c. 18,879 sq m high-quality public open space, including the Village Green fronting onto Enniskerry Road which will enhance the urban design context for the Village. In addition, some c. 2,934 sq m of communal open space will be provide for the residents of the apartments and duplexes.</p> <p>The scheme will provide active surveillance of the public and communal open spaces throughout the development. The new public spaces and linkages will significantly improve the public realm and will also enhance legibility and permeability in the area and thus represents a key planning gain for the wider neighbourhood. Importantly, the development will not be gated and will be open to the public.</p>

	<p>The <i>Site Specific Flood Risk Assessment</i> prepared by Roger Mullarkey & Associates and enclosed with this application concludes that:</p> <p><i>'As is required under the Dun Laoghaire Rathdown County Development Plan 2022 – 2028 Appendix 15 – Strategic Flood Risk assessment and in accordance with the requirements set out in the DoEHLG and OPW published guidelines The Planning System and Flood Risk Management 2009 (the Guidelines), a Site Specific Flood Risk Assessment (SSFRA) has been carried out for this application.</i></p> <p><i>In accordance with the above noted Guidelines, as sequential staged approach was adopted in assessing the flood risk for the subject development.</i></p> <p><i>It was determined in accordance with the Guidelines that the lands on which the subject development is located is within a flood Zone C as defined in the Guidelines.</i></p> <p><i>It is concluded that a mixed residential and commercial development is appropriate on the subject lands.</i></p> <p><i>It is concluded that the above level of assessment is sufficient given the nature of the development and the level of flood risk identified for the site.</i></p> <p><i>Based on the information available it is concluded that this site is suitable for development and has an overall low risk of being affected by flooding.'</i></p>
<p>Criterion</p>	<p><i>"Proposal must make a positive contribution to the improvement of legibility through the site or wider urban area. Where the building meets the street, public realm should be improved."</i></p>
<p>Response</p>	<p>The high-quality design of the scheme will ensure the development will be a legible and attractive addition to the area, particularly due to the attractive links provided through the site including the Dingle Way, and the provision of a Neighbourhood Centre, which will serve the local community. The Village Green fronting onto Enniskerry Road will animate the streetscape and will make a positive contribution to the legibility of the Village. The existing underutilised site will be replaced with a high-quality development, which will be a positive insertion to the area.</p> <p>The subject scheme includes the provision of 18,879 sq m of public open space and 2,934 sq m of communal open space.</p>
<p>Criterion</p>	<p><i>"Proposal must positively contribute to the mix of uses and /or building/dwelling typologies available in the area. "</i></p>
<p>Response</p>	<p>The surrounding context of the subject site is generally characterised by a mix of low-density residential dwellings with a 4 No. storey apartment block abutting the north-eastern corner of the site. The scheme includes a Neighbourhood Centre, which will positively contribute to the mix of uses</p>

	<p>in the area. There is a large mix of dwelling types provided ranging from 1 No. bedroom apartments to 4 No. bedroom dwellings.</p> <p>The proposed scheme seeks to contribute towards reducing the deficit in Dublin’s housing supply. The subject site is a key underutilised site in the village centre and provides a prime opportunity to provide a mixed-use development of suitable height, scale and mass that will result in the appropriate densification of the site.</p>
Criterion	<i>"Proposal should provide an appropriate level of enclosure of streets or spaces."</i>
Response	<p>The scheme will create visual interest in the streetscape along Enniskerry Road and Glenamuck Road and will positively contribute to placemaking through the linkages provided and the Neighbourhood Centre and Village Green fronting Enniskerry Road. The apartment blocks fronting Glenamuck Road will appropriately enclose the street. In addition the Neighbourhood Centre will appropriately enclose the new Village Green. Enniskerry Road will also be provided with a sense of enclosure by the proposed dwellings fronting the street and the Village Green opening onto Enniskerry Road will be a focal point for the community.</p> <p>This new frontage along the front of the site along Enniskerry Road will create a new urban edge with Sandyford Road, redefining the sense of place in a positive way. Furthermore, this new interface will enhance the creation of placemaking and perception of this area now being an accessible public environment (that is lacking presently due to the current undeveloped nature of the site).</p> <p>All open spaces within the site are overlooked by dwellings and or Neighbourhood Centre units.</p>
Criterion	<i>"Proposal should be of an urban grain that allows meaningful human contact between all levels of buildings and the street or spaces"</i>
Response	<p>A key element of the proposed development is the provision of a Neighbourhood Centre with associated Village Green in addition to the Dingle Way permeable link. Therefore, meaningful human contact is instilled within the essence of this development.</p> <p>The building types are varied throughout the site with open spaces provided in various locations. The benefit of this is that it will create a new urban grain and built rhythm across the site.</p> <p>This grain and the overall height of the development and their separation distances have been designed to be of a human scale and not overbearing; their height, positioning on the site and materiality mean that residents, visitors and passers-by can engage with them.</p> <p>The landscaped spaces have been carefully designed and planted to give them a sense of expanse, freedom, intimacy and enclosure in the seating areas and play spaces for example.</p>

	<p>Furthermore, the open spaces provide a variety of different features that will promote human interaction, engagement and socialising, including the seating areas, play spaces, greenway connectivity and woodland walk etc. This will be bolstered by the Neighbourhood Centre which will promote the creation of a community within the development.</p>
Criterion	<i>"Proposal must make a positive contribution to the character and identity of the neighbourhood."</i>
Response	<p>The proposed development has been designed to make a positive and lasting contributions to the character and identity of the neighbourhood by following means:</p> <ul style="list-style-type: none"> • Redefining the interface along Enniskerry Road and Glenamuck Road. This will create a new physical urban edge at the site which is otherwise missing due to the lack of activation from these underutilised lands; • The above approach to the design will also activate the streetscape in terms of both built-form (i.e. visually/aesthetically) and human presence and vibrancy, something that is lacking at this location; • A significant planting regimen is proposed that includes, amongst other features and plants, approximately 659 No. trees, which will create an attractive, lush and ecologically beneficial environment as they mature; and • The addition of 383 No. apartment units will broaden the total housing stock in the area, but also the housing types and sizes, thereby accommodating a broader range of residents (with different socio-economic backgrounds and incomes, life stages, household sizes, etc.) than would have otherwise lived here, which will support community building and integration. • The provision of a Neighbourhood Centre will provide a focal point for the community which will positive contribute to the character and identity of the neighbourhood.
Criterion	<i>"Proposal must respect the form of buildings and landscape around the site's edges and the amenity enjoyed by neighbouring properties."</i>
Response	<p>The <i>Kilternan LAP</i> prescribes heights of 2-4 No. storeys for the subject lands. The height of the scheme is predominately 2 to 3 No. storeys throughout the majority of the scheme and thus should not be considered challenging from a height and massing perspective. The scheme only provides an increase in height to 4 No. storeys in the Neighbourhood Centre fronting the Village Green and 5 No. storeys near the Glenamuck Road entrance. The location of the 5 No. storey apartment blocks align with the general location of the permitted higher building in the adjoining Rockville development.</p> <p>It is therefore considered that the scheme design strikes a balance between respecting the parameters of the <i>Kilternan LAP</i> and ensuring the development potential of a strategically positioned and underutilised plot is maximised, in the heart of Kilternan Village.</p>
At site/building scale	

Criterion	<i>"Proposed design should maximise access to natural daylight, ventilation and views and minimise overshadowing."</i>
Response	<p>The height of the scheme is 2 to 3 No. storeys throughout the majority of the scheme and thus should not be challenging from a daylight and sunlight perspective. The scheme only provides an increase in height to 4 No. storeys in the Neighbourhood Centre fronting the Village Green and 5 No. storeys near the Glenamuck Road entrance.</p> <p>The proposed development has been carefully designed and modulated ensuring there is minimal impact on the daylight and sunlight reaching the existing and proposed residences on adjacent sites and minimal overshadowing impacts, and thus the scheme will have a limited impact on the amenity of surrounding properties. This is detailed in 3D Design Bureau's Daylight and Sunlight Assessment Report.</p> <p>The results of the enclosed Daylight and Sunlight Assessment demonstrate that the proposed scheme will not have an unacceptable or adverse impact on itself or on the surrounding properties with regard to daylight and sunlight. The proposed development would not result in a significant reduction to the level of daylight and sunlight received by the surrounding existing properties. Future occupants will enjoy good levels of daylight within the vast majority of the proposed units as the units perform well in terms of Average Daylight Factor (c. 98% of rooms compliant). The public and communal open spaces will all generally be provided well excellent levels of sunlight.</p>
Criterion	<i>"Proposal should demonstrate how it complies with quantitative performance standards on daylight and sunlight as set out in BRE guidance "Site Layout Planning for Daylight and Sunlight" (2nd Edition). Where a proposal does not meet all the requirements, this must be clearly identified and the rationale for any alternative, compensatory design solutions must be set out. On relatively unconstrained sites requirements should be met."</i>
Response	<p>As noted above, the Daylight/Sunlight Assessment and the Landscape Visual Impact Assessment ultimately demonstrate that no material impacts will occur on neighbouring properties.</p> <p>The <i>Daylight and Sunlight Assessment Report</i> prepared by 3D Design Bureau includes a detailed assessment and review of the proposed development and the possible impacts of the proposed development on existing and potential neighbouring developments. The Board is directed to review this Report, included as part of this application pack.</p> <p>As part of a compensatory design solution for the rooms that do not meet the recommended minimum average daylight factor, the proposed development has incorporated a number of compensatory design measures including larger apartment sizes, larger room sizes, larger private amenity space and views to the public and/or communal open spaces. We have included a list of the rooms that fall short of the daylight provisions and demonstrated the compensatory design measures provided in Section 3.6 of this Material Contravention Statement.</p>

Criterion	<i>"Proposal should ensure no significant adverse impact on adjoining properties by way of overlooking overbearing and/or overshadowing."</i>
Response	<p>As articulated in response to the preceding criteria, the proposed development has been carefully designed to ensure that it is not overbearing in its design. Its modulation of height and distributed massing results in a scheme that respects surrounding developments.</p> <p>In terms of overshadowing, the proposed development has little to no impact on neighbouring or residences.</p>
Criterion	<i>"Proposal should not negatively impact on an Architectural Conservation Area (ACA) or the setting of a protected structure."</i>
Response	<p>There are no Protected Structures or Architectural Conservation Areas at the subject site. There are Protected Structures on neighbouring lands i.e. Rockville to the north-east and Our Lady of the Wayside Church to the south-west, which have been duly considered as part of the overall layout. There has already been housing provided surrounding the Rockville Protected Structure and the proposed development will comprise 3 No. storey duplexes and the Village Green opposite the Church, which will easily assimilate with this Protected Structure. Consequently, there are no protected or sensitive natural or built features at risk of negative impacts that may arise as a result of the realisation of up to 5 No. storeys at the subject site.</p> <p>Therefore, there is no risk of negative impacts on any Architectural Conservation Areas or Protected Structures.</p>
Criterion	<i>"Proposals must demonstrate regard to the relative energy cost of and expected embodied and operational carbon emissions over the lifetime of the development. Proposals must demonstrate maximum energy efficiency to align with climate policy. Building height must have regard to the relative energy cost of and expected embodied carbon emissions over the lifetime of the development."</i>
Response	<p>Careful regard has been given to the energy costs and efficiency associated with the proposed development, both in terms of its construction and embodied carbon and in terms of its operation and occupation. The longevity of the structures' lives, the energy systems proposed, demolition and construction phases have been considered as part of the design process. Although the delivery of the development will result in the emission/production of carbon and other greenhouse gases, it is intended that these will be minimised wherever practicable, with the net gain associated with the provision of a high-quality, sustainable development in the centre of Kilternan Village considered to be significant. Further discussion in relation to these matters features in the <i>Energy Statement</i> and <i>Lifecycle and Management Report</i>.</p>

County Specific Criteria	
Criterion	<i>"Having regard to the County's outstanding architectural heritage which is located along the coast , where increased height and/or taller buildings are proposed within the Coastal area from Booterstown to Dalkey the proposal should protect the particular character of the coastline. Any such proposals should relate to the existing coastal towns and villages as opposed to the coastal corridor."</i>
Response	This criterion is not deemed applicable to the subject site or proposed development.
Criterion	<i>"Having regard to the high quality mountain foothill landscape that characterises parts of the County any proposals for increased heights and/or taller building in this area should ensure appropriate scale, height and massing so as to avoid being obtrusive."</i>
Response	<p>At a maximum height of just 5 No. storeys in one portion of the site, the proposed development will not be obtrusive and of a scale that would negatively impact on the quality and amenity value of the County's <i>"high quality mountain foothill landscape"</i>. Furthermore, it is sufficiently distant and screened by topography, existing and future development and vegetation from the amenity areas at Ticknock, Ballyedmonduff, Three Rock and Fairy Castle to the south and south-west.</p> <p>No concerns in relation to impacts on preserved/protected views were raised in the <i>Landscape Visual Impact Assessment</i> prepared by Enviroguide Consulting (Chapter 10 of the EIAR). The EIAR notes that the Kiltarnan Plain and Ballycorus Enclosures are located at the foothills of the Dublin mountains and given their terrain and number of routeways traversing this plain, they are likely to be subject to the most pressure for long-term development which would significantly alter the existing landscape. However the subject scheme will integrate into the surrounding environment with the majority of the scheme ranging from 2-3 No. storeys across the site with a 4 No. storey Neighbourhood Centre and the two 5 No. storey apartment blocks to the north of the scheme fronting Glenamuck Road and proximate to the existing apartment development in the neighbouring Rockville development.</p>
Criterion	<i>"Additional specific requirements (Applications are advised that requirement for same should be teased out at pre planning's stage)."</i>
Response	This criterion is not deemed applicable.
Criterion	<i>"Specific assessments such as assessment of microclimatic impacts such as down draft."</i>
Response	The scheme predominately provides 2 and 3 No. storey units with only two 5 No. storey apartment blocks to the north-east of the site and a 4 No. storey Neighbourhood Centre in the centre/south-west of the site, and thus a Wind Assessment is not required. Generally these assessments are required when buildings are at least 30 No. metres in height. The maximum height of the Neighbourhood Centre is c. 14.7 metres (with the telecommunications infrastructure extending to c. 16.286 metres). The

maximum height of the apartment blocks is c. 15.975 No. metres, which is well below 30 No. metres.

In addition, an Acoustic Design Statement was prepared by RSK Ireland Limited. This Report considered the potential impact of the existing and future noise sources on future residents of the proposed dwellings, along with an assessment of the potential operational phase noise impact of the proposed development to nearby existing receptors.

The *Acoustic Design Statement* concludes the following:

'The aim of this study is to assess the potential impacts to future residents and nearby receptors and to provide recommendations, where necessary, to the risk of nuisance arising from operational phase noise emissions.

Baseline monitoring has found pre-existing noise levels are typical of a suburban location in the vicinity of a busy road network. Future noise emissions from the Glenamuck District Roads Scheme (GDRS) have been taken into account and resultant expectant future noise levels on site established via modelling.

This report also considers the potential inward impact of road traffic on the proposed development. Assessment methodologies use guidance from The Professional Guidance on Planning & Noise (ProPG), May 2017. The two primary stages of the ProPG assessment are the "Stage 1" initial noise risk assessment of the proposed site and "Stage 2" detailed appraisal of the proposed development and preparation of an Acoustic Design Statement.

The site noise survey has also been used to assess the sites noise risk categories, as per the ProPG "Stage 1" assessment. The ProPG noise risk categories, for façades most exposed to road traffic, are Negligible to Medium for daytime and Negligible to Medium/High for night-time periods.

Recommendation to mitigate noise emissions, as specified in the "Stage 2" Acoustic Design Statement, include the following:

- *Provision of glazing with minimum sound insulation properties as outlined in this document.*
- *Provision of acoustic attenuation to ventilation systems for dwellings as outlined in this document.*

In the developments operational phase, criteria have also been set for new any new building services plant (i.e. such as may be required to service the retail/commercial elements of the proposed neighbourhood centre), to both existing and future residents, in accordance with the methodologies outlined in BS 4142:2014+A1:2019. It has been concluded that the likely noise impact of the developments in its operational phase is not significant.

	<p><i>In summary, it is considered that the site is suitable for residential development subject to the provision of the noise control recommendations as outlined in this report.'</i></p>
Criterion	<i>"Potential interaction of building, materials and lighting on flight lines in locations in proximity to sensitive bird/bat areas."</i>
Response	The potential for collision risk is low considering the building location, design and materials used. No specific issue in relation to this criterion was raised by Scott Cawley Limited.
Criterion	<i>"Assessment that the proposals allow for the retention of telecommunications channels, such as microwave links."</i>
Response	<p>The <i>Telecommunications Report</i> enclosed and prepared by Independent Site Management Limited notes the following:</p> <p><i>'To provide an adequate allowance for the retention of the 2No. identified Microwave links that will be impacted by the Development, the Applicant is seeking planning permission to install 3No. support poles, affixed to the lift shaft overrun on the Development's neighbourhood centre block B, rising 3metres above roof level.</i></p> <p><i>These support poles are sufficient to accommodate 2No. Ø0.3m Microwave links each (together with associated telecommunications equipment), which provides an adequate solution for the Applicant to mitigate the impact the Development will have on the existing Microwave links emanating from the existing mast currently within the development site boundary, as well as providing some capacity for future links that may or may not be required.</i></p> <p><i>To provide an adequate allowance for the retention of the 6No. identified Radio Frequency links that will be impacted by the Development, the Applicant is seeking planning permission to install 9No. support poles, affixed to ballast mounts on neighbourhood centre block B rising 2.5 metres above parapet level.</i></p> <p><i>These support poles are sufficient to each accommodate 1No. 2m 2G/3G/4G antenna & 1No. 5G antenna each (together with associated telecommunications equipment), which creates the ability for the Applicant to mitigate the impact the Development will have on the existing Radio Frequency links emanating from the mast within the development site, as well as providing some capacity for future links that may or may not be required.</i></p> <p><i>To adequately screen the infrastructure, the support poles used for the antennae will be installed within Radio friendly GRP shrouds'.</i></p>
Criterion	<i>"An assessment that the proposal maintains safe air navigation."</i>

Response	The subject site is located c. 20 km from Dublin Airport and is not in proximity to any aerodromes, and the proposed development is not of sufficient height to require a detailed Aviation Impact Assessment.
Criterion	<i>"Relevant environmental assessment requirements, including SEA, EIA (schedule 7 information if required), AA and Ecological Impact Assessment, as appropriate."</i>
Response	An Appropriate Assessment Screening Report and Environmental Impact Assessment Report have been prepared and submitted with this planning application.
Criterion	<i>"Additional criteria for larger redevelopment sites with taller buildings"</i>
Response	This criterion is not deemed applicable.
Criterion	<i>"Proposal should make a positive contribution to place making, incorporating new streets where appropriate, using massing and height to achieve densities but with variety and scale and form to respond to scale of adjoining development."</i>
Response	<p>The subject scheme seeks to limit urban sprawl by making best use of an existing infill site in the centre of the village. The proposed scheme will make a positive contribution to the surrounding area by developing a key underutilised site and providing a high-quality residential development (which will contribute positively towards addressing the national housing crisis), which will also provide linkages through the site to the neighbouring Rockville development and the future GLDR. The newly proposed Neighbourhood Centre fronting the new Village Green will make a positive contribution to place making.</p> <p>The scheme will create visual interest in the streetscape along Enniskerry Road and Glenamuck Road and will positively contribute to placemaking through the linkages provided and the Neighbourhood Centre and Village Green fronting Enniskerry Road.</p> <p>The subject scheme includes the provision of 18,879 sq m of public open space and 2,934 sq m of communal open space, which has been subject to detailed design by Ronan MacDiarmada & Associates Landscape Architects & Consultants, and the scheme will provide focal point for the Village. The open spaces will enhance the quality of living of future occupants and the wider public and thus will positively contribute to place-making. The delivery of the scheme, which varies in height from 2 to 5 No. storeys is considered as being of notable benefit to the community in terms of permeability and accessibility.</p> <p>The scheme will result in a high-quality architectural design, which has been informed by the surrounding existing context, appropriately densifying an infill site in the centre of the village, providing varied and visually interesting façades for the surrounding streetscape, which will positively contribute to place-making.</p>

Criterion	<i>"For larger unconstrained redevelopment sites BRE standard for daylight and sunlight/any forthcoming EU standards on daylight sunlight should be met."</i>
Response	<p>An Bord Pleanála is redirected to the response in relation to daylight and sunlight above. The results of the enclosed Daylight and Sunlight Assessment demonstrate that the proposed scheme will not have an unacceptable or adverse impact on itself or on the surrounding properties with regard to daylight and sunlight. The proposed development would not result in a significant reduction to the level of daylight and sunlight received by the surrounding existing properties. Future occupants will enjoy good levels of daylight within the vast majority of the proposed units as the units perform well in terms of Average Daylight Factor (c. 98% of rooms compliant). The public and communal open spaces will all generally be provided well excellent levels of sunlight.</p> <p>In relation to relevant standards, we note that updated guidance in relation to these Guidelines were adopted on 8th June 2022, which was published close to the lodgement date of the subject Strategic Housing Development Planning Application. Therefore, the 2022 update was published after the proposed development had been fully designed and after the assessment based on the previous guidance was complete.</p> <p><i>'At the time of writing this report (10/06/22), the BRE Guidelines have released the third edition. However, as all assessment was completed prior to the publication of the 3rd edition (08/06/22), the 2nd edition of the BRE Guidelines has been used for all recommendations within this report.</i></p> <p><i>It should be noted that the European Standard (EN 17037:2018 Daylight in Buildings) had been published prior to the publication of Sustainable Urban Housing: Design Standards for New Apartments in December 2020. Furthermore, British authorities have published and adopted a national annex to the European standards, BS EN 17037. Neither EN 17037 nor BS EN 17037 are referenced in the 2020 apartment guidelines and to the best of our knowledge are not referenced in any planning guidance document issued by Irish planning authorities. Additionally, the relevant documents for assessing this application at the time of preparing the planning application were the BRE Guidelines.</i></p> <p><i>Until official guidance or instruction is published by a relevant Irish planning authority on this matter, 3DDB will continue to reference the BRE Guidelines in our daylight and sunlight assessments and planning authorities should also continue to assess applications based on the relevant guidelines at the time of preparing an application. As such, ADF will be the primary assessment to determine daylight within proposed habitable spaces with circa compliance rates and analysis of results focused on the results of the ADF study, whilst the assessments that have been carried out regarding the criteria set out in EN 17037 and BS EN 17037 should be considered as supplementary studies.</i></p>

	<p><i>Neither the British Standard, European Standard, British Annex to the European Standard nor the BRE Guide set out rigid standards or limits. They are all considered advisory documents. The BRE Guide is preceded by the following very clear statement as to how the design advice contained therein should be used:</i></p> <p><i>"The advice given here is not mandatory and the guide should not be seen as an instrument of planning policy; its aim is to help rather than constrain the designer. Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design."</i></p> <p><i>That the recommendations of the BRE Guide are not suitable for rigid application to all developments in all contexts, is of particular importance in the context of national and local policies for the consolidation and densification of urban areas or when assessing applications for highly constrained sites (e.g. lands in close proximity or immediately to the south of residential lands).'</i></p>
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Table 3.1: Responses to criteria in Table 5.1 of the *Dún Laoghaire-Rathdown County Development Plan 2022-2028's Building Height Strategy*

(Source: Responses by Thornton O'Connor Town Planning, 2022)

Informed by the responses provided to the criteria above (which are set out in Table 5.1 of the *Development Plan's* Height Strategy), it is considered that the proposed development complies and is consistent with Policy Objective PHP42 (Building Design & Height) of the *Development Plan*:

'It is a Policy Objective to:

- *Encourage high quality design of all new development.*
- *Ensure new development complies with the Building Height Strategy for the County as set out in Appendix 5 (consistent with NPO 13 of the NPF).'*

Informed by the foregoing, given the proposed development's compliance with Policy Objective BHS2 which allows an assessment of increased height to be provided, the proposed height is considered to be appropriate and a progressive means through which to secure additional, sustainable housing delivery (increased height of 5 No. storeys provided in an area not considered sensitive i.e. fronting Glenamuck Road and proximate to the existing 4 No. storey block in the neighbouring Rockville development). It could be argued that the objectives in relation to building height do not align between the *Development Plan* and the *Kiltarnan LAP*, as the *Development Plan* allows an assessment for increased height and the *Kiltarnan LAP* is prescriptive (potentially as the *Kiltarnan LAP* was adopted 9 No. years ago and planning policy has progressed since its adoption), and thus it is considered that the proposed building height is acceptable in line with Section 37 (2)(b)(ii) of the Act of 2000.

Furthermore, the design has sought to respect existing and proposed residences, preventing overlooking, overbearance and overshadowing. Therefore, permitting the proposed development will be in accordance with proper planning and sustainable development and

a strong rationale for increased building height has been provided above in response to Table 5.1 of Appendix of the *Development Plan*. Therefore, we consider that the proposed heights are in accordance with Table 5.1 of the *Development Plan* however this has been included in the Material Contravention Statement on a precautionary basis, if An Bord Pleanála do not agree.

The subject site is considered eminently suitable for development given the site's location in the centre of Kiltiernan Village with the Ballyogan Luas stop (green line) located c. 2.3 km – c. 2.7 km to the north-east (c. 26-31 minutes walking distance). Kiltiernan is also served by bus route Nos. 44, 63 and 118. These modes of transport provide direct connections to Dublin City Centre and institutions such as Dublin City University in Glasnevin, where residents can also easily transfer to other routes (red line) and modes (buses and trains) for onward connectivity. Although the site is not located within the stated distances of the Luas, Dart, Quality Bus Corridor or Bus Priority Route, it is considered that the site is well located proximate to modes of transport that provide direct connections throughout the city region, including the city centre, where residents can easily transfer to other routes and modes for onward connectivity.

Therefore, it is our opinion that, through a high standard of design, siting and layout the proposed development knits successfully with the surrounding context.

The proposed development can be facilitated through the Section 28 Guidelines (Section 37 (2)(b)(iii) of the Act of 2000) as the critical need to provide residential units and increased building height is acknowledged throughout the following Guidelines:

- *National Planning Framework ("NPF");*
- *Regional Spatial and Economic Strategy for the Eastern and Midland Regional Assembly 2019-2031 ("RSES");*
- *Urban Development and Building Height Guidelines for Planning Authorities, December 2018 ("Building Height Guidelines");* and
- *Sustainable Urban Housing: Design Standards for New Apartments, December 2020 ("Apartment Guidelines, 2020").*

Particular focus will be places on the acceptability of the proposed building height with respect to the *NPF* and *Building Height Guidelines*.

The *Urban Development and Building Heights Guidelines for Planning Authorities, 2018 ("Building Height Guidelines")* set out that a key objective of the *NPF* is to ensure that increases in building heights and overall density of development in our urban centres is not only facilitated but actively sought out and brought forward by our planning processes [para 1.20]. Detailed compliance with the performance criteria under Section 3.2 of these Guidelines will be considered further below in this document.

The *Kiltiernan LAP* was adopted before these *Building Height Guidelines* were published. The 'Development Management Principles' in the *Building Height Guidelines* (at paragraph 3.1) state that it is Government policy that building heights must generally be increased and that planning authorities must apply certain broad principles when considering development proposals for buildings taller than prevailing building heights in pursuit of the Guidelines.

The third bullet or “*broad principle*” of paragraph 3.1 requires consideration to whether the implementation of the pre-existing policies of a plan that predates the *Building Height Guidelines* align with and support the objectives and policies of the *NPF*. The *NPF* is considered below in this document. As the *Kiltiernan LAP* was made before the *NPF* and *Building Height Guidelines* were published, the pre-existing policies in relation to height in the *Kiltiernan LAP* do not fully align. There is no doubt, therefore, that the Specific Planning Policy Requirements (“*SPPR*”) in the Guidelines are relevant to the assessment of this proposed development.

In particular, where there is a conflict between the provisions of the *Kiltiernan LAP* which provide for a height of 2-3 No. storeys and up to 4 No. storeys in certain locations and *SPPR* 3A, which is considered further below, the provisions of the latter must be applied instead. In addition, Section 4.3.1 of the *Development Plan* sets out that:

‘On all developments with height proposals greater than 4 storeys the applicant should provide a height compliance report indicating how the proposal conforms to the relevant Building Height Performance Based Criteria “At District/Neighbourhood/Street level” as set out in Table 5.1 in Appendix 5.’

Appendix 5 of the *Development Plan* (specifically Table 5.1) further sets out criteria that allows assessment of proposals for increased height:

‘Criteria for assessing proposals for increased height (Defined as building or buildings taller than prevailing building heights in the surrounding urban areas) or taller buildings or for a building that is higher than the parameters set out in any LAP or any specific guidance set out in this County Development plan, must demonstrate satisfaction with the following criteria.’

The *Development Plan* and *Kiltiernan LAP* must now be considered in conjunction with the *Building Height Guidelines* and the objectives of the *NPF*. There is significant potential for the subject site to provide increased heights close to the Glenamuck Road entrance, subject to appropriate safeguards. It is our professional planning opinion that the heights predominately ranging from 2 to 3 No. storeys in addition to a 4 No. storey Neighbourhood Centre and 2 No. apartment blocks with heights of 5 No. storeys including podium/undercroft at the subject site can be readily absorbed without any undue impact on the character of the area or the amenity of neighbouring properties. We note that there is a 4 No. storey apartment block in the neighbouring Rockville development to the north-east, which is located on the boundary of our Client’s lands, proximate to the proposed 5 No. storey element within the subject scheme.

Despite the proposed minor increase in height in one location, it has been demonstrated in the accompanying documentation, particularly the Landscape Visual Impact Assessment and Daylight and Sunlight Assessment, that the subject scheme will not have a significant material impact on the residential amenity of existing surrounding dwellings. It is considered that the height proposed can be absorbed into the natural and built environment due to the separation distances provided from sensitive boundaries and the layout of the development has been thoroughly considered and greater heights are provided in a less sensitive location.

In our opinion, the heights provided in the subject development are appropriate having regard to the express requirement in National level policy to achieve compact growth, in addition to the careful modulation of height throughout the site.

Project Ireland 2040: National Planning Framework

Project Ireland 2040: National Planning Framework (“NPF”) is the Government’s high-level overarching strategic plan that aims to shape the future growth and development of the country. The NPF is a long-term Framework that sets out how Ireland can move away from the current ‘business as usual’ pattern of development.

A number of key national policy objectives are identified throughout the NPF such as the following (in summary):

- **National Policy Objective 2a** states that a target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs.
- **National Policy Objective 3a and National Policy Objective 3b** aim to deliver at least 40% of all new homes nationally, within the build-up of existing settlements and to deliver at least 50% of all new homes that are targeted in the five main Cities within their existing built-up footprints.
- **National Policy Objective 4** aims to provide diverse and integrated communities ensuring the creation of attractive, livable, well designed, high quality urban places.
- **National Policy Objective 13** stipulates that *‘in urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth’*.
- **National Policy Objective 32** sets a target of 550,000 No. additional homes to 2040.
- **National Policy Objective 33** prioritises the provision of residential development at appropriate scales within sustainable locations.
- **National Policy Objective 35** notes the aim to increase residential density in settlements through a range of measures including (amongst others) in-fill development schemes and increased building heights.

The NPF sets out that:

*‘To effectively address the challenge of meeting the housing needs of a growing population in our key urban areas, **it is clear that we need to build inwards and upwards rather than outwards.**’ [Our Emphasis]*

TOC Comment: The proposed scheme involves the redevelopment of a key underutilised site in a prime location in the heart of Kiltarnan Village, which will contribute towards compact growth in Dublin, in line with the objectives of the NPF.

We note that the NPF recognises that building inwards and upwards is important to effectively address the housing crisis. There is a significant importance placed in the NPF to

develop high quality accommodation by increasing building heights in existing urban areas. The proposed development which proposes heights of predominately 2 to 4 No. storeys with 2 No. apartment blocks of 5 No. storeys including podium/undercroft is appropriate given the site's location in the centre of Kiltarnan.

Urban Development and Building Heights – Guidelines for Planning Authorities (December 2018)

The *Urban Development and Building Heights Guidelines for Planning Authorities* (“*Building Height Guidelines*”) were adopted in December 2018 under Section 28 of the 2000 Act. An Bord Pleanála and Planning Authorities must have regard to these Guidelines and, in particular, compliance with the Specific Planning Policy Requirements (SPPRs) is mandatory (see Section 9(3)(b) of the SHD Act).

The *Building Height Guidelines* set out that a key objective of the *NPF* is to significantly increase the building heights and overall density of developments. The Minister's foreword to the *Building Height Guidelines* acknowledges that Ireland's classic development models for city and town cores has tended to be dominated by employment and retail uses, surrounded by extensive and constantly expanding low-rise suburban residential areas which is an unsustainable model. There is an opportunity for our cities and towns to be developed differently. Urban centres could have much better use of land, facilitating well located and taller buildings, meeting the highest architectural and planning standards. The *Building Height Guidelines* are intended to set a new and more responsive policy and regulatory framework for planning the growth and development of cities and towns upwards rather than outwards.

The *Building Height Guidelines* state that the:

*‘Government considers that there is significant scope to accommodate anticipated population growth and development needs, whether for housing, employment or other purposes, **by building up and consolidating the development of our existing urban areas.**’* [Our Emphasis]

The *Building Height Guidelines* further note that:

*‘A key objective of the *NPF* is therefore to see that greatly increased levels of residential development in our urban centres and significant increases in the building heights and overall density of development is not only facilitated but actively sought out and brought forward by our planning processes and particularly so at local authority and An Bord Pleanála levels.’* [Our Emphasis]

The *Building Height Guidelines* also emphasise that increasing prevailing building heights have a critical role to play in addressing the delivery of more compact growth in our urban areas, particularly our cities and large towns through enhancing both the scale and density of development and it notes that the planning process must actively address how this objective will be secured.

The *Building Height Guidelines* expressly seek increased building heights in urban locations:

*‘In relation to the assessment of individual planning applications and appeals, it is Government policy that **building heights must be generally increased in appropriate***

urban locations. There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility. [Our Emphasis]

The *Building Height Guidelines* also advise that taller buildings can assist in contributing to a sense of place:

*'Furthermore, while **taller buildings** will bring much needed additional housing and economic development to well-located urban areas, they **can also assist in reinforcing and contributing to a sense of place** within a city or town centre, such as indicating the main centres of activity, important street junctions, public spaces and transport interchanges. In this manner, **increased building height is a key factor in assisting modern placemaking** and improving the overall quality of our urban environments'.* [Our Emphasis]

TOC Response: The layout of the proposed development has comprehensively considered the position of the proposed blocks and units, and sought to provide a development that both adheres to national policy discourse, whilst also respecting the scale of character of its receiving environment. It is considered that the layout of the scheme as proposed is the optimal solution for the lands (e.g. higher apartment blocks fronting Glenamuck Road and Neighbourhood Centre fronting Enniskerry Road will enhance legibility; the Village Green and Dingle Way will enhance permeability; and the scheme has sought to design around the existing trees on site).

It is further considered that the scheme design strikes a balance between respecting the parameters of the *Kiltiernan LAP* and ensuring the development potential of a strategically positioned and underutilised plot is maximised, in the heart of Kiltiernan Village.

The *Kiltiernan LAP* prescribes heights of 2-4 No. storeys for the subject lands. The proposed development is predominately in accordance with the heights prescribed in the *Kiltiernan LAP*, with the majority of the scheme ranging from 2-4 No. storeys across the site. However Apartment Blocks C and D to the north-east of the site extend to 5 No. storeys including podium/undercroft level. The apartment blocks are located at the proposed entrance from Glenamuck Road where 4 No. storey elements are within the parameters of the *Kiltiernan LAP*. Therefore the proposed development only slightly exceeds the *Kiltiernan LAP* parameters by 1 No. storey in a small portion of the site.

A Landscape and Visual Impact Assessment and Daylight and Sunlight Assessment have been carried out in conjunction with the design of the subject development. These assessments demonstrate that the proposed layout and design will not have an undue negative impact on its receiving environment and thus can be assimilated into the surrounding environment.

It is our professional planning opinion that the site has the capacity and capability to accommodate a minor increase in height beyond that prescribed in the *Kiltiernan LAP*, which was adopted in 2013, well in advance of the *Building Height Guidelines*.

Chapter 3 of the *Building Height Guidelines* expressly seeks increased building heights in urban locations:

*'In relation to the assessment of individual planning applications and appeals, it is Government policy that **building heights must be generally increased in appropriate urban locations**. There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility.'* [Our Emphasis]

Under the heading 'Development Management Principles', the *Building Height Guidelines* state (at paragraph 3.1) that it is Government policy that building heights must generally be increased, and that Planning Authorities must apply certain broad principles when considering development proposals for buildings taller than prevailing building heights in pursuit of the *Building Height Guidelines*. In addition, the Specific Planning Policy Requirements in the *Building Height Guidelines* are relevant to the assessment of this proposed development.

Section 3.1 of the *Building Height Guidelines* states that '*Planning Authorities must apply the following broad principles in considering development proposals for buildings taller than prevailing building heights in urban areas in pursuit of these guidelines*':

Does the proposal positively assist in securing National Planning Framework objectives of focusing development in key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres?

TOC Response: The proposed scheme involves the development of a key underutilised, site in a sustainable village centre location (albeit not brownfield, it is an infill site in a village centre location). The subject development will contribute towards delivering compact growth in our urban areas and we note in this regard that residential developments have been recently granted in Kiltiernan that are located further from the village core. The scheme is therefore fully in accordance with the preferred approach of the *NPF* which seeks compact growth.

Is the proposal in line with the requirements of the development plan in force and which plan has taken clear account of the requirements set out in Chapter 2 of these Guidelines?

TOC Response: Other than as set out in this Material Contravention Statement, the proposal is in line with the *Development Plan* and *Kiltiernan LAP*. In our professional opinion, the proposal is consistent with the *Building Height Guidelines* in relation to height, and the *Kiltiernan LAP* should be read in conjunction with the *Building Height Guidelines*. In addition, the new *Development Plan* adopted in April 2022 allows an assessment of development proposals with increased height and sets out principles that will be considered when assessing capacity for height in Appendix 5, and in our opinion, this assessment (as set out above) demonstrates that the slightly increased height in a small portion of the site is acceptable.

It is considered that the heights proposed principally ranging from part 2 No. storeys to part 4 No. storeys with apartment blocks of 5 No. storeys including podium/undercroft in one area of the site, are appropriate at the subject lands especially having regard to the large extent of the subject site and frontage onto Enniskerry Road, Glenamuck Road and the future GLDR, in order to accord with Government policy to increase building heights in sustainable locations.

The subject scheme respects the residential amenity of surrounding existing dwellings, which will assist in assimilating the development into the area. The Daylight and Sunlight Assessment and Landscape and Visual Impact Assessment demonstrate that the layout of the subject development will not have any potential adverse impacts on the surrounding area.

Where the relevant development plan or local area plan pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align with and support the objectives and policies of the National Planning Framework?

TOC Response: The prescriptive heights of the *Kiltiernan LAP* may be considered incompatible with the developments in National Policy, which have occurred since the Plan's adoption. The *Development Plan*, which was recently adopted on 21st April 2022, allows an assessment of increased height to be carried out (Table 5.1 of Appendix 5). We have provided a detailed response to Table 5.1 and in our opinion, the proposed development ranging in height from part 2 to part 5 No. storeys (including podium/undercroft level in Apartment Blocks C and D and in the Neighbourhood Centre) is appropriate for the subject site. However, we have included building height in the Material Contravention Statement in the event that An Bord Pleanála consider the increase in building height to represent a material contravention of the *Kiltiernan LAP*.

If a scheme of lower heights was provided, it is our opinion that this would not represent sustainable development of underutilised lands and thus it could be considered that the *Kiltiernan LAP* 2-4 No. storeys does not align with the objectives and policies of the *National Planning Framework* ("NPF"). As noted above, the newly adopted *Development Plan* allows an opportunity for an assessment of further increased height allowed with respect to Table 5.1.

We note, in particular, National Policy Objective 35 of the *NPF*, which seeks an increase in residential density in settlements, through a range of measures including infill development schemes, area or site-based regeneration and increased building heights.

It is our opinion that the subject site has the potential for increased heights in the form of 2 No. apartment blocks, which only slightly exceed the prescriptive heights of the *Kiltiernan LAP* by 1 No. storey, to sustainably densify this strategic site having regard to the high quality architectural composition of the scheme, the public open spaces and linkages provided and the site's location at a prominent village centre location, which will all contribute towards absorbing the proposed building heights. The remainder of the site including houses, duplexes and the Neighbourhood Centre ranges from 2 to 4 No. storeys which is within the parameters of the *Kiltiernan LAP*.

A Landscape and Visual Impact Assessment and Daylight and Sunlight Assessment have been carried out in conjunction with the design of the subject development, which highlight that the subject site has the potential to absorb the proposed greater heights. These technical assessments demonstrate that the proposed development will not have an undue negative impact on its receiving environment.

Specific Planning Policy Requirement 3

SPPR₃ of the *Building Height Guidelines* sets out that:

'It is a specific planning policy requirement that where;

- (A) *1. an applicant for planning permission sets out how a development proposal complies with the criteria [below]; and*
2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines;

then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.' [Our Emphasis]

Section 9(3) of the SHD Act provides as follows:

'(3) (a) When making its decision in relation to an application under this section, the Board shall apply, where relevant, specific planning policy requirements of guidelines issued by the Minister under section 28 of the Act of 2000.

(b) Where specific planning policy requirements of guidelines referred to in paragraph (a) differ from the provisions of the development plan of a planning authority, then those requirements shall, to the extent that they so differ, apply instead of the provisions of the development plan.' [Our Emphasis]

We now wish to consider how the proposed development complies with the specified criteria under Section 3.2 of the *Building Height Guidelines*, which are referred to in SPPR₃ as follows:

Development Management Criteria	
At the Scale of the Relevant City/ Town	
Assessment Criteria	Comment
<ul style="list-style-type: none"> <i>The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.</i> 	<ul style="list-style-type: none"> The subject site is considered eminently suitable for development given the site's location in the centre of Kiltarnan Village with the Ballyogan Luas stop (green line) located c. 2.3 km – c. 2.7 km to the north-east (c. 26-31 minutes walking distance). Kiltarnan is also served by bus route Nos. 44, 63 and 118. These modes of transport provide direct connections to Dublin City Centre and institutions such as Dublin City University in Glasnevin, where residents can also easily transfer to other routes (red line) and modes (buses and trains) for onward connectivity. The site is also located c. 1.9 km-c. 2.3 km (c. 22-26 minutes walking distance) from

	<p>Carrickmines Retail Park and c. 2.2 km-c. 2.4 km (c. 27-30 minutes walking distance) from Stepside Village.</p> <ul style="list-style-type: none"> • The development itself proposes cycle parking in accordance with the Dun Laoghaire-Rathdown standards, and the site will provide permeable pedestrian/cycle connections to the surrounding area. • A Mobility Management Plan and Traffic and Transportation Assessment prepared by Atkins provides further detail in relation to the existing and proposed public transport facilities serving the subject site. • As part of the Traffic and Transport Assessment, Atkins studied the potential impact of the development on bus and luas services. The study (see Section 12 of the Traffic and Transport Assessment) concluded that the additional demand on bus services would be negligible. In relation to the luas services, it was concluded that the additional loading would not result in capacity issues for the existing luas services.
<ul style="list-style-type: none"> • <i>Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/ enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake landscape and visual assessment (LVIA), by a suitably qualified practitioner such as a chartered landscape architect.</i> 	<ul style="list-style-type: none"> • It is our professional opinion that the proposed scheme will successfully assimilate into the surrounding context, by sustainably densifying the subject site through the provision of medium density housing and a Neighbourhood Centre on underutilised lands at the heart of Kilternan Village, which will contribute positively towards addressing the national housing crisis and will provide a range of services and facilities for the future residents of the scheme and the existing and future residents of Kilternan. The location of the higher buildings aligns with the general location of the permitted higher building in the adjoining Rockville development. The existing topography of the site has been fully considered in the overall public realm and built fabric arrangements, particularly in the eastern portion of the lands where

	<p>the streets and houses have been configured parallel to the prevailing contours. This enables Part M access to the achieved and easy gradients along streets and footpaths to be maintained.</p> <ul style="list-style-type: none"> • The proposed development will create a strong and defined frontage along Enniskerry Road and Glenamuck Road, and the Village Green and Neighbourhood Centre accessed from Enniskerry Road will be a significant planning gain for the local area. This will also support the activation of the site, which is currently muted due to inactive frontage provided at present. • The design of the development and its layout is such that the taller 5 No. storey elements are provided closer to the taller elements in the neighbouring Rockville development and fronting Glenamuck Road. This ensures that the development integrates with the surrounding area, respecting the pattern of development present thereat, but allowing for a gradual uplift in height in a select location, and an increase in density overall. Therefore, the subject scheme will result in the appropriate densification of a key infill site, providing much needed residential units which will contribute towards addressing the national housing crisis. • The subject scheme includes the provision of 18,879 sq m of public open space and 2,934 sq m of communal open space, which has been subject to detailed design by Ronan Mac Diarmada & Associates Landscape Architects & Consultants. • A Daylight and Sunlight Analysis has been carried out by 3D Design Bureau, which demonstrates that no significant material impacts will occur to the surrounding properties. • A Landscape Visual Impact Assessment has been carried out as part of the EIAR,
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	<p>which clearly demonstrates that there will be no adverse visual impact as a result of the proposed development. CGIs prepared by 3D Design Bureau are included, which demonstrate the high-quality design of the proposed scheme.</p>
<ul style="list-style-type: none"> • <i>On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.</i> 	<ul style="list-style-type: none"> • The subject scheme seeks to limit urban sprawl by making best use of an existing infill site in the centre of the village. The proposed scheme will make a positive contribution to the surrounding area by developing a key underutilised site and providing a high-quality residential development (which will contribute positively towards addressing the national housing crisis), which will also provide linkages through the site to the neighbouring Rockville development and the future GLDR. The newly proposed Neighbourhood Centre fronting the new Village Green will make a positive contribution to place making. • The scheme will create visual interest in the streetscape along Enniskerry Road and Glenamuck Road and will positively contribute to placemaking through the linkages provided and the Neighbourhood Centre and Village Green fronting Enniskerry Road. • The subject scheme includes the provision of 18,879 sq m of public open space and 2,934 sq m of communal open space, which has been subject to detailed design by Ronan MacDiarmada & Associates Landscape Architects & Consultants, and the scheme will provide focal point for the Village. The open spaces will enhance the quality of living of future occupants and the wider public and thus will positively contribute to place-making. The delivery of the scheme, which varies in height from 2 to 5 No. storeys is considered as being of notable benefit to the community in terms of permeability and accessibility. • The scheme will result in a high-quality architectural design, which has been

	<p>informed by the surrounding existing context, appropriately densifying an infill site in the centre of the village, providing varied and visually interesting façades for the surrounding streetscape, which will positively contribute to place-making.</p>
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Development Management Criteria

At the scale of District/ Neighbourhood / Street

Assessment Criteria	Comment
<ul style="list-style-type: none"> <i>The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.</i> 	<ul style="list-style-type: none"> The scheme has allowed and considered the future GLDR along the north-eastern boundary of the site and the upgrades to the Glenamuck Road to the north of the site (Part 8 development). The design layout includes a number of open spaces available to the public such as the village green, a woodland walk, pocket park and the Dingle Way, which will positively contribute to the natural environment. The scheme retains a large quantum of trees within established tree belts on site. In terms of the built environment, there are no Protected Structures, Recorded Monuments or Places, or Architectural Conservation Areas at the subject site. There are Protected Structures on neighbouring lands i.e. Rockville to the north-east and Our Lady of the Wayside Church to the south-west, which have been duly considered as part of the overall layout. There has already been housing provided surrounding the Rockville Protected Structure and the proposed development will comprise 3 No. storey duplexes and the Village Green opposite the Church, which will easily assimilate with this Protected Structure. Consequently, there are no protected or sensitive natural or built features at risk of negative impacts that may arise as a result of the realisation of up to 5 No. storeys at the subject site.

	<ul style="list-style-type: none"> • The subject development predominately ranging in height from 2 to 5 No. storeys with the 5 No. storey apartment blocks fronting Glenamuck Road and the 4 No. storey Neighbourhood Centre fronting the Village Green (opening onto the Enniskerry Road), can be accommodated at the subject lands, whilst remaining respectful of the surrounding context. As noted above, the location of the 2 No. higher apartment blocks aligns with the general location of the permitted higher building in the adjoining Rockville development. • The high-quality design of the proposed development will allow the development to be integrated into the surrounding area and as noted above, will positively enhance the legibility and streetscape of the surrounding area. • The development will make a positive contribution to the neighbourhood and streetscape by: delivering various open spaces and permeable links; providing a Neighbourhood Centre which will serve the local community; activating the streetscape along Enniskerry Road and Glenamuck Road; enhancing the natural vegetation at the site by introducing a broad planting regimen; augmenting the critical mass required to sustain local service provision and businesses; and broadening the number and type of housing options available in the area. • The design of the public and communal open space includes toddler's play area, children's play area, seating, lawns, planting and pedestrian paths, which will positively contribute to the natural environment. • Given the context and size of the subject site, the site is suitable to accommodate building heights of 2 to 5
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	<p>No. storeys, whilst remaining respectful of the surrounding context through the adoption of separation distances to boundaries and variation in height throughout the site. Therefore, it is our opinion that, through a high standard of design, siting and layout and large public open spaces and linkages through the site, the proposed development knits successfully with the surrounding context.</p>
<ul style="list-style-type: none"> • <i>The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered.</i> 	<ul style="list-style-type: none"> • The <i>Design Statement</i> prepared by MCORM Architects details the use of materials, the elevational treatment and modulated height arrangement which break up the massing of the proposed development. • The development provides houses, duplexes, apartments and a Neighbourhood Centre which naturally provides a varied design and thus the scheme will not be monolithic. • The <i>Design Statement</i> details the proposed materials and façade treatments which are also clear when viewing the Verified Views and CGIs prepared by 3D Design Bureau. The Design Statement notes: <ul style="list-style-type: none"> <i>'...Depending upon the character areas within the site the materials vary. Between character areas there will be distinct differences between brick types and material choice, elevation treatment and building form in order to create variety and visual interest across the scheme.</i> <i>...The proposed buildings employ a controlled palette of materials with a mix of traditional and contemporary typologies. The primary materials for the development will be a mix of high-quality brick textures with complementary stone details in selected areas to the street elevations. The material choice will ensure that the buildings</i>

	<p><i>proposed are durable as well as being of high visual quality.</i></p> <p><i>...Each one of the 4 proposed character areas has legible unique features that will create a sense of identity and place, while applying a coherent architectural language through the use of repeating elements such as complementary brick types, window types, balcony treatments, stone surrounds and metal canopies.</i></p> <p><i>...The use of these high quality, durable and low maintenance materials within the scheme will contribute to the longevity, appearance and character of the proposed development'</i></p> <ul style="list-style-type: none"> • It is clear that a significant effort has been made to provide a well-considered and interesting building form which enhances legibility, wayfinding and connectivity within the site for future residents and the existing wider area.
<ul style="list-style-type: none"> • <i>The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of "The Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009)".</i> 	<ul style="list-style-type: none"> • The scheme includes c. 18,879 sq m high-quality public open space, including the Village Green fronting onto Enniskerry Road which will enhance the urban design context for the Village. In addition, some c. 2,934 sq m of communal open space will be provide for the residents of the apartments and duplexes. • The scheme will provide active surveillance of the public and communal open spaces throughout the development. The new public spaces and linkages will significantly improve the public realm and will also enhance legibility and permeability in the area and thus represents a key planning gain for the wider neighbourhood. Importantly, the development will not be gated and will be open to the public. • The Site Specific Flood Risk Assessment prepared by Roger Mullarkey &

	<p>Associates and enclosed with this application concludes that:</p> <p><i>'As is required under the Dun Laoghaire Rathdown County Development Plan 2022 – 2028 Appendix 15 – Strategic Flood Risk assessment and in accordance with the requirements set out in the DoEHLG and OPW published guidelines The Planning System and Flood Risk Management 2009 (the Guidelines), a Site Specific Flood Risk Assessment (SSFRA) has been carried out for this application.</i></p> <p><i>In accordance with the above noted Guidelines, as sequential staged approach was adopted in assessing the flood risk for the subject development.</i></p> <p><i>It was determined in accordance with the Guidelines that the lands on which the subject development is located is within a flood Zone C as defined in the Guidelines.</i></p> <p><i>It is concluded that a mixed residential and commercial development is appropriate on the subject lands.</i></p> <p><i>It is concluded that the above level of assessment is sufficient given the nature of the development and the level of flood risk identified for the site.</i></p> <p><i>Based on the information available it is concluded that this site is suitable for development and has an overall low risk of being affected by flooding.'</i></p>
<ul style="list-style-type: none"> <i>The proposal makes a positive contribution to the improvements of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner.</i> 	<ul style="list-style-type: none"> The high-quality design of the scheme will ensure the development will be a legible and attractive addition to the area, particularly due to the attractive links provided through the site including the Dingle Way, and the provision of a Neighbourhood Centre, which will serve the local community. The Village Green fronting onto Enniskerry Road will animate the streetscape and will make a positive contribution to the legibility

	<p>of the Village. The existing underutilised site will be replaced with a high-quality development, which will be a positive insertion to the area.</p> <ul style="list-style-type: none"> The subject scheme includes the provision of 18,879 sq m of public open space and 2,934 sq m of communal open space.
<ul style="list-style-type: none"> <i>The proposal positively contributes to the mix of uses and/ or building / dwelling typologies available in the neighbourhood.</i> 	<ul style="list-style-type: none"> The surrounding context of the subject site is generally characterised by a mix of low-density residential dwellings with a 4 No. storey apartment block abutting the north-eastern corner of the site. The scheme includes a Neighbourhood Centre, which will positively contribute to the mix of uses in the area. There is a large mix of dwelling types provided ranging from 1 No. bedroom apartments to 4 No. bedroom dwellings. The proposed scheme seeks to contribute towards reducing the deficit in Dublin’s housing supply. The subject site is a key underutilised site in the village centre and provides a prime opportunity to provide a mixed-use development of suitable height, scale and mass that will result in the appropriate densification of the site.

Development Management Criteria	
At the Scale of the Site/ Building	
Assessment Criteria	Comment
<ul style="list-style-type: none"> <i>The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.</i> 	<ul style="list-style-type: none"> The height of the scheme is 2 to 3 No. storeys throughout the majority of the scheme and thus should not be challenging from a daylight and sunlight perspective. The scheme only provides an increase in height to 4 No. storeys in the Neighbourhood Centre fronting the Village Green and 5 No. storeys near the Glenamuck Road entrance. The proposed development has been carefully designed and modulated to

	<p>ensure there is minimal impact on the daylight and sunlight reaching the existing and proposed residences on adjacent sites and minimal overshadowing impacts, and thus the scheme will have a limited impact on the amenity of surrounding properties. This is detailed in 3D Design Bureau's Daylight and Sunlight Assessment Report.</p> <ul style="list-style-type: none"> The results of the enclosed Daylight and Sunlight Assessment demonstrate that the proposed scheme will not have an unacceptable or adverse impact on itself or on the surrounding properties with regard to daylight and sunlight. The proposed development would not result in a significant reduction to the level of daylight and sunlight received by the surrounding existing properties. Future occupants will enjoy good levels of daylight within the vast majority of the proposed units as the units perform well in terms of Average Daylight Factor (c. 98% of rooms compliant). The public and communal open spaces will all generally be provided well excellent levels of sunlight.
<ul style="list-style-type: none"> <i>Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guidelines. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and an effective urban design and streetscape solution.</i> 	<ul style="list-style-type: none"> As noted above, the Daylight/Sunlight Assessment and the Landscape Visual Impact Assessment ultimately demonstrate that no material impacts will occur on neighbouring properties. The <i>Daylight and Sunlight Assessment Report</i> prepared by 3D Design Bureau includes a detailed assessment and review of the proposed development and the possible impacts of the proposed development on existing and potential neighbouring developments. The Board is directed to review this Report, included as part of this application pack. As part of a compensatory design solution for the rooms that do not meet the recommended minimum average daylight factor, the proposed

	<p>development has incorporated a number of compensatory design measures including larger apartment sizes, larger room sizes, larger private amenity space and views to the public and/or communal open spaces. We have included a list of the rooms that fall short of the daylight provisions and demonstrated the compensatory design measures provided in the Material Contravention Statement.</p> <ul style="list-style-type: none"> The scheme will also contribute towards achieving wider planning objectives such as increased building heights and density and the development of infill lands in a sustainable location and will represent high-quality urban redevelopment for the area especially due to the new permeable links provided, the New Neighbourhood Centre, open spaces, and the activation of the streetscape along Enniskerry Road and Glenamuck Road.
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Development Management Criteria	
Site Specific Assessments	
Assessment Criteria	Comment
<ul style="list-style-type: none"> <i>Specific impact assessment of the micro-climatic effects such as down-draft. Such assessments shall include measurements to avoid/mitigate such micro-climatic effects and, where appropriate, shall include an assessment of the cumulative micro-climatic effects where taller buildings are clustered.</i> 	<ul style="list-style-type: none"> The scheme predominately provides 2 and 3 No. storey units with only two 5 No. storey apartment blocks to the north-east of the site and a 4 No. storey Neighbourhood Centre in the centre/south-west of the site, and thus a Wind Assessment is not required. Generally these assessments are required when buildings are at least 30 No. metres in height. The maximum height of the Neighbourhood Centre is c. 14.7 metres (with the telecommunications infrastructure extending to c. 16.286 metres). The maximum height of the apartment blocks is c. 15.975 No. metres, which is well below 30 No. metres. In addition, an Acoustic Design Statement was prepared by RSK Ireland

	<p>Ltd. The Acoustic Design Statement concluded the following:</p> <p><i>'The aim of this study is to assess the potential impacts to future residents and nearby receptors and to provide recommendations, where necessary, to the risk of nuisance arising from operational phase noise emissions.</i></p> <p><i>Baseline monitoring has found pre-existing noise levels are typical of a suburban location in the vicinity of a busy road network. Future noise emissions from the Glenamuck District Roads Scheme (GDRS) have been taken into account and resultant expectant future noise levels on site established via modelling.</i></p> <p><i>This report also considers the potential inward impact of road traffic on the proposed development. Assessment methodologies use guidance from The Professional Guidance on Planning & Noise (ProPG), May 2017. The two primary stages of the ProPG assessment are the "Stage 1" initial noise risk assessment of the proposed site and "Stage 2" detailed appraisal of the proposed development and preparation of an Acoustic Design Statement.</i></p> <p><i>The site noise survey has also been used to assess the sites noise risk categories, as per the ProPG "Stage 1" assessment. The ProPG noise risk categories, for façades most exposed to road traffic, are Negligible to Medium for daytime and Negligible to Medium/High for night-time periods.</i></p> <p><i>Recommendation to mitigate noise emissions, as specified in the "Stage 2" Acoustic Design Statement, include the following:</i></p> <ul style="list-style-type: none"> <i>• Provision of glazing with minimum sound insulation properties as outlined in this document.</i>
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	<ul style="list-style-type: none"> • <i>Provision of acoustic attenuation to ventilation systems for dwellings as outlined in this document.</i> <p><i>In the developments operational phase, criteria have also been set for new any new building services plant (i.e. such as may be required to service the retail/commercial elements of the proposed neighbourhood centre), to both existing and future residents, in accordance with the methodologies outlined in BS 4142:2014+A1:2019. It has been concluded that the likely noise impact of the developments in its operational phase is not significant.</i></p> <p><i>In summary, it is considered that the site is suitable for residential development subject to the provision of the noise control recommendations as outlined in this report.'</i></p>
<ul style="list-style-type: none"> • <i>In development locations in proximity to sensitive bird and/ or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight lines and/ or collision.</i> 	<ul style="list-style-type: none"> • The potential for collision risk is low considering the building location, design and materials used. • No specific issue in relation to this criterion was raised by Scott Cawley Limited.
<ul style="list-style-type: none"> • <i>An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.</i> 	<ul style="list-style-type: none"> • The <i>Telecommunications Report</i> enclosed and prepared by Independent Site Management Limited notes the following: <ul style="list-style-type: none"> <i>'To provide an adequate allowance for the retention of the 2No. identified Microwave links that will be impacted by the Development, the Applicant is seeking planning permission to install 3No, support poles, affixed to the lift shaft overrun on the Development's neighbourhood centre block B, rising 3metres above roof level.</i> <i>These support poles are sufficient to accommodate 2No. Ø0.3m Microwave links each (together with associated telecommunications equipment), which</i>

	<p><i>provides an adequate solution for the Applicant to mitigate the impact the Development will have on the existing Microwave links emanating from the existing mast currently within the development site boundary, as well as providing some capacity for future links that may or may not be required.</i></p> <p><i>To provide an adequate allowance for the retention of the 6No. identified Radio Frequency links that will be impacted by the Development, the Applicant is seeking planning permission to install 9No. support poles, affixed to ballast mounts on neighbourhood centre block B rising 2.5 metres above parapet level.</i></p> <p><i>These support poles are sufficient to each accommodate 1No. 2m 2G/3G/4G antenna & 1No. 5G antenna each (together with associated telecommunications equipment), which creates the ability for the Applicant to mitigate the impact the Development will have on the existing Radio Frequency links emanating from the mast within the development site, as well as providing some capacity for future links that may or may not be required.</i></p> <p><i>To adequately screen the infrastructure, the support poles used for the antennae will be installed within Radio friendly GRP shrouds'.</i></p>
<ul style="list-style-type: none"> <i>An assessment that the proposal maintains safe air navigation.</i> 	<ul style="list-style-type: none"> The subject site is located c. 20 km from Dublin Airport and is not in proximity to any aerodromes, and the proposed development is not of sufficient height to require a detailed Aviation Impact Assessment.
<ul style="list-style-type: none"> <i>An urban design statement including, as appropriate, impact on the historic built environment.</i> 	<ul style="list-style-type: none"> A <i>Design Statement</i> prepared by MCORM Architects has been submitted with this planning application. In addition, an <i>Archaeology and Cultural Heritage Chapter</i> is include as part of the

	<p>EIAR enclosed which details the historic built environment.</p> <ul style="list-style-type: none"> • A <i>Landscape and Visual Impact Assessment</i> prepared by Enviroguide as part of the EIAR and Verified Views prepared by 3D Design Bureau have also been included with this planning application in order to provide a complete overview of the subject design.
<ul style="list-style-type: none"> • <i>Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.</i> 	<ul style="list-style-type: none"> • An <i>Appropriate Assessment Screening Report</i> and <i>Environmental Impact Assessment Report</i> have been prepared and submitted with this planning application.

Conclusion on compliance with criteria under Section 3.2 of the *Building Height Guidelines*:

Having regard to the response to each element of the Development Management Criteria outlined above, it is our considered opinion that the proposed development meets the criteria under Section 3.2 of the *Building Height Guidelines*. The application principally proposes a development ranging in height from 2 to 3 No. storeys and the provision of a 4 No. storey Neighbourhood Centre fronting the Village Green along Enniskerry Road and 2 No. apartment blocks at the entrance from Glenamuck Road extending to 5 No. storeys in height including podium, which is considered to be appropriate having regard to the location of the subject site in the centre of Kiltiernan Village (the 5 No. storey apartment blocks are only 1 No. storey higher than the *Kiltiernan LAP* parameters). The scheme has also provided the opportunity to open up the site and provide an enhanced public realm in addition to a Neighbourhood Centre and permeable links. It is considered that the proposed height is in accordance with Table 5.1 of Appendix 5 of the *Development Plan* (see page 135 of the Planning Report & Statement of Consistency for a response to Table 5.1), which allows an assessment of increased building height, however we have included this in the Material Contravention Statement in the event that An Bord Pleanála consider the height as a material contravention of the *Development Plan / Kiltiernan LAP*.

It is our professional planning opinion that the subject site is capable of achieving additional height and density having regard to the introduction of the *NPF* and the *Building Height Guidelines*, which encourages increased height and density on appropriate sites, particularly as this site is severely underutilised in this sustainable location and is appropriately zoned for development. It is considered that the design response ensures that the development potential of a strategically positioned underutilised plot is maximised without impacting adversely on the amenity of adjacent properties. The scheme will enliven the village centre and will provide a community hub within the core of the village.

Regional Spatial and Economic Strategy for the Eastern and Midlands Region

The Regional Spatial and Economic Strategy for the East and Midlands Regional Assembly 2019 – 2031 (“RSES”) comprises a number of core Regional Policy Objectives which coincide with the *National Planning Framework* (“NPF”). The purpose of the guidelines are to guide all Local Authority future plans, projects and activities requiring consent of the Regional Assembly.

Under **RPO 4.3** ‘*Consolidation and Re-intensification*’ the following objective is stated:

‘Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin city and suburbs and ensure that the development of future development areas is coordinated with the delivery of key water infrastructure and public transport projects.’ [Our Emphasis]

TOC Comment: The subject scheme will provide 383 No. residential units and a Neighbourhood Centre at an underutilised strategic site in the centre of Kiltarnan Village, in accordance with RPO 4.3. In addition, it is expected that the GLDR will have completed construction before Phase 1 of the subject development is complete. The scheme has allowed for and considered the future GLDR along the north-eastern boundary of the site. It is our opinion that the development will result in the appropriate intensification of this sustainable core village site.

The *Metropolitan Area Spatial Plan (MASP) for Dublin* contained within the RSES notes that following relevant objective **RPO 5.5:**

*‘Future residential development in the Dublin Metropolitan Area shall follow a clear sequential approach, with a **primary focus on the consolidation of Dublin and suburbs** supported by the development of key metropolitan towns in a sequential manner as set out in the Metropolitan Area Strategic Plan (MASP) and in line with overall Settlement Strategy for the RSES. Identification of suitable residential development sites shall be supported by a quality site selection process that addresses environmental concerns.’*

TOC Comment: The subject development is contained within an area designated as a new residential community, which is currently in transition from lower density housing to higher density schemes, in the centre of Kiltarnan Village. Therefore, the proposed development represents consolidated growth of Dublin and suburbs. The Environmental Impact Assessment Report prepared by Enviroguide Consulting and Appropriate Assessment Screening Report by Scott Cawley Limited addresses all environmental items that are relevant to the site. It is our professional opinion that the proposed scheme provides an appropriate design response that will contribute towards consolidating Dublin in accordance with RPO 5.5.

Therefore, as clearly demonstrated above, the proposed development is consistent with the *NPF*, the *Building Height Guidelines* and the *RSES* and is therefore acceptable in line with Section 37 (2)(b)(iii) of the Act.

Furthermore, it is our opinion that the proposed heights can be absorbed at the subject site having regard to the pattern of development/permissions granted in the area in recent years.

Section 37 (2)(b)(iv) of the Act states the following:

'permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.'

We acknowledge that the current *Development Plan* was formally adopted on 21st April 2022 and that the recent grants of permission in the area were ultimately made prior to the adoption of this *Development Plan* (given that the *Development Plan* was adopted c. 2 months prior to lodging this planning application). However we still consider it prudent to outline the surrounding permitted developments/pattern of development as the area is in transition from lower density housing to higher density apartments.

The examples below relate to recent grants of permission for schemes with elements of increased building height (such as in one portion of the subject development) and a mix of apartments and houses in proximity to the subject site:

1. Glenamuck Road / Enniskerry Road SHD – 197 No. units granted on 6th April 2022 including 62 No. houses and 115 No. apartments (ABP Reg Ref. ABP-306160-19) – Heights of up to 4 No. storeys granted.
2. Glenamuck Road SHD – 203 No. units granted on 26th June 2019 including 30 No. houses and 173 No. apartments (ABP Reg. Ref. ABP-303978-19) – Heights of up to 6 No. storeys granted.
3. Shaldon Grange SHD – 130 No. units granted on 11th April 2022 including 55 No. houses and 75 No. apartments (ABP Reg. Ref. ABP-312214-21) – Heights of up to 54 No. storeys granted.
4. Suttons Fields SHD – 116 No. units granted on 28th August 2020 including 85 No. houses and 31 No. apartments (ABP Reg. Ref. ABP-307043-20) – Heights of up to 3 No. storeys granted.
5. Enniskerry Road SHD, Adjoining Bishop's Gate Housing Development – 203 No. units granted on 15th July 2021 including 109 No. houses and 94 No. apartments (ABP Reg. Ref. ABP-309846-21) – Heights of up to 3 No. storeys granted.
6. Rockville Phase 1 – 49 No. units granted on 14th December 2017 (Final Grant Date 25th January 2018) including 37 No. houses and 12 No. apartments (DLRCC Reg. Ref. D17A/0793) – Heights of up to 4 No. storeys granted (directly adjoining the north-east boundary of the site in proximity to the proposed 5 No. storey apartment blocks).

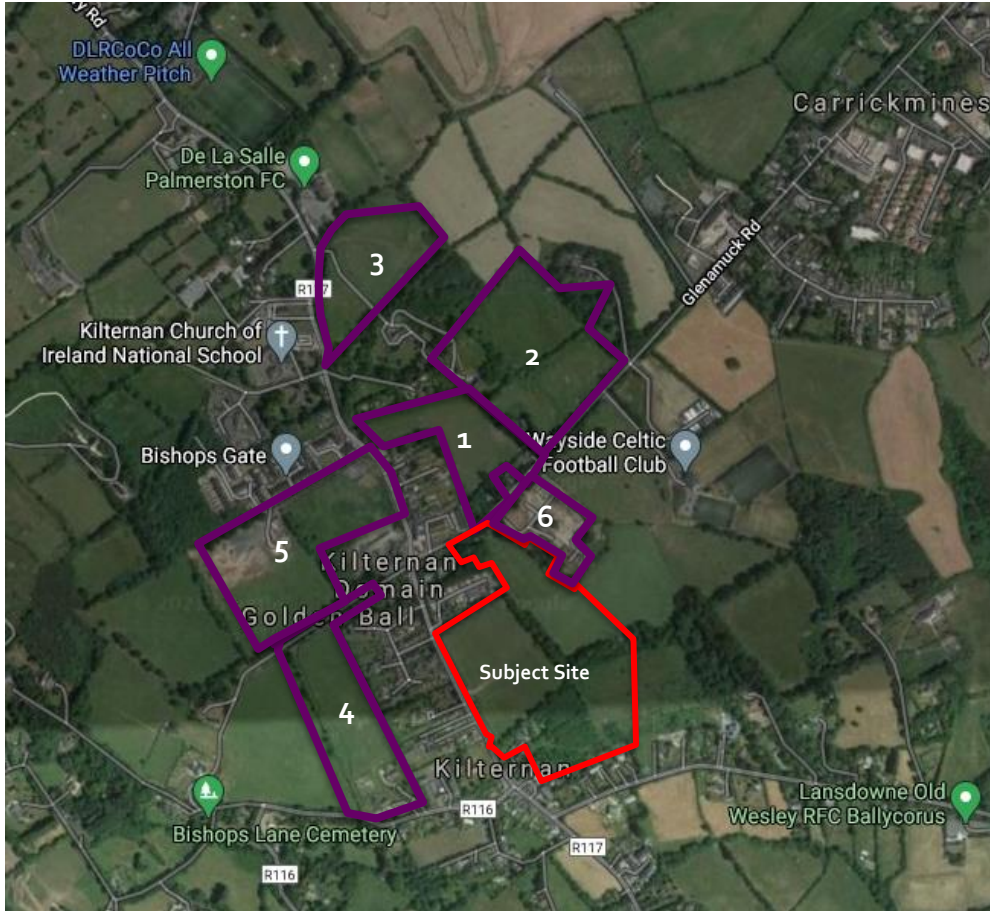


Figure 3.5: Recent SHD Planning Applications in Kiltiernan Village in the Vicinity of the Subject Site (Yellow=Indicative Subject Lands, and Green=Granted SHD)

(Source: Google Maps, annotated by Thornton O'Connor Town Planning, 2022)

Therefore, it is our opinion that the proposed development can be absorbed into the area having regard to the pattern of development in the area and the development is thus in accordance with Section 37 (2)(b)(iv) of the Act (while caveating that the *Development Plan* was only recently adopted).

It is considered that the design response provided strikes a balance between respecting the surrounding environment of the scheme and ensuring the development potential of a strategically positioned and underutilised plot is maximised in the heart of Kiltiernan Village. It is considered that the scheme can be absorbed into the natural and built environment due to the separation distances provided from sensitive boundaries and the layout of the development has been thoroughly considered and greater heights are provided in a less sensitive location. Therefore, the proposed height and massing has been duly considered as part of the subject development.

3.4 Subject No. 3 – Car Parking Provision

Potential Material Contravention in Relation to Car Parking - The Proposed Development Can be Facilitated Due to Conflicting Policies in the Development Plan or the Objectives are not Clearly Stated (Section 37 (2)(b)(ii) of the Act), the Proposed Development can be Facilitated Through the Section 28 Guidelines (Section 37 (2)(b)(iii) of the Act) and Can be Facilitated Having Regard to the Pattern of Development, and Permissions Granted, in the Area since the making of the Development Plan (Section 37 (2)(b)(iv) of the Act)

The car parking provision has been guided by the contents of the *Development Plan* and the *Apartment Guidelines, 2020*.

As the subject site is located in Parking Zone 3 ('Remainder of County (non-rural)') set out in the *Development Plan*, the standards shown in the table below apply to the proposed development. It is noted that these are stated 'standards' for residential and not maxima or minima (see stated in Table 12.5 of the *Development Plan*). As also shown in the Table, based on the proposed number and mix of units, there is a standard requirement to provide 640 No. car parking spaces for the residential element.

Unit Type	Car Parking Standard in Zone 3	Visitor Car Parking in Zone 3	Units Proposed	Standard No. of Spaces Required
1-bed apartment/duplex	1 per unit	1 in 10 visitor parking for apartments	27	27 + 3 visitor = 30 No. spaces
2-bed apartment/duplex	1 per unit	1 in 10 visitor parking for apartments	128	128 + 13 visitor = 141 No. spaces
3-bed apartment/duplex	2 per unit	1 in 10 visitor parking for apartments	63	126 + 13 visitor = 139 No. spaces
3 bed + houses	2 per unit	N/A	165	330 No.
Total			383	640 No. (611 No. for units and 29 No. visitor)

Table 12.5 of the *Development Plan* further outlines 'maximum' standards for non-residential uses. As shown below, based on the provision of non-residential uses, there is a maximum requirement to provide 57 No. car parking spaces.

Unit Type	Car Parking Standard in Zone 3	Area Proposed	No. of Spaces Required
Creche	1 per 40 sq m	439 sq m	11
Office	1 per 100 sq m	317 sq m	4
Medical	2 per consulting room	147 sq m	2
Retail	1 per 50 sq m	857 sq m	18
Retail Convenience	1 per 30 sq m	431 sq m	15
Community Facility	1 per 50 sq m	321 sq m	7
Total			57

The proposed development provides the following car parking spaces:

- 330 No. car-parking spaces to serve the 165 No. houses which is in accordance with the *Development Plan* standards (2 No. per unit);
- 221 No. car parking spaces to serve 218 No. apartment and duplex units at a ratio of c. 1 space per unit. The *Development Plan* provides a requirement for 281 No. car parking spaces for the apartments and duplexes as a 'standard' and thus the provision is slightly lower than the standard outlined in the *Development Plan*;
- 70 No. visitor car parking spaces to serve 218 No. apartment and duplex units at a ratio of 0.32 per unit. The *Development Plan* provides a requirement for 29 visitor No. car parking spaces for the apartments and duplexes as a 'standard' and thus the provision is higher than the standard outlined in the *Development Plan*. However the visitor parking has been provided in accordance with the *Apartment Guidelines, 2020* which is detailed below; and
- 57 No. car parking spaces to serve the non-residential element (in accordance with the *Development Plan* standards).

The residential car parking provision for the apartments/duplexes is slightly lower than the standard requirement set out in the *Development Plan*. However, it is deemed appropriate for the location of the development in the centre of Kiltiernan Village, and having regard the proposed mix of units and the availability of ample bicycle parking. The houses have been provided with car parking spaces in accordance with the standards. Furthermore, the visitor parking exceeds the standard requirement set out in the *Development Plan* however the provision is in accordance with the *Apartment Guidelines, 2020*, as detailed below. In addition, the non-residential maximum standard is 57 No. spaces which has been provided and thus the scheme meets the requirements of the *Development Plan* in this regard. The parking includes

Therefore, the provision of parking and visitor parking for the apartments and duplexes are the only parking elements that form part of this Material Contravention Statement which are justified below.

We note that the parking provision for apartments and duplexes has been provided in accordance with the guidance outlined in the *Apartment Guidelines, 2020*. Section 4.22 of the *Apartment Guidelines, 2020* states the following:

*'As a benchmark guideline for apartments in relatively peripheral or less accessible urban locations, **one car parking space per unit, together with an element of visitor parking, such as one space for every 3-4 apartments, should generally be required.***
 [Our Emphasis]

These standards are outlined below:

Unit Type	Car Parking Standard in Zone 3	Units Proposed	No. of Spaces Required
1-bed apartment/duplex	1 per unit	27	27
2-bed apartment/duplex	1 per unit	128	128
3-bed apartment/duplex	1 per unit	63	63
Visitor	1 space per 3-4 apartments		55 – 73
Total		218	218 No. for the units and 55-73 No. for visitors

Therefore, based on this guidance outlined in the *Apartment Guidelines, 2020*, the development could generally provide 218 No. car parking spaces for the apartments and duplexes and 55-73 No. visitor parking spaces for the apartments and duplexes. The development provides 221 No. spaces for the apartments and duplexes and 70 No. visitor parking space which is in accordance with Section 4.22 of the *Apartment Guidelines, 2020*. Therefore, the proposed development is consistent with National Policy and is therefore acceptable in line with Section 37 (2)(b)(iii) of the Act.

In addition, the *Development Plan* does allow for a deviation from the standards which it sets for car parking (apartments and duplexes are the only element below the *Development Plan* standards and visitor parking exceeds the *Development Plan* requirement). Specifically, Section 12.4.5.2 of the *Development Plan* states:

'In all instances, where a deviation from the maximum or standard specified in Table 12.5 is being proposed, the level of parking permitted and the acceptability of proposals, will be decided at the discretion of the Planning Authority, having regard to criteria as set out below:

- *Proximity to public transport services and level of service and interchange available.*
- *Walking and cycling accessibility/permeability and any improvement to same.*
- *The need to safeguard investment in sustainable transport and encourage a modal shift.*
- *Availability of car sharing and bike / e-bike sharing facilities.*
- *Existing availability of parking and its potential for dual use.*
- *Particular nature, scale and characteristics of the proposed development (as noted above deviations may be more appropriate for smaller infill proposals).*
- *The range of services available within the area.*
- *Impact on traffic safety and the amenities of the area.*

- *Capacity of the surrounding road network.*
- *Urban design, regeneration and civic benefits including street vibrancy.*
- *Robustness of Mobility Management Plan to support the development.*
- *The availability of on street parking controls in the immediate vicinity.*
- *Any specific sustainability measures being implemented including but not limited to:*
 - *The provision of bespoke public transport services.*
 - *The provision of bespoke mobility interventions.'*

Informed by the foregoing, the following points summarise the justifiable reduction in the car parking provision specified for the residential units:

1. ***Proximity to public transport services and level of service and interchange available.***
Number of bus services located in the vicinity of the site and Ballyogan Wood Luas stop within c. 2.3 km – c. 2.7 km (c. 26-31 minute walking distance).
2. ***Walking and cycling accessibility/permeability and any improvement to same.***
Good existing walking facilities and significant improvements to walking and cycling proposed.
3. ***The need to safeguard investment in sustainable transport and encourage a modal shift.***
Level of car parking looks to balance between provision of necessary amount while not adversely impacting on encouraging mode shift.
4. ***Availability of car sharing and bike / e-bike sharing facilities.***
Car sharing facility provided on site subject to agreement with share provider.
5. ***Existing availability of parking and its potential for dual use.***
Mixed use nature of the development with different land uses and car parking demand and utilisation provides flexibility. Some 4 No. parking spaces will be dual purpose, functioning as a loading bay at specific times to coincide with peak deliveries and at other times can be used for parking.
6. ***Particular nature, scale and characteristics of the proposed development (as noted above deviations may be more appropriate for smaller infill proposals).***
As noted above, mixed use nature of the development with different land uses and car parking demand and utilisation provides flexibility. It is noted that residents will be able to access the Neighbourhood Centre without access to a vehicle which is a positive benefit for the scheme.
7. ***The range of services available within the area.***
Development provides creche, office, medical, community and retail use which would facilitate internal trips reducing car trips and car ownership.

8. **Impact on traffic safety and the amenities of the area.**
Level of car parking is balanced so as to not adversely impact on safety.
9. **Capacity of the surrounding road network.**
Reduced car parking versus *Development Plan* standards will result in few trips on the network that will have a positive impact on capacity versus higher parking version.
10. **Urban design, regeneration and civic benefits including street vibrancy.**
Level of car parking is a balance to achieving an optimal urban realm that includes landscaping and amenity, play, safety and place making.
11. **Robustness of Mobility Management Plan to support the development.**
A Mobility Management Plan is provided as part of the planning application.
12. **The availability of on street parking controls in the immediate vicinity.**
N/A
13. **Any specific sustainability measures being implemented including but not limited to:**
 - *The provision of bespoke public transport services.*
 - *The provision of bespoke mobility interventions.*

N/A

As the *Development Plan* sets a 'standard' for car parking in Parking Zone 3 but also a deviation from the standards is allowed subject to the criteria outlined above, it is considered that the proposed car parking is acceptable in line with Section 37 (2)(b)(ii) of the Act of 2000 as the car parking standard is not clearly stated in the *Development Plan* (due to the deviations allowed).

In addition, the Shaldon Grange SHD (130 No. units) recently granted permission by An Bord Pleanála proposed the following 204 No. car parking spaces:

- 72 No. spaces for 75 No. apartments (c. 1 per unit);
- 105 No. spaces for 55 houses (c. 2 per unit); and
- 27 No. visitor parking spaces (c. 0.2 per unit).

We note that the An Bord Pleanála Order included a condition (No. 3 (a)) requesting the omission of 45 No. car parking spaces, bringing the total provision of 204 No. spaces down to 159 No. spaces. Therefore, it is clear that a reduced provision of car parking has recently been considered acceptable in Kilternan (Decision Date: 11th April 2022).

It is our opinion that the proposed development can be absorbed into the area having regard to the pattern of development in the area and the development is thus in accordance with Section 37 (2)(b)(iv) of the Act (while caveating that the *Development Plan* was only recently adopted).

3.5 Subject No. 4 – Apartment Mix

Potential Material Contravention in Relation to Dwelling Mix – The Proposed Development Can be Facilitated Through the Section 28 Guidelines (Section 37 (2)(b)(iii) of the Act)

Table 12.1 of the *Development Plan* sets out the following in relation to apartment mix requirements. The criteria applicable to the subject site is circled in red (New Residential Community as per Figure 2.9 Core Strategy Map).

Area	Threshold	Mix Studio/1/2 bed Requirement (Apartments and Duplexes)	3+ bed Requirement (Apartments)
New Residential Community (See Figure 2.9 Core Strategy Map)	Schemes of 50+ units	Apartment Developments may include up to 60% studio, one and two bed units and with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios.	Minimum 40% 3+ bedroom units
Lands within SUFP	Schemes of 50+ units	Apartment Developments may include up to 60% studio, one and two bed units with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios.	Minimum 40% 3+ bedroom units
Existing Built Up Area	Schemes of 50+ units	Apartment Developments may include up to 80% studio, one and two bed units with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios.	Minimum 20% 3+ bedroom units

As shown in the table above, the *Development Plan* requires a minimum of 40% 3+ bedroom apartments and up to 60% studio, one and two bed units, with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios. The breakdown of apartments and duplexes for the subject scheme is provided below:

Unit Type	No. of Units	% Provided	% Required by Table 12.1 of the <i>Development Plan</i>
Studio	-	-	Max 20% studios
One Bedroom Apartment/Duplex	27	12%	Max 30% studios and 1 bedroom units
Two Bedroom Apartment/Duplex	128	59%	Up to 60% studio, 1 and 2 bedroom units
Three Bedroom Apartment/Duplex	63	29%	Minimum 40% 3 bedroom units
Total:	218 No.	100%	

Therefore, the provision of 29% 3 No. bedroom apartments and duplexes could be considered to materially contravene Table 12.1 of the *Development Plan* as a minimum of 40% are required as set out above. In addition, 72% of the apartments and duplexes comprise 1 and 2 No. bedroom units which could be considered to materially contravene Table 12.1 of the *Development Plan* as up to 60% are required as set out above. There are no studios provided as part of the proposed development.

We note that National Policy recognises the importance of providing 1 and 2 No. bedroom apartments. In this regard, in terms of meeting future housing need, the *Apartment Guidelines, 2020* sets out that:

'demographic trends indicate that two-thirds of households added to those in Ireland since 1996 comprise 1-2- person, yet only 21% of dwellings completed in Ireland since then comprise apartments of any type'.

Furthermore, the 2016 Census indicates that:

'if the number of 1-2 person dwellings is compared to the number of 1-2 person households, there is a deficit of approximately 150%, i.e. there are approximately two and half times as many 1-2- person households as there are 1-2- person homes.'

The *Apartment Guidelines, 2020* recognises the need for alternative types of accommodation to facilitate the societal and economic changes that have affected household formation and housing demand.

The *NPF* states that:

*'while apartments made up 12% of all occupied households in Ireland and 35% of occupied households in the Dublin City Council area in 2016 (Census data), **we are a long way behind European averages in terms of the numbers and proportion of households living in apartments, especially in our cities and larger towns. In many European countries, it is normal to see 40%-60% of households living in apartments.**'* [Our Emphasis]

The *NPF* further calculates that:

*'between 2018 and 2040, an average output of at least 25,000 new homes will need to be provided in Ireland every year to meet the needs for well-located and affordable housing, **with increasing demand to cater for one and two-person households.**'* [Our Emphasis]

Furthermore, it is noted that *'achieving this level of supply will require increased housing output into the 2020s to deal with a deficit that has built up since 2010.'*

Therefore, it is clear that National Policy recognises the importance of providing 1 and 2 No. bedroom apartments. The scheme still provides 29% of the apartments and duplexes as 3+ bedroom units (63 No. units) to provide a range of tenure options in the scheme, with a further 108 No. 3 bedroom houses and 57 No. 4 bedroom houses provided in the development. It is considered optimal to focus on the provision of 1 and 2 No. bedroom units within the apartments and duplexes with a focus on 3+ bedroom units for the houses, although there are still some 63 No. 3 bedroom apartments provided, a significant quantum

in the overall scheme. As a result, the proposed development is consistent with National Policy and is therefore acceptable in line with Section 37 (2)(b)(iii) of the Act.

3.6 Subject No. 5 – Daylight and Sunlight

Potential Material Contravention in Relation to Daylight/Sunlight – The Proposed Development Can be Facilitated Through the Section 28 Guidelines (Section 37 (2)(b)(iii) of the Act)

Section 12.3.4.2 of the *Development Plan* sets out the following:

'Development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011) and/or any updated, or subsequent guidance, in this regard. A daylight analysis will be required for all proposed developments of 50+ units, or as otherwise required by the Planning Authority. The impact of any development on existing habitable rooms should also be considered.'

The *Apartment Guidelines, 2020* state:

'Planning authorities should have regard to quantitative performance approaches to daylight provision outlined in guides like the BRE guide 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting' when undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision.'

The *Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011)* ("BRE Guide") notes the following:

'The advice given here is not mandatory and the guide should not be seen as an instrument of planning policy; its aim is to help rather than constrain the designer. Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design.'

The *Apartment Guidelines, 2020* further state:

'Where an applicant cannot fully meet all of the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, which planning authorities should apply their discretion in accepting taking account of its assessment of specific. This may arise due to a design constraints associated with the site or location and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.'

Therefore, the *Apartment Guidelines, 2020* notes that any shortfalls in daylight provisions set out in the BRE Guide must be identified. The daylight/sunlight report demonstrates a very small number of rooms that do not fully meet the daylight requirements which have been discussed in this section of the Material Contravention Statement in the event that this is considered to be a material contravention of Section 12.3.4.2 of the *Development Plan*.

As part of a compensatory design solution for the rooms that do not meet the recommended minimum average daylight factor (2% for living/kitchen/dining rooms and 1% for bedrooms), the proposed development has incorporated a number of compensatory design measures. The majority of the rooms that do not meet the ADF target have been provided with the following compensatory measures (LKD = living/kitchen/dining room):

Duplex B1_2, LKD:

Unit 2 has a total sq.m area of 85 sq m over and above the 73 sq m minimum required. It also enjoys an oversized private amenity space of 30 sq m in total to the front and back of the unit. The communal open space provided for this block is above the minimum required.

Duplex B2-B3_6, Bedroom2:

Unit 6 has a total sq.m area of 85 sq m over and above the 73 sq m minimum required. It also enjoys an oversized private amenity space of 17 sq m in total to the front and back of the unit. This bedroom is oversized at 14 sq m. The communal open space provided for this block is above the minimum required. This block enjoys views of the retained landscaped tree line and the Dingle way to the north.

Duplex D_5, Bedroom 2:

Unit 5 has a total sq.m area of 87.6 sq m over and above the 73 sq m minimum required. It also enjoys an oversized private amenity space of 13.3 sq m. This bedroom is oversized at 16.7 m² and has direct access to a terrace. The communal open space provided for this block is above the minimum required.

Duplex D_6, LKD:

Unit 6 has a total sq.m area of 77.8 sq m over and above the 73 sq m minimum required. It is a south facing unit. It also enjoys an oversized private amenity space of 15.7 sq m in total. The communal open space provided for this block is above the minimum required. This unit enjoys direct views on to the public open space to the south.

Duplex D_7, LKD:

Unit 7 has a total sq.m area of 77.8 sq m over and above the 73 sq m minimum required. It is a south facing unit. It also enjoys an oversized private amenity space of 15.7 sq m in total. The communal open space provided for this block is above the minimum required. This unit enjoys direct views on to the public open space to the south.

Apt C_5, LKD:

Apt 5 has a total sq.m area of 55.5 sq m over and above the 45 sq m minimum required. It has an oversized living area of 27.1 sq m. It is a south facing unit. It also enjoys an oversized private amenity space of 6.2 sq m in total. The communal open space provided for this block is above the minimum required.

Apt C_8, Bedroom2:

Apt 8 has a total sq.m area of 83.6 sq m over and above the 73 m² minimum required. This bedroom is oversized at 12.6 sq m. The communal open space provided for this block is above the minimum required. This unit enjoys direct views over the landscaped podium to the north.

Apt C_9, Bedroom1:

Apt 9 has a total sq.m area of 65.3 sq m over and above the 45 sq m minimum required. This bedroom is oversized at 17.4 sq m. The communal open space provided for this block is above the minimum required. This unit enjoys direct views over the landscaped podium to the north.

Apt C_12, LKD:

Apt 12 has a total sq.m area of 55.3 sq m over and above the 45 sq m minimum required. This Living area is oversized at 27.3 sq m. The communal open space provided for this block is above the minimum required. This unit is south facing.

Apt C_19, LKD:

Apt 12 has a total sq.m area of 55.3 sq m over and above the 45 sq m minimum required. This Living area is oversized at 27.3 sq m. The communal open space provided for this block is above the minimum required. This unit is south facing.

Apt C_26, LKD:

Apt 26 has a total sq.m area of 55.3 sq m over and above the 45 sq m minimum required. This Living area is oversized at 27.1 sq m. The communal open space provided for this block is above the minimum required. This unit is south facing.

Apt D_8, Bedroom 1:

Apt 8 has a total sq.m area of 65.3 sq m over and above the 45 sq m minimum required. This bedroom is oversized at 17.4 sq m. The communal open space provided for this block is above the minimum required. This unit enjoys direct views over the landscaped podium to the South.

Apt D_9, Bedroom 2:

Apt 9 has a total sq.m area of 83.6 sq m over and above the 73 sq m minimum required. This bedroom is oversized at 12.6 sq m. The communal open space provided for this block is above the minimum required. This unit enjoys direct views over the landscaped podium to the south.

Apt D_15, Bedroom 2:

Apt 15 has a total sq.m area of 83.6 sq m over and above the 73 sq m minimum required. This bedroom is oversized at 12.6 sq m. The communal open space provided for this block is above the minimum required. This unit enjoys direct views over the landscaped podium to the south.

Neighbourhood Centre_A1, LKD:

Apt A1 has a total sq.m area of 85.9 sq m over and above the 73 sq m minimum required. It has an oversized private amenity space of 9.8 sq m. The communal open space provided for this block is above the minimum required. This unit enjoys direct views over the landscaped Village green to the east.

Neighbourhood Centre_B6, LKD:

Apt B6 has a total sq.m area of 86.9 sq m over and above the 73 sq m minimum required. It has an oversized private amenity space of 12.4 sq m. The communal open space provided for this block is above the minimum required. This unit enjoys direct views over the landscaped podium.

Neighbourhood Centre_A16, LKD:

Apt A16 has a total sq.m area of 119.5 sq m over and above the 90 sq m minimum required. It has an oversized private amenity space of 12.4 sq m. The communal open space provided for this block is above the minimum required. This unit enjoys direct views over the landscaped village green.

In conclusion, the *Apartment Guidelines, 2020* allow alternative, compensatory design solutions to be provided where some units do not fully meet the ADF requirements, and thus the proposed development can be facilitated through the Section 28 Guidelines (Section 37 (2)(b)(iii) of the Act of 2000. In this instance the scheme will achieve wider planning objectives such as sustainably densifying lands in the centre of Kiltarnan. The development will provide an effective urban design and streetscape solution at the site, which will benefit both the future residents and the community.

In addition, we note that Section 12.3.4.2 of the *Development Plan* (extracted at the beginning of this section) refers to the following

'Development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011) and/or any updated, or subsequent guidance, in this regard.'

In this regard, we note that updated guidance in relation to these Guidelines were adopted on 8th June 2022, which was published close to the lodgement date of the subject Strategic Housing Development Planning Application. Therefore, the 2022 update was published after the proposed development had been fully designed and after the assessment based on the previous guidance was complete. The Daylight and Sunlight Assessment prepared by 3D Design Bureau states the below:

'At the time of writing this report (10/06/22), the BRE Guidelines have released the third edition. However, as all assessment was completed prior to the publication of the 3rd edition (08/06/22), the 2nd edition of the BRE Guidelines has been used for all recommendations within this report.

It should be noted that the European Standard (EN 17037:2018 Daylight in Buildings) had been published prior to the publication of Sustainable Urban Housing: Design Standards for New Apartments in December 2020. Furthermore, British authorities have published and adopted a national annex to the European standards, BS EN 17037. Neither EN 17037 nor BS EN 17037 are referenced in the 2020 apartment guidelines and to the best of our knowledge are not referenced in any planning guidance document issued by Irish planning authorities. Additionally, the relevant documents for assessing this application at the time of preparing the planning application were the BRE Guidelines.

Until official guidance or instruction is published by a relevant Irish planning authority on this matter, 3DDB will continue to reference the BRE Guidelines in our daylight and sunlight assessments and planning authorities should also continue to assess applications based on the relevant guidelines at the time of preparing an application. As such, ADF will be the primary assessment to determine daylight within proposed habitable spaces with circa compliance rates and analysis of results focused on the results of the ADF study, whilst the assessments that have been carried out regarding

the criteria set out in EN 17037 and BS EN 17037 should be considered as supplementary studies.

Neither the British Standard, European Standard, British Annex to the European Standard nor the BRE Guide set out rigid standards or limits. They are all considered advisory documents. The BRE Guide is preceded by the following very clear statement as to how the design advice contained therein should be used:

“The advice given here is not mandatory and the guide should not be seen as an instrument of planning policy; its aim is to help rather than constrain the designer. Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design.”

That the recommendations of the BRE Guide are not suitable for rigid application to all developments in all contexts, is of particular importance in the context of national and local policies for the consolidation and densification of urban areas or when assessing applications for highly constrained sites (e.g. lands in close proximity or immediately to the south of residential lands).’

3.7 Subject No. 6 – Separation Distances

Potential Material Contravention in Relation to Separation Distances - The Proposed Development Can be Facilitated Due to Conflicting Policies in the Development Plan or the Objectives are not Clearly Stated (Section 37 (2)(b)(ii) of the Act) and the Proposed Development can be Facilitated Through the Section 28 Guidelines (Section 37 (2)(b)(iii) of the Act)

In relation to the subject scheme, we note that distances between internal façades of houses in rear gardens and apartments/duplexes in communal courtyards are set at a minimum distance of 22 metres. In a limited number of locations, wide fronted house types have been introduced in the interest of variety and maximising active street frontage. These units have no first floor windows to habitable rooms to avoid any overlooking and separation distances have been reduced in these instances. An example of such units is provided below:

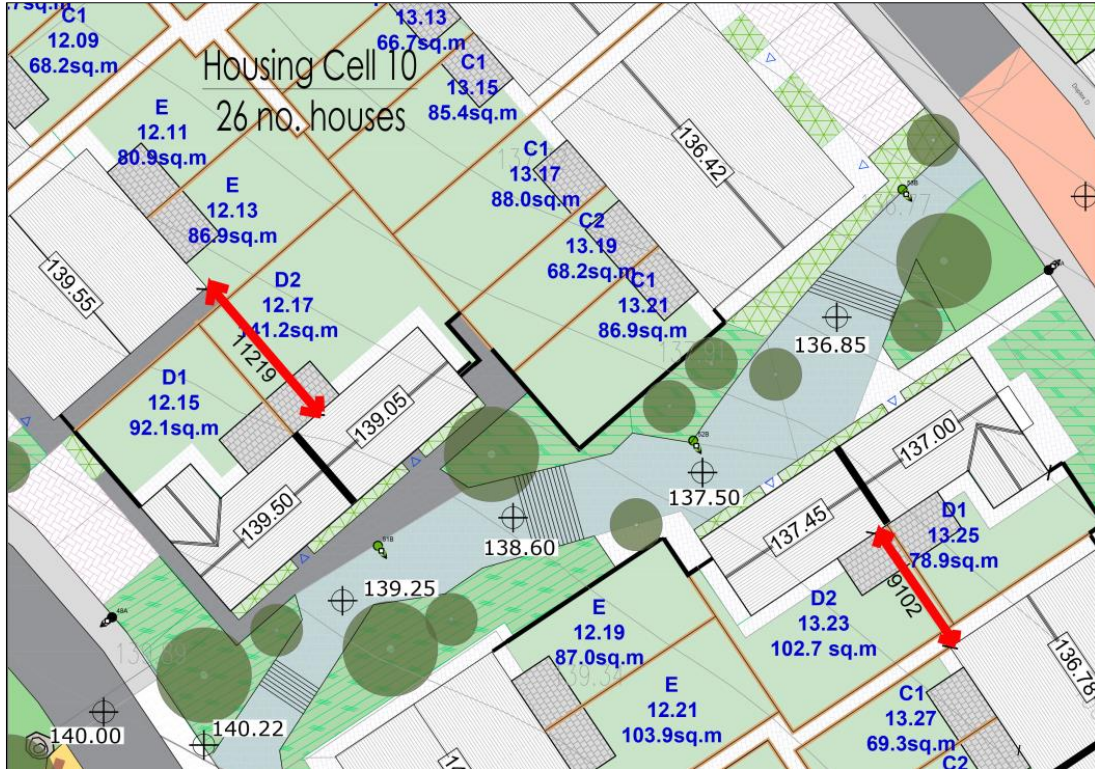


Figure 3.6: Diagram showing reduced distances to wide fronted house types

(Source: McCrossan O'Rourke Manning Architects, 2022)

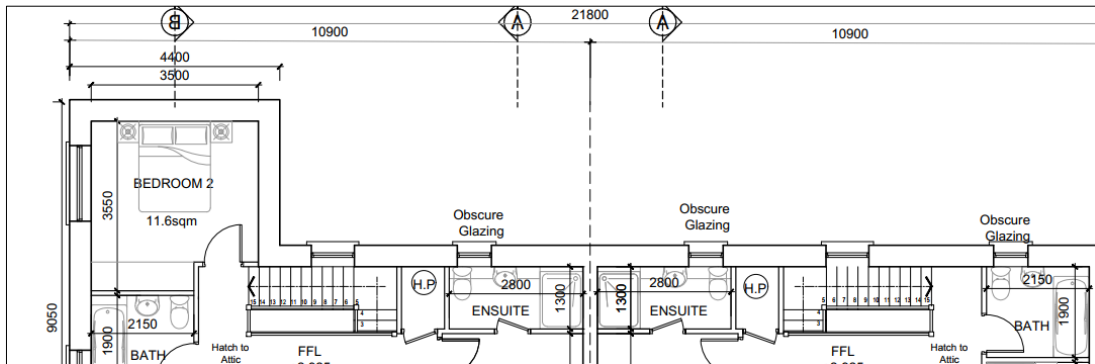


Figure 3.7: Extract from Dwg. No. PL313 Demonstrating Obscure Windows Provided

(Source: Dwg No. PL313, McCrossan O'Rourke Manning Architects, 2022)

Private rear gardens comply with the *Development Plan* guidelines in all cases. Separation distances between the units and the site boundary are carefully considered and where appropriate, windows are opaque to prevent overlooking of adjacent dwellings i.e. as shown in Figure 3.7 where obscure glazing is provided to bathrooms.

In relation to Duplex Block D in proximity to the neighbouring 5 No. dwellings in Rockville (DLR Reg. Ref. 18A/0566), there is just 1 No. dwelling that is located 'opposite' a neighbouring dwelling. In this instance, there are no windows on the first and second floor of the proposed duplex unit and thus a reduced separation distance is proposed. In relation to Apartment Blocks C and D, there are reduced separation distances provided to the boundary, however there are mostly car parking spaces and streets located in the

neighbouring Rockville development (DLR Reg. Ref. D17A/0793). There is a pinch point at the location of the existing apartment block in the neighbouring Rockville development however this recently developed block is built very close to the application site boundary and in this instance, it would be difficult to achieve the 22 metre separation distance with any development on the subject site. The proposed development provides a separation distance of c. 11.9 metres to the existing apartment block which is considered acceptable in the interests of sustainably developing these serviced lands. Please see MCORM's architectural drawing pack for further details.

Furthermore, the Daylight and Sunlight Assessment Report notes the following:

'The affected units within the Rockville Hall apartments appear to be single aspect bedrooms or dual aspect LKDs. The windows of the single aspect are located unusually close to the shared side boundary (~2meters).'

In relation to separation distances relating to opposing rear first floor windows, the *Development Plan* states that:

*'A minimum standard of 22 metres separation between directly opposing rear first floor windows should **usually** be observed, for new developments. This normally results in a minimum rear garden depth of 11 metres...*

*In all instances, **private open space should not be unduly overshadowed** and where there is the potential for the proposed development to overshadow or overlook existing/future development adjoining the site, minimum separation distances to boundaries should be increased.*

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

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

In relation to separation distances between proposed blocks, the *Development Plan* states that *'a minimum clearance distance of circa 22 metres, in general, is required, between opposing windows in the case of apartments up to three storeys in height. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size, and design.'*

This reads as requiring a need to ensure that separation distances of 22 metres are secured between blocks. However, specific reference should be made to the words "in general", which indicates that there may be instances wherein the 22 metre separation distances is not required. On this point, the *Development Plan* states that:

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

In addition, the *Development Plan* also stipulates:

*'In certain instances, depending on orientation and location in built-up areas, **reduced separation distances may be acceptable**. In all instances where the minimum separation distances are not met, **the applicant shall submit a daylight availability analysis for the proposed development.**'* [Our Emphasis]

Therefore, it is clear that the *Development Plan* places significantly greater weight on the qualitative impacts associated with separation distances than on the potentially arbitrary application of a strict 22 metres quantitative separation distance. Simply enforcing a 22 No. metre separation distance fails to appreciate the detail of a development, impacts (or lack thereof) on residential amenity and privacy and the overall benefits that can be achieved by more pragmatically assessing a proposal.

It is also asserted that the proposed development can be facilitated by way of Section 37 (2)(b)(iii) of the Act of 2000 on the grounds that Section 28 Guidelines promote and encourage a more 'rounded' and considered assessment of developments, including in relation to the very matter of separation distances. For example, the *Apartment Guidelines, 2020* state:

*'The **National Planning Framework signals a move away from rigidly applied, blanket planning standards in relation to building design, in favour of performance based standards to ensure well-designed high quality outcomes**. In particular, general blanket restrictions on building height or building separation distance that may be specified in development plans, should be replaced by performance criteria, appropriate to location.*

While it would not be appropriate for these Guidelines to indicate performance criteria for building height or building separation distance relative to location, it is recognised that there is a need for greater flexibility in order to achieve significantly increased apartment development in Ireland's cities.' [Our Emphasis]

In addition, *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009* states:

*'While a 22 metre separation distance between opposing above ground floor windows is normally recommended for privacy reasons, this may be impractical and incompatible with infill development. In these cases, **innovation and flexibility will [be] essential in the interpretation of standards so that they do not become inflexible obstacles to the achievement of an attractive village and small town character in new development...***

*Similarly at the rear of dwellings, there should be adequate separation (traditionally about 22 m between 2-storey dwellings) between opposing first floor windows. However, **such rules should be applied flexibly: the careful positioning and detailed design of opposing windows can prevent overlooking even with shorter back-to-back distances**. Windows serving halls and landings do not require the same degree of privacy as, say, balconies and living rooms...*

*Planning authorities should ensure that the **cumulative effect of setting specific***

minimum quantitative standards for parking, private and communal open space, and separation distances between dwellings does not militate against the achievement of the minimum residential densities recommended in Chapters 5 and 6. Qualitative standards should be the real test, and innovative design solutions which achieve good performance standards should be considered on their merits. [Our Emphasis]

Therefore, these Section 28 Guidelines support a practical and pragmatic approach to the application of separation distances in proposed developments. The safeguarding and delivery of high-quality residential amenity and privacy – for existing and proposed residents – is vital to the creation of sustainable urban developments.

The results of the Daylight and Sunlight Assessment indicate that the proposed development will have negligible impacts on the existing and granted residences adjacent to the subject site. Therefore, it is asserted that the proposed development will not degrade the daylight and sunlight amenity enjoyed by the existing and potential future neighbouring residents. Please refer to the Daylight and Sunlight Assessment Report for full details.

3.8 Subject No. 7 – Layout of the Neighbourhood Centre

Potential Material Contravention in Relation to the Layout of the Neighbourhood Centre – The Proposed Development Can be Facilitated Through the Section 28 Guidelines (Section 37 (2)(b)(iii) of the Act)

The *Kiltiernan Neighbourhood Framework Plan 2013* ("*Kiltiernan NFP*"), which is an appendix document to the *Kiltiernan LAP*, provides a layout for the portion of land fronting the Enniskerry Road (including the Neighbourhood Centre). Please see the *Kiltiernan NFP* layout map below in Figure 3.8. McCrossan O'Rourke Manning Architects have overlaid the *Kiltiernan NFP* layout map with the Site Plan in Figure 3.9.



Figure 3.8: Kilternan NFP Layout Map

(Source: Kilternan NFP – Page 8)



Figure 3.9: **Kilternan NFP Layout Map with the Site Layout Overlaid**

(Source: **Kilternan NFP Layout Map, annotated by MCORM Architects, 2022**)

We note that layout of the *Kilternan NFP* has been duly considered in the design of the proposed development, which is slightly varied in comparison. Elements such as the location of the retail, commercial/office community and residential dwellings etc to the north-east of the Village Green have generally been provided in that location. The community facility and retail units shown to the north-west of the Village Green in the *Kilternan NFP* are provided to the south-east of the Village Green in the proposed development.

We submit that the layout of the development is similar to the layout shown on the *Kilternan NFP* but we have included this in the Material Contravention Statement on a precautionary basis, should An Bord Pleanála consider the slightly varied layout to represent a material contravention.

We further note that the uses provided i.e. retail, community, office, residential etc. are all in accordance with the zoning objectives pertaining to the subject lands. The proposed Neighbourhood Centre is incorporated into the heart of the envisioned development and will provide local facilities to serve both the development and the existing residents of Kiltiernan. The high-quality scheme is therefore a positive contribution to Kiltiernan Village as it enhances the local community infrastructure, brings new public open spaces as the new centrality of the village and activates and provides passive surveillance of the surrounding spaces and streets.

Chapter 2 of the *Kiltiernan LAP* sets out the development framework for the Neighbourhood Centre zone:

'Ideally there should be one Neighbourhood Centre to feature as the civic core for the LAP area. The provision of two centres, on opposite sides of Enniskerry Road, somewhat dilutes potential focus. It is intended that the southern-most NC node (Parcel No. 22) will be the primary node.'

'The Framework Plan envisages that the node centred around Our Lady of the Wayside Church will become the primary retail, commercial and community focus for the village, centred on a new 'village green' that will become the heart of the village.'

The proposed development includes a Neighbourhood Centre and is therefore consistent with this development framework.

The proposed development is designed having regard to the layout shown in the *Kiltiernan NFP* for this subject site in terms of high architectural quality and urban design and reflects the aspiration for the provision of a high-quality Neighbourhood Centre in the centre of Kiltiernan Village.

The layout of the proposed Neighbourhood Centre sits well in its context and allows the rest of the site to be appropriately densified in accordance with National Policy which seeks compact growth. Therefore the development is acceptable in line with Section 37 (2)(b)(iii) of the Act.

3.9 Subject No. 8 – Layout of the Office Space in the Neighbourhood Centre

Potential Material Contravention in Relation to the Layout of the Office Space in the Neighbourhood Centre - The Proposed Development Can be Facilitated Due to Conflicting Policies in the Local Area Plan or the Objectives are not Clearly Stated (Section 37 (2)(b)(ii) of the Act)

As noted above, the site is located within the *Kiltiernan LAP*. The adopted map of the *Kiltiernan LAP* annotates that the site is located within Land Parcels 20A and 22.

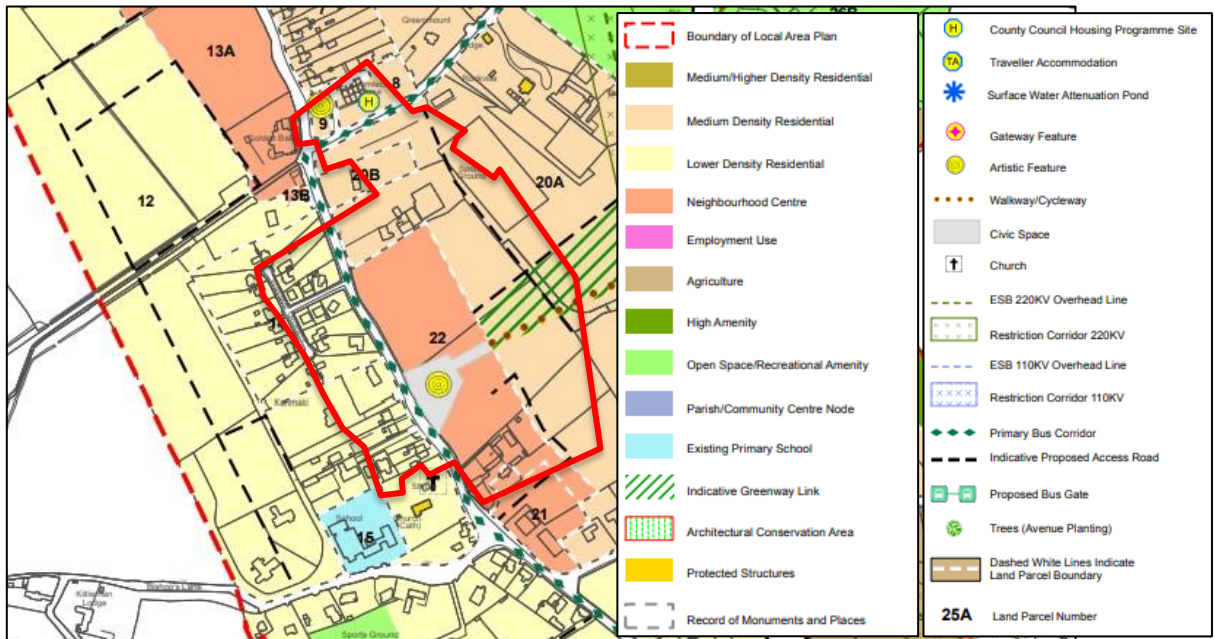


Figure 3.10: Adopted Map of the *Kiltiernan LAP* with Subject Site Outlined Indicatively in Red

(Source: *Kiltiernan LAP*, annotated by Thornton O’Connor Town Planning, 2022)

As shown in Figure 3.10, the site is located within Land Parcels 20A and 22. Section 8.4.4 of the *Planning Report & Statement of Consistency* and the *Response to ABP Opinion* prepared by Thornton O’Connor Town Planning demonstrates compliance with the requirements of these land parcels which are detailed in Chapter 11 of the *Kiltiernan LAP*. In this regard, there is one element that may be considered to materially contravene the *Kiltiernan LAP*, specifically in relation to Land Parcel 22.

In relation to plot ratio, the requirements for Land Parcel 22 states that office space will be provided at a ratio of 1:0.5. The proposed office space is 317 sq m, with 199 sq m at ground floor and 119 sq m at first floor. We note that the first floor is not directly over the ground floor office, it is located above the retail unit. To achieve a ratio of 1:0.5 with the provision of 317 sq m of office space, this would require a footprint of 159 sq m. The footprint at ground floor is 199 sq m which is slightly in excess of the ratio provision. We have thus included this in the Material Contravention Statement on a precautionary basis.

We consider that the proposed layout of the office and the Neighbourhood Centre to be an attractive and high-quality layout which will provide a variety of services to serve the local community and the future residents. In our opinion, the rationale for this ratio set out in the

Kiltiernan LAP is not clearly stated and the development can therefore be facilitated in accordance with Section 37 (2)(b)(ii) of the Act.

3.10 Subject No. 9 – Multi Use Games Area

Potential Material Contravention in Relation to Multi Use Games Area – The Proposed Development Can be Facilitated Through the Section 28 Guidelines (Section 37 (2)(b)(iii) of the Act)

Section 9.1 of the *Kiltiernan LAP* notes the following:

'With regard to the provision of community facilities, it is required that accommodation for community meeting facilities and accommodation for youth activities be provided at the neighbourhood centre nodes. Additionally at or in the immediate vicinity of these Neighbourhood Centres, provision shall be made for the development of a playground area and Multi Use Games Area (M.U.G.A.) facility.'

It is noted that the proposed development includes a community facility which can accommodate community meetings and youth activities if required. In relation to play areas, the subject scheme has sought to provide more natural play spaces rather than a Multi Use Games Area (M.U.G.A.) facility. The provision of a M.U.G.A. would require removal of additional trees for example. It is considered that provision of various structured and natural play spaces including elements such as wooden logs, stepping logs, balance beams, mound and slide and rope nest swing, are more suitable for the subject lands in order to provide a 'natural' character to the open spaces.

There are extensive grass areas throughout the open spaces which are ideal for kickabout and chasing games. A large quantum of trees have been retained in the development which will allow children to experience changes in season. The green infrastructure strategy for the scheme follows an overarching strategy of protecting, creating, enhancing and connecting the natural heritage and biodiversity value of the lands.

In addition, the provision of high-quality open space with various play spaces, while retaining as much natural features as possible, will also allow the site to be appropriately densified in accordance with National Policy and the development can therefore be facilitated in accordance with Section 37 (2)(b)(ii) of the Act.

3.11 Subject No. 10 – Trees and Woodlands

Potential Material Contravention in Relation to Trees and Woodlands – The Proposed Development Can be Facilitated Through the Section 28 Guidelines (Section 37 (2)(b)(iii) of the Act)

The zoning map of the *Development Plan* includes an objective 'to protect and preserve trees and woodlands' across the northern portion of the site (near Glenamuck Road).

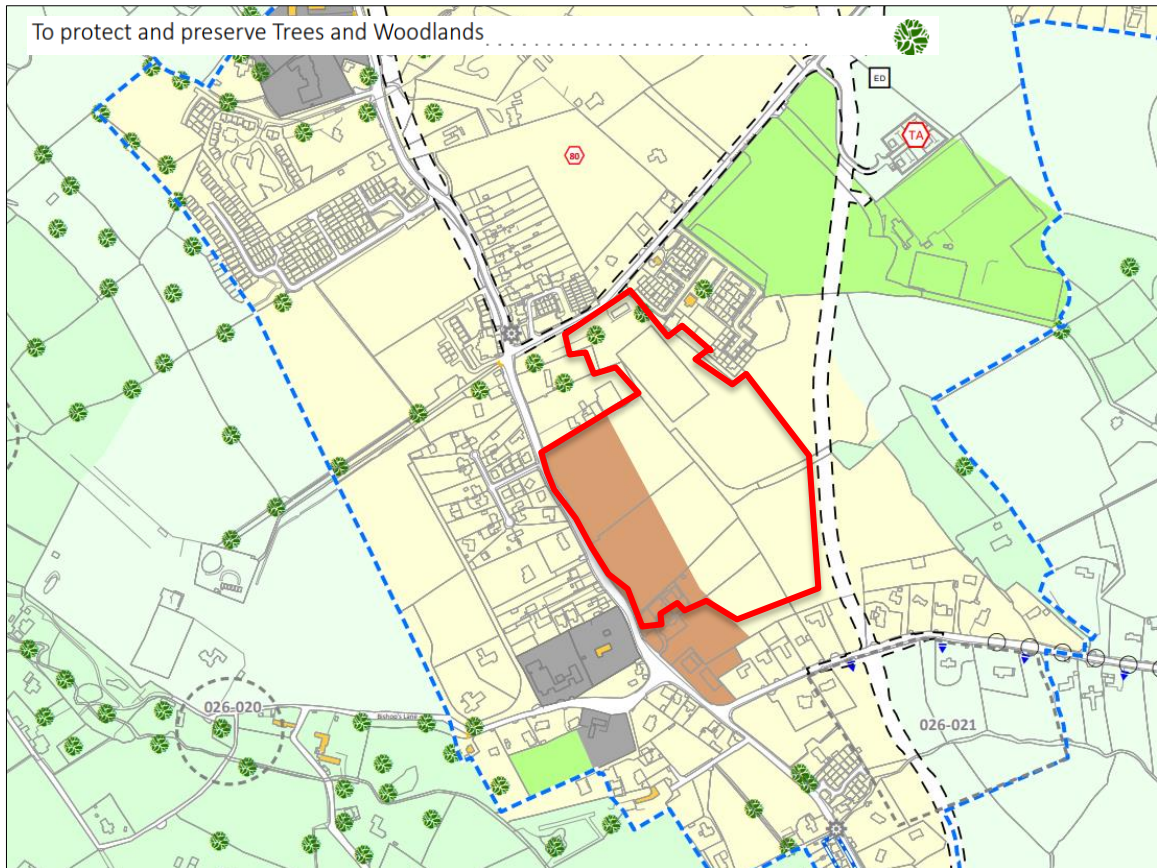


Figure 3.11: Zoning of the Subject Developable Site (Indicatively Outlined in Red)

(Source: *Dún Laoghaire-Rathdown County Development Plan 2022-2028*, annotated by Thornton O’Connor Town Planning, 2022)

Although there is a significant amount of tree retention proposed in the development, we have included this objective in the Material Contravention Statement should An Bord Pleanála consider it to represent a material contravention. The relevant numbers in relation trees within the subject site are outlined below:

Existing	186 No.
Retained	120 No. (64.5%)
Removed	66 No. (35.5%)
Proposed	659 No.

The *Arboricultural Assessment* by Arborist Associates Limited states the following:

The current site layout has been finalized and modified based on the information provided in the initial condition tree assessment of the site area and the creation of the tree constraints plan (DWG. No.KVL001) which has resulted in changes in the layout of buildings and services and its construction plan to ensure that any impact on the trees to be retained have been kept to a minimum.

The objective of the proposed development layout was such as to try and retain as much of the important tree lines, groups and belts as possible and to incorporate these into

the completed development where they will be an asset to the completed landscaped development and the surrounding area.

... In the design layout, great efforts have been made to retain as many of the better quality trees and in particular the trees within tree belts or groups which are of most visual value to the treescape of this area with the main tree belts running through the centre of the site being incorporated into its main open space areas.

The loss of the above listed tree vegetation is being mitigated against with the planting of trees, shrub and hedging as part of the landscaping of the completed development which will complement the development and its incorporation into the surrounding area. It will also help to provide good quality and sustainable long-term tree cover, and as this establishes and grows in size, it will be continuously mitigating any negative impacts created with the loss of the existing tree vegetation to facilitate the proposed development. See landscape architects drawings and schedules for detail.

The planting strategy key factors are to:

- Create a sense of identity using trees, shrub and hedge planting.*
- Create a robust landscape that performs all year round and is suitable for the current proposed use of this site area.*
- Use vegetation to screen and enhance views.*
- Use a more diverse mix of plant species that will include good pollinators.*
- Plant robust species that tolerate drought and site-specific micro-climates*
- Plant species that are maintenance friendly.'*

In summary, we consider that the scheme has had due regard to the objective pertaining to the site 'to protect and preserve trees and woodlands'. We have included this item in the event that An Bord Pleanála consider the removal of a number of trees (35.5%) to be a material contravention (noting that 64.5% will be retained). We note that the scheme retains a larger quantum of trees than the previous scheme at the subject site (DLR Reg. Ref. DogA/0471 [ABP Reg. Ref. PLo6D.236630]) which is a positive aspect associated with the proposed development.

In order to appropriately densify these underutilised and strategically located lands, some removal of trees is required. With the addition of 659 No. trees and the retention of 120 No. trees on site, the scheme still allows the densification of this underutilised site having regard to the express requirement in National level policy to achieve compact growth and thus the development is acceptable in line with Section 37 (2)(b)(iii) of the Act.

3.12 Subject No. 11 – Parking Bays

Potential Material Contravention in Relation to Parking Bay Dimensions – The Proposed Development Can be Facilitated Through the Section 28 Guidelines (Section 37 (2)(b)(iii) of the Act)

Section 12.4.5.7 of the *Development Plan* notes the following:

'In general, parking bays shall be a minimum 2.4 metres in width and 4.8 metres in length - with increased dimensions required for short-stay retail parking spaces and loading/set down parking areas. The configuration whereby double parking bays are placed length to length is discouraged. Carparking dimensions for in curtilage parking is set out in Section 12.4.8.1 (5.5 metres x 3 metres minimum).

Parking bay widths suitable for people with disabilities shall be a minimum of 2.4 metres wide – with a 1.2 metres buffer on both sides - and 6.0 metres in depth. Parking bay widths suitable for parent and child parking shall be a minimum of 3.3 metres wide, or 5.7 metres if paired with 0.9 metres hatching between the parking spaces.

Parking bays for people with disabilities or parent and child shall be located on firm, level ground, preferably at ground floor level, be in close proximity to access points/lifts and avoid potential conflict points such as ramps, steps etc. All parking bays should be in accordance with Part M of the Building Regulations. The location of disability or parent and child parking bays should be highlighted as part of pre-planning discussions.

Where there is a need for loading and unloading in a development, additional parking bays suitable for loading should be provided in addition to the parking requirements set out in Table 12.5. Residential developments of more than 50 units should have at least one loading bay and there shall be a ratio of not less than 1 loading bay per 100 units in larger developments. Loading bays shall be situated so as to minimise traffic hazard, reduce distance to carry goods and encourage its use for home deliveries. This standard may be relaxed if the planning authority consider it is appropriate based on the location and the nature/design of both the street and the residential development.'

Please see response below to each relevant element of this policy. The text underlined is considered to be a potential material contravention.

In general, parking bays shall be a minimum 2.4 metres in width and 4.8 metres in length - with increased dimensions required for short-stay retail parking spaces and loading/set down parking areas. The configuration whereby double parking bays are placed length to length is discouraged. Carparking dimensions for in curtilage parking is set out in Section 12.4.8.1 (5.5 metres x 3 metres minimum).

Response: Car parking with a minimum dimension of 2.4 metres x 4.8 metres is provided. In all cases, the design of car parking accords with Section 4.4.9 of DMURS 'On Street Parking and Loading'. In-curtilage car parking does not accord with the *Development Plan* standards of 5.5 metres x 3 metres min. In-curtilage parking varies across the development. In general bays are 5.3 metres deep and 2.5 metres wide. There is various design reasons why this design guidance of the *Development Plan* has not been met including:

Safety- wider and longer bays would encourage faster vehicle speeds when access and egressing the car parking area in a residential area where the design is to slow vehicle speeds and create a safe urban area in streets designed for people not cars.

Design Criteria - This car parking requirement is excessive and in our design, the space is used to provide landscaping and access to dwellings, SuDS etc. rather than for parking a car.

In all cases the design of car parking accords with DMURS Section 4.4.9 *On Street Parking and Loading*.

Parking bay widths suitable for people with disabilities shall be a minimum of 2.4 metres wide – with a 1.2 metres buffer on both sides - and 6.0 metres in depth. Parking bay widths suitable for parent and child parking shall be a minimum of 3.3 metres wide, or 5.7 metres if paired with 0.9 metres hatching between the parking spaces.

Response: Disabled car parking is provided in accordance with guidance (2.4 metres + 1.2 metre buffer x 6 metres). Parent and child bays provided comply with dimensions.

Parking bays for people with disabilities or parent and child shall be located on firm, level ground, preferably at ground floor level, be in close proximity to access points/lifts and avoid potential conflict points such as ramps, steps etc. All parking bays should be in accordance with Part M of the Building Regulations. The location of disability or parent and child parking bays should be highlighted as part of pre-planning discussions.

Response: Parking complies with Part M. Disabled spaces and parent and child spaces are annotated on MCORM Dwg No. PL601.

Where there is a need for loading and unloading in a development, additional parking bays suitable for loading should be provided in addition to the parking requirements set out in Table 12.5. Residential developments of more than 50 units should have at least one loading bay and there shall be a ratio of not less than 1 loading bay per 100 units in larger developments. Loading bays shall be situated so as to minimise traffic hazard, reduce distance to carry goods and encourage its use for home deliveries. This standard may be relaxed if the planning authority consider it is appropriate based on the location and the nature/design of both the street and the residential development.

Response: Loading facilities have been provided within the development in accordance with this guidance (4 No. loading spaces provided in total which will be dual purpose).

As the scheme is in accordance with the Design Manual for Urban Roads and Streets 2019 ("DMURS"), the proposed development can be facilitated through the Section 28 Guidelines (Section 37 (2)(b)(iii) of the Act of 2000).

3.13 Subject No. 12 – Provision of a Bring Centre

Potential Material Contravention in Relation to the Provision of a Bring Centre – The Proposed Development Can be Facilitated Through the Section 28 Guidelines (Section 37 (2)(b)(iii) of the Act)

Section 12.9.6 of the *Development Plan* notes the following:

'Applications for developments of 50+ residential units or $\geq 1000\text{sq.m.}$ commercial shall (in addition to the above):

Incorporate where appropriate land for the development of local 'Bring Centres' for recyclable materials, accessible to the general public.'

In addition, Objective NCo4 of the *Kiltarnan LAP* states that:

'Provision should be made for civic recycling facilities at the Primary Neighbourhood Centre.'

The *Outline Operational Waste Management Plan* prepared by Enviroguide Consulting notes the following:

'There are a large civic amenity centres in Shankill and Dun Laoghaire servicing the Dun Laoghaire Rathdown area, with numerous bring banks throughout the region for glass bottle collection.'

It is clear that sufficient Bring Centres are available in the area and the *Outline Operational Waste Management Plan* enclosed does not consider it necessary to provide one in the scheme. As a Bring Centre is not required for the scheme, it is considered that it is more appropriate to densify the subject underutilised lands in accordance with National Policy. Therefore, the proposed development can be facilitated through the Section 28 Guidelines (Section 37 (2)(b)(iii) of the Act of 2000.

4.0 CONCLUSION

According to Section 9(6) of the *Planning and Development (Housing) and Residential Tenancies Act, 2016*, An Bord Pleanála may grant permission for a development, which materially contravenes the policies and objectives of a *Development Plan* or *Local Area Plan*, having regard to the adoption of Section 28 Guidelines or where the pattern of development or permissions granted in the area since the making of the *Development Plan* are considered, as prescribed in Section 37 (2)(b) of the *Planning and Development Act (as amended)*.

As noted throughout this Material Contravention Statement, the Statement relates to:

- Phasing with reference to Chapter 10 of the *Kilternan LAP*;
- Building Height with reference to Appendix 5 of the *Development Plan*;
- Car Parking with reference to Table 12.5 of the *Development Plan*;
- Apartment Mix with reference to Table 12.1 of the *Development Plan*;
- Daylight and Sunlight with reference to Section 12.3.4.2 of the *Development Plan*;
- Separation Distances with reference to Section 12.3.5.2 of the *Development Plan*;
- Layout of the Neighbourhood Centre with reference to the Layout Shown in the *Kilternan Neighbourhood Framework Plan* ("*Kilternan NFP*"), which is an Appendix to the *Kilternan LAP*;
- Layout of the Office Space within the Neighbourhood Centre with reference to Chapter 11 of the *Kilternan LAP*;
- Multi Use Games Area with reference to Section 9.1 of the *Kilternan LAP*;
- Trees and Woodlands with reference to the Objective 'To Protect and Preserve Trees and Woodlands' Pertaining to the Site (Zoning Map No. 9);
- Parking Bays Dimensions with reference to Section 12.4.5.7 of the *Development Plan*; and
- Provision of a Bring Centre with reference to Section 12.9.6 of the *Development Plan* and Objective NCo₄ of the *Kilternan LAP*.

As set out in Section 37(2)(b) and Section 28(1)(C) of the *Planning and Development Act 2018* (as amended), An Bord Pleanála may materially contravene a *Development Plan* or *Local Area Plan* where national planning policy objectives take precedence. In particular, Section 9(3)(b) of the 2016 Act, as amended, provides that to the extent that they differ from the provisions of the *Development Plan* or *Local Area Plan*, the provisions of SPPRs must be applied instead.

Taking into account all of the foregoing set out in this report, it is therefore considered that there is sufficient justification for An Bord Pleanála to grant permission for the proposed

development, notwithstanding any material contravention of the *Dun Laoghaire – Rathdown County Development Plan 2022 – 2028 / Kilternan – Glenamuck Local Area Plan 2013 – 2019 [as extended to 2023]*, by reference to sub-paragraphs (i), (ii), (iii) and (iv) of Section 37(2)(b) of the 2000 Act, as amended, for the reasons set out above.

In the event that the Board decides to grant permission, the Board is obliged in its "*Reasons and Considerations*" for the decision to reference the matters under Section 37(2)(b) of the 2000 Act upon which it relies to justify the granting of permission in material contravention of the *Development Plan*. It is apparent from Section 10(3)(b) of the 2016 Act that such reasons and considerations must appear in the Board decision itself. Section 10(3) provides as follows:

'(3) A decision of the Board to grant a permission under section 9(4) shall state-

....

(b) where the Board grants a permission in accordance with section 9(6)(a), the main reasons and considerations for contravening materially the development plan or local area plan, as the case may be.'

Having regard to the justification set out within this statement, it is respectfully submitted that this is an appropriate case for the Board to grant permission for the proposed development in accordance with national planning policy and statutory guidelines.

