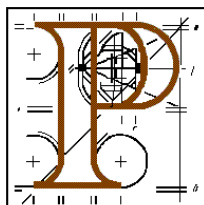


An Bord Pleanála



Inspector's Report

REF:-	PL06F.246151
Proposed Development:	Demolition of Industrial/commercial buildings and construction of 200 residential units, 6 commercial units, crèche, community centre and all associated works.
Location:	Howth Road, Howth, Co. Dublin
Applicants:	Glenkerrin Homes Ltd.
PA Reg. Ref:	F15A/0362
Planning Authority:	Fingal County Council
P.A. Decision:	Grant
Appeal Type:	First & Third
Appellants:	Glenkerrin Homes Ltd, Christian Morris, Aodhan O'Riordain, Deerpark & Claremont Residents Group, Dara Hurley, Averil Power, Ann Acheson.
Observers:	Ray & Grainne Fitzpatrick, Anthony Davey, Betty & Michael Mitchell, Tom Fitzpatrick, David & Karen Spain, Thomas P. Broughan, Alex Gissing & Aishling Wright, Jonathan & Grainne Quinn, Albert & Ruth Harding, Howth/Sutton Community Council Ltd, Fiona O'Brien, Marlene McCormick, Michael O'Neill, William & Georgina Nixon
Date of Site Inspection:	30 May 2016
Inspector:	Una Crosse

1.0 SITE LOCATION AND DESCRIPTION

The site, which has a stated area of c.4.4 hectares, is located on the Howth Road, Howth, Co. Dublin. The former Teelings Motor site comprises the eastern portion of the site with a two storey car showroom, Beshoffs and a tarmac car park part of which is now used as a garden centre. The central part of the site comprises the former Techrete company buildings. This part of the site consists of a number of large interconnected two to three storey industrial style sheds of corrugated steel and concrete panels. The site is unkempt both within and along its boundaries with two entrances currently locked. There is a recently constructed pumping station and an old pumping station within the north western area of the site which it is proposed will remain within a Water Services Compound accessed from the Howth Road. This is accessed directly from the Howth Road. Between this site and the Howth Road there is an overgrown area of ground. The western part of the site comprises a public park and tennis courts (Baltray Park). The lands are relatively flat.

The site is bounded by the DART line and Claremont Strand to the north with a walkway running parallel to the site between the DART line and the Strand. To the east the site is adjoined by two 2-storey red bricked properties, one of which, the Stationmasters House is of historic significance. Howth Dart station and a number of commercial properties are located further east. To the south the site is adjoined by the Howth Road with a number of residential properties to the south east located behind a layby. Further west along the Howth Road, there is an embankment of mature trees and the entrance to Howth Castle/ Church of Ireland/ Deerpark Golf Club with the gates to the Castle being set back a considerable distance from the public road. These lands are substantially higher than the site. To the west of the site, adjoining Baltray Park, there are suburban residential properties. There is an existing footpath and narrow grass margin with semi-mature trees along the roadside boundary of the site. Public lighting is in place. There are bicycle lanes on either side of Howth Road for the length of the site.

2.0 PROPOSED DEVELOPMENT

2.1 Development as Submitted

The development, which has a gross floor area of c.34,500 sq.m and c.13,706sq.m of basement/undercroft area, comprises a series of elements across this site. There are 200 residential units comprising 145 no. apartments, 51 no. houses and 4 units for traveller accommodation. To the east of the site there are four blocks of multi-storey development varying in height. The centre of the site comprises two areas of housing units with a block of apartments, a community centre and traveller accommodation further west. The development can be described as follows:

To the east of the site, Blocks 1 and 2 are interconnected at lower ground level. Units 1 – 4 are proposed for retail use with unit 1 having an overall area of 457sq.m in optional subdivisions shown comprising 4 separate units within the space and 4 openings on the elevations to facilitate doors. Unit 2 has an area of 606sq.m and Unit 3 an area of 615sq.m with an optional subdivision shown between these two

units. Unit 4 has an area of 439 sq.m with optional subdivisions proposed to facilitate 4 separate units similar to unit 1. The access and lobbies to the apartments are also located to the north of these blocks at lower ground level. At Upper Ground floor the proposed public plaza splits the blocks with a restaurant located in block 1 (unit 5 – 396 sq.m) and 4 no. 2-bed apartments. A gym and crèche (units 6 & 7 389 sq.m & 227 sq.m) are located within Block 2 at this Upper ground level and Unit 3a a proposed restaurant is also located in Block 2 at this level separated from the gym by the plaza. The plaza comprises the area to the front of both Block 1 & Block 2 as it addresses the Howth Road leading from the Howth Road via steps between the two blocks to an Upper Plaza level and viewing platform on the northern boundary of the site. Access to the upper plaza is also achievable via steps along the northern elevations of both blocks. In addition to the 4 apartments at Upper ground level, Block 1 accommodates 26 no. apartments and is 3-storeys in height as it addresses the eastern boundary of the site rising to 4, then 5 and 6 storeys as it addresses the Plaza. An additional ‘mezzanine’ level is located to the southwest of Block 1 within Unit 30 (unit type B4) of Block 1 providing an additional living space for the unit with access to a roof garden. Above the lower and upper floors Block 2 also accommodates 30 no. apartments and rises from 4/5 storeys to 6 storeys in height as it adjoins the plaza. Two units on the 4th floor (units 25 & 26) have wrap around terraces around the western southern and northern elevations of the units.

Block 3 & 4 comprise an interconnected horseshoe shaped development connected to Block 2 by way of the landscaped deck over the access to the basement car park. Block 3 accommodates 42 no. apartment units and is predominately 5 storeys in height with terraces to the fifth floor setting back the edge to the west, north and south. An additional mezzanine floor is proposed on the northeast edge of Block 3 providing the upper floors of Units 40 and 41 (type P6 & P7) both of which are duplex units. Block 4 accommodates 25 no. apartment units and is predominately 5 storeys in height with terraces to the units along the southern and western elevations setting back the 5th storey from the edge. The courtyard created between Blocks 3 & 4 comprises an area of open space. A basement car park is proposed underneath Blocks 1-4 comprising 164 car parking spaces including spaces for the residential units above, visitor parking and commercial parking.

The central element of the site accommodates the proposed 51 no. housing units. The units are set out in 8 terraces split into two separate squares by the proposed de-culverting of the Bloody Stream and new riparian corridor. This comprises the opened up stream with a corridor of open space on each side. A footbridge is proposed over the stream. To the west of Terrace 2 there is an area of open space with a proposed playground. The area of terraces furthest east comprises 21 units in Terraces 5-8 with Terrace 5 and 7 accessing the Howth Road and Dart Line respectively. Terrace 6 addresses the new Riparian corridor and Terrace 8 which is a single unit addressing the internal access road. Entrance to the undercroft parking area is via an entrance to the south of T8. Terraces 1-4 comprise 30 units and are located to the west of the Riparian corridor with Terrace 1 and 3 addressing the Howth Road and the Dart line respectively and T2 and T4 addressing the internal road and riparian corridor. There are two access points in the undercroft area at

either side of T2. The terraces are c.13.6 metres in height. The units are 4-storeys (T8 is 3-storeys) with living spaces at ground and first and bedrooms at second and third. The parking is located at ground level in an undercroft with 2 spaces per unit with an external deck above providing private open space with a terrace at third floor.

Further west, Block 7 address the Howth Road and comprises a block of 18 no. residential units within a 4-storey building comprising 3 full floors and a 4th floor penthouse level accommodating 3 units with private terraces. This block has an overall height of c.13 metres. This block accommodates social housing. An area of car parking is proposed to the north of the block adjoining the Water Services compound. Adjoining the western boundary, the proposed Community Centre addresses the Howth Road. This is a 2 storey building which is proposed to accommodate a sports hall, crèche, coffee shop, gym/studio and meeting rooms. To the north of this building there are proposed pitches and tennis courts. To the west of the playing area four units for traveller accommodation are located addressing a north-south access road. These units are 2-storey three-bed units.

There are five vehicular access points proposed into the site from the Howth Road. The first adjoins the western boundary and provides access to the Traveller units. The second provides access to the Community centre, pitches, Block 7 associated car parking and the Water Services Compound. The third access provides access to the housing units to the west of the Stream (Terraces 1-4). The fourth access provides access to the housing units to the east of the Stream (Terraces 5-8). The fifth vehicular access facilitates access into the proposed basement car park.

There are 332 no bicycle spaces proposed, 2 no. ESB substations and 1 no. Bord Gais DRI. It is proposed to deculvert the Bloody Stream which runs in a south to north direction through the centre of the site. It is proposed to create a riparian strip within this area which provides for SUDS measures on the site. The existing industrial/commercial buildings on site are proposed for demolition and have a stated gross floor area of 8,162 sq.m.

2.2 Changes in Response to Further Information

In response to the further information request a number of amendments were made to the scheme which are summarised as follows:

- The gross floor area of the scheme has been reduced from c.34,500 sq.m to 32,448 sq.m with the basement/undercroft now 13,634 sq.m.
- The floor to ceiling height in apartments in Blocks 1-4 were revised reducing the overall height of the blocks so they match the heights permitted in the existing permission. Block 1 has a height above ground of 20.95m (reduced from 25.425m) except for the pop up element on the eastern edge which is an additional 2.2m, Block 2 is reduced from 23.1m above ground to 20.95m. A stated minor deviation from the previous permission is the inclusion of two small 6th storey penthouse pop-up elements in Blocks 1 & 3 providing an upper floor of duplex apartments. The rationale for their inclusion is that they provide an attractive design measure accentuating the end of each block.

- The layouts of the Lower and Upper Ground floors remain largely the same however the retail floor area is reduced from 2,117m² to 1,315 (-38%). The former Unit 1 providing 4 smaller units of 66m², 143m², 153m² and 88m². The unit sizes are as per the original submission but with the optional subdivision made permanent. The former units 2 and part of unit 3 are proposed as an anchor retail unit now Unit 2 with a gross floor area of 865m² with a double height entrance area. A double height restaurant is now proposed in part of what was unit 3 with a floor area of 201m². What was unit 4 is now proposed as a gym of 438m². At upper ground former unit 5 is now a mezzanine café of 170m² with former Unit 6 now comprising a mezzanine restaurant of 158m² and a mezzanine for the gym on the lower ground. The crèche remains the same. Revised design and layout of the units also provided with dual frontage element maintained;
- Revisions to layout showing buildings set back 9m from the roadside edge;
- Additional photomontages provided with proposes terraces relocated further east to address visual impact on View 26;
- Daylight and Shadow analysis submitted
- Blocks 3 & 4 revised so that a minimum of 17metres between them, superfluous balconies removed in Block 3 and obscured glazing incorporated in Block 4;
- Revisions to units in Blocks 2 & 3 with additional balconies removed from east elevation of Block 3 and only high level kitchen windows proposed on west element of Block 2; Apartments 1-4 in Block 1 have obscure glazing to secondary balconies;
- Revised landscape masterplan and report for the plaza area;
- Details of finishes provided;
- Revised roof design on housing units, principle of differentiating the cladding on the top floor with a setback and providing a pitched roof retained; Chimneys maintained as they serve fireplaces and also express domestic nature of the houses, revision made to the internal layout of units in Terrace 6;
- Details of the public open spaces and requirements are outlined with open space provision of 0.83ha provided which exceeds the 70% requirement of 0.77ha;
- Further revisions to the open spaces outlined in revised drawings;
- Details of the proposed Part V agreement are set out with Block 7, 18 units located on Council land with details to be agreed in advance of development on the Receivers lands;
- Revised Engineers report including CMP and Stage II Env. Risk Assessment of Contaminated land;
- Revised report and details on key junctions, parking, pedestrian crossing, right hand turning lane and details of emergency access junctions and measures;
- Details of the proposed phasing plan are outlined;
- Revisions as outlined in the foregoing are incorporated into the EIS addendum;

3.0 PLANNING HISTORY

There are two recent decisions of relevance on this site:

3.1 PA Reg. Ref. F08A1172/ ABP Ref. PL 06F.240171

Permission granted by the Board on appeal for the demolition of existing industrial and commercial buildings and the construction of a mixed use development comprising 7 no. blocks of mixed use development including 286 no. residential units including 281 no. apartments and 5 no. traveller residential units, 3 no retail units with a gfa of 936sq.m, 2 no offices with gfa of 212.5sq.m, leisure centre with swimming pool,. Gym, sauna, restaurant and crèche with outdoor play area and retirement apartment. A 2-storey community centre was also proposed including sports hall, changing rooms, meeting rooms, coffee shop, gym/studio and crèche. The permission also provided for 462 no. car parking spaces and the de-culverting of the Bloody Stream with provision of a riparian strip. Provision was made for 4 no. vehicular access points from the Howth Road and 2 no. substations.

3.2 PA Reg. Ref. F08A1172/ ABP Ref. PL 06F.235083

Permission refused on appeal to the Board for the demolition of existing buildings and the construction of mixed use residential, retail, office, leisure, and hotel development comprising 386 no. houses and all associated site works. The three refusal reasons related to scale, height and overdevelopment of site, design and poor residential amenity, and contradictory details provided in the EIS in relation to the nature and quantity of soil, subsoil and rock to be excavated.

4.0 PLANNING CONTEXT

4.1 Fingal County Development Plan 2011 -2017

4.1.1 Zoning

There are two zoning objectives on the site:

Objective TC - *'Protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities.'*

Objective OS – *'Preserve and provide for open space and recreational amenities.'*

4.1.2 Other Site Specific Objectives

- Local Objective 512 - Development shall be between three and five storeys. The three storey aspect of the development shall be on the western side of the site and a maximum of 30% of the overall development shall be five storeys.
- Local Objective 513 - Promote the development of a mixed use scheme on the Techrete site.

Specific Objectives include the following:

- Provide for traveller accommodation on site.
- Preserve a view from ACA on lands opposite the site.
- Indicative cycle/ pedestrian route on site.

4.1.3 Other Development Plan Objectives of Relevance

- Development Strategy for Howth (pg.41) – Objectives 1-4 - Howth 1 – implement the Urban Centre Strategy.
- Objective WQ05 - Establish riparian corridors free from new development along all significant watercourses in the County. Ensure a 10 to 15 metre wide buffer strip measured from the top of bank either side of all watercourses, except in

respect of the Liffey, Tolka, Pinkeen, Mayne, Sluice, Ward, Broadmeadow, Corduff, Matt and

Devlin where a 30m wide riparian buffer strip from top of bank to either side of all watercourses outside urban areas is required.

- Objective AA1 - Ensure that all plans and projects in the County which could either individually or in combination with other plans and projects have a significant effect on a Natura 2000 site (or sites) will be subject to Appropriate Assessment Screening.
- Cycle Parking Minimum Requirements are set out in Table TO1.
- Car Parking Standards are set out in Tables TO3a and TO3b.
- Objective UD02 Encourage and promote the use of contemporary architecture for new developments except where such architecture is incongruous for a particular location.
- Objective UD03 - Locate different types of compatible land uses e.g. residential, employment, local retail and daily service needs close together, so as to encourage a greater emphasis on the use of sustainable transport needs.
- Objective UD10 - Achieve an appropriate dwelling mix, size, type, tenure in all new residential developments.
- Objective UD11 Require new residential developments in excess of 100 units and large commercial/retail developments in excess of 2000 sq. m to provide for a piece of public art to be agreed with the Council.
- Objective RD02 Comply with the Council's Housing Strategy.
- Objective RD03 Secure the implementation of Fingal County Council's Traveller Accommodation Programme 2009-2013 and to review this programme if required and/or deemed to be necessary, during the course of the Development Plan.
- Objective RD04 Ensure a mix and range of housing types are provided in all residential areas to meet the diverse needs of residents.
- Objective RD05 Ensure all new residential schemes are designed so that units are easily adaptable in the future.
- Objective RD07 – Require new residential units comply with minimum size set out in Tables RD01, RD02 & RD03
- Obj. RD13 Compliance with recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice.
- Objective RD16 Encourage increased densities at appropriate locations whilst ensuring that the quality of place, residential accommodation and amenities for either existing or future residents are not compromised.
- Objective Z04 - transitional zones
- Objectives OS02 – OS05 – quantity of open space and financial contributions
- Objective OS10 – allow recreational/amenity facilities in place of open space requirements - OS10A – 70% minimum open space;
- Objective OS16-OS22 – design of open spaces;
- Objective OS24 – Encourage use of green roofs as amenity space;
- Objective OS25 – design of SuDS enhances the quality of open spaces;
- Objectives OS26-27 – playground facilities
- Objectives OS28-34 – tree policy

- Objective 0S35-44 – private open space
- Objectives CL02-07 – community buildings;
- Objectives CL11-15 – childcare facilities
- Objective UC09 – implement the Urban Centre Strategies prepared for ...Howth;

4.2 Howth Urban Centre Strategy

This is a non-statutory document published in December 2008. The appeal site was specifically identified as being suitable for redevelopment and a site specific development brief was prepared. It was identified in Section 6.1 as 'Opportunity Site 1'. Extracts are included in the pouch.

It is noted that Element 7 of the Development strategy vision included in the strategy is *"to expand the village at Techrete"* and specifically to:

- *"Allow the former 'Techrete' site act as a 'stepping stone' in expanding the village centre's retail, residential and commercial offer west of the DART station.*
- *Make more efficient use of a key gateway site.*
- *Greatly improve the visual appearance of the existing 'Techrete' site from the Howth Road which is a key route through to the village centre for local and tourist traffic.*
- *Provide for a pedestrian link from the 'Techrete' site over the rail line to Claremont Strand".*

Urban Design Framework includes the following objectives:

- *20 - Enhance the existing green link from Harbour Road to Grace O Malley Park ('the Tramway') by providing adequate lighting and environmental improvement measures.*
- *21 - Enhance the area in front of the existing DART station as a pedestrian friendly civic space*
- *22 - Develop a bus stop and turnaround area at this location.*
- *23 - Enhance the northern edge of Howth Road by widening footpaths as well as introducing new street tree planting.*
- *24 - Develop a landmark building at this location to act as a 'gateway' to Howth village.*
- *25 - Provide a civic open space at this location fronted by ground floor activity to act as a new destination west of the DART station.*
- *26 - Encourage a well defined building line to the northern edge of Howth Road.*
- *27 - Enhance the views of the sea and Ireland's Eye from Howth Castle and Howth Road through the building form.*
- *28 - Encourage the provision of an access way across the railway line to Claremont Beach*
- *29 - Encourage the provision of a Community Centre at this location.*
- *30 - Encourage the development of traveller accommodation at this location.*

4.3 Planning Strategies and Guidelines

The following guidelines are considered to be of relevance:

- National Spatial Strategy, 2002-2020

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009 and Urban Design Manual 2009 – Companion Document.
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities September 2007
- Appropriate Assessments for Plans and Projects in Ireland: Guidelines for Planning Authorities 2010.
- Regional Planning Guidelines for the Greater Dublin Area 2010-2022.

6.0 PLANNING AUTHORITY DECISION

6.1 Decision

The Planning Authority decided to grant permission for the development subject to 50 no. conditions which included:

- No.2 – permission authorises 144 apartments, 51 no. houses and 4 no traveller units each of which to be used as a single dwelling unit;
- No.4 - Developer to deliver community centre building and assoc. playing pitches – manner and timeframe to be agreed in writing with the PA and proposed all weather pitches omitted;
- No.5- traveller units to be delivered in accordance with the traveller accommodation programme;
- No.6 - Retail units 1a-1d restricted to that use unless permission granted for other use;
- No.7 – Apt. No. 26 (type P3) in Block 1 to be omitted with roof area not utilised by services to be designed as a roof garden for residents use;
- No.8 – Phasing details with elements set out in parts (a) - (e);
- No.9 – Integrity of Natura 2000 site – mitigation measures and details to be agreed with IFI and Stage 3 Corrective Action Implementation and Aftercare Assessment and public lighting scheme;
- No.11 – materials to be used in public realm;
- No.12 – boundary treatment;
- No.13 – entrance gates, security huts or security barriers not permitted at main entrances;
- No.14 – suitable piece of public art;
- No.15 – design of shopfronts and commercial units;
- No.19 – opening hours of retail/commercial units;
- No.29 – No additional development above roof parapet level;
- No.32 – pedestrian/cycle link to be made between the new foot and cycle path at north east corner of the site to the existing footpath at Bloody Stream pub;
- No.33 – Social housing;
- No.34 – Management company;
- No.36 – Construction Management Plan;
- No.37 – Waste Management Plan;
- No.38 – Project Construction and Demolition Waste Management Plan;
- No.39 – Archaeological monitoring;
- No.40 – Requirements of Transportation Planning Section –incl - revision to basement car park, pedestrian crossing;

- No.41 – Mobility Management Strategy;
- No.45 – Hours of Construction;
- No.46 – Consultation with Iarnród Éireann;
- No.48 – Development Contribution;
- No.49 – Security Bond;
- No. 50 – Financial Contribution in lieu of Open Space based on shortfall of 0.15ha;

6.2 Further Information

Further information was requested on the 25/08/15 on a range of matters including:

- Dimensions of site layout plan;
- Height of Blocks 1, 2 & 3 to be reduced;
- Justification of scale of retail/commercial space proposed;
- Commercial feasibility of dual front units;
- Positioning of Block 4 and Terrace 5;
- Additional photomontages;
- Daylight and sunlight analysis;
- Separation distance between blocks 3 & 4;
- Balcony screening;
- Full details of proposed public plaza;
- Consideration of proposed materials and finishes;
- Roof profile and private amenity spaces;
- Public Open Space;
- Part V agreement;
- Bat survey required;
- Activities related to the deculverting of the 'Bloody Stream'
- Transportation issues;
- Phasing;
- Revisions to EIS where required;

6.3 Planners Report

The Planners report refers to the previously permitted layout under F11A/0028 (extant permission granted on 29/1/13) and notes it comprised 7 blocks of residential apartments one of which was a retirement development. The current proposal, it states, appears to take the same form as the permitted layout with some variance in extent and scale. Public open space and riparian corridors are in similar locations with western section of the site – community building, apartments and traveller units remain the same. Discrepancies between the 1:500 layout plan in the permitted scheme and the proposed development are outlined. The report outlines the proposed development in detail. In terms of uses and compliance with the Development Plan, it is noted that the traveller accommodation symbol on the zoning map located on that part of the site zoned 'TC' is for indicative purposes only and the Techrete site has always been considered to be a single entity for mixed use development including traveller accommodation. Reference is made to the previous Inspectors report on the extant permission which notes that the traveller

accommodation or Block 7 would not materially contravene the Development Plan. It is noted that the Howth Urban Centre Strategy is a non-statutory framework with the maps within it at the appropriate framework level with the proposal not in material contravention of the strategy. The proposal is considered to comply with the zoning objectives. The density is calculated at 59 units per/ha and it is stated that the site is appropriate for this density due to proximity of the site to the village centre and DART and the existing brownfield status.

In relation to height and Local Objective 512 it is stated that the overall height of Blocks 1, 2 & 3 in the development has increased from that permitted under the extant permission and the number of floors proposed is not consistent with that previously permitted or with local objective 512. Reference is made to View no. 20 (looking west from Station House) in the visual assessment which is considered significant with the overall height of the development considered excessive. It is considered that the increase of 2-5m from that previously permitted should be reduced. Additional photomontages are considered necessary given issues such as building line, impact on architectural heritage and wider visual impact on the area. Reference is made to the set back of 10m from the road edge on the previous applications and the current proposal (block 4) which is 4.6m from the road edge and Terrace 5 (6.8m). Concern is expressed about the proposed finishes, the detailed design of the Plaza and the ground floor finish to western elevation of unit 2. The requirement for a piece of public art is outlined (Objective UD11).

The proposal is stated to generate a public open space requirement of 1.13ha. Reference is made to OS10 where the developer must provide a minimum open space equal to 70% of the OS requirement in addition to recreational/amenity facilities. The requirement is stated to be 1.183ha. It is stated that not all of the areas included in the 1.4138ha calculation of open space is considered to be public open spaces. The requirement to provide a playground of 800sq.m is outlined (Objective OS26) with a financial contribution required if not provided. Reference is made to the absence of daylight, sunlight and shadow analysis. The scale of retail development within the scheme is questioned with the increase from the permitted scheme noted. Transportation, parking and water issues are outlined. Reference is made to the Condition on phasing in the previous permission. A review of the EIS is provided with gaps identified in respect of landscape, cultural heritage and traffic. An assessment of the NIS is outlined with further information considered necessary prior to making a conclusion on the NIS.

In response to the submission addressing the further information request the following comments in the Planners report are noted. It is stated in relation to Item 2 that the Planning Officer accepts the rationale that the double height ground floor plan with mezzanine equates to 1 floor. It is also stated that the projections beyond the 5-storey limit proposed in a number of locations is not a material departure from the Local Objective. It is stated that while the overall height is greater than previously permitted, the revised proposal for the western half of Block 1 and pop up in Block 3 is acceptable. It is stated that the 6th storey on the eastern section of Block 1 materially contravenes Local Objective 512 and the 4th floor apartment, No. 26 (type

P3) should be omitted by condition. Item 3 deals with the scale of retail development with the retail floor area reduced from 2,117sq.m to 1,315sq.m. Item 5 provides a revision to the set back from the road edge of 9m which is considered acceptable. The daylight and shadow analysis is considered acceptable.

Item 8 provides that distance between blocks 3 & 4 is increased to 17m at its narrowest with amendments made to block 3 which is considered acceptable. Item 9 provides that revisions have been made to balconies in Block 2 & 3 with obscure glazing proposed to secondary balconies in Block 1. The public plaza design is still considered deficient particularly in terms of wind break and shelter with conditions considered to be required. Details of the materials and finishes proposed are considered acceptable (Item 11). The roof profile of the housing has been amended with other alterations to some layouts (Item 12). The matter of public open space is addressed in Item 13 with conditions required to address some matters not considered to be fully addressed. It is also noted that a financial contribution is required for the shortfall with boundary treatments outlined in detail. The bat survey submitted was considered acceptable (Item 15). The response provided to concerns regarding the de-culverting of the Bloody Stream was considered to be acceptable (Item 16).

In response to 'Other Items' the report notes that the Council has given permission to the developer to include the site within the development area but it is not the intention of the Council to sell the park to the developer. Concern is raised at the layout of the pitches adjoining the community centre and it is recommended that the all-weather pitch is omitted. It is noted that a condition should be attached to require delivery of the community centre and pitches as part of the overall development. The unit mix now proposed 23 x 1 beds, 104 x 2-beds and 13 x 3 beds. It is noted that all apartments within the scheme meet the minimum requirements and in general meet the communal space requirements. In relation to Appropriate Assessment it is considered that subject to full compliance with the conditions that the proposal would not give rise to significant adverse impacts to Natura 2000 sites.

6.4 Internal Submissions

Conservation Office – Protected Structures in the area outlined. Stated that particular issues are: Potential impact on views through the gates of Howth Castle (view noted in the Statement of Character for Howth Castle ACA as contributing to the character of the area); Potential impact on the Station Masters House; additional photomontages required with views outlined including from gates of Howth Castle, amendments to scheme requested to maintain view of the sea from gates; Height of terraced house at western end of Area 6 (13690mm) to be reduced to previously granted (13050mm); Mansard roof to be omitted; Height of Block 1 questioned; Proposed colour palette and finishes questioned. Following the FI submission it was stated in the response of the Architects Department that they consulted with the Conservation Officer about the views from the avenue of Howth Castle and the revisions are considered acceptable.

Transportation Planning Section – to achieve sightlines of 65m amendments required to boundary treatment; Transportation Assessment does not provide any analysis of the junctions where the traffic surveys were carried out with additional information required; 536 car parking spaces required with 487 proposed with a deficit of 31; requirement to move spaces 123 & 124 and amend control barriers between the residential and retail parking; location of visitor parking spaces not satisfactory; taking in charge of certain materials; pedestrian island in the pedestrian crossing; right turning lane at vehicular entrance no. 5; design of the cycle lane and pedestrian route; details of the emergency access and retractable barriers; Further information is required. Following the FI submission it was stated that: the additional information was generally acceptable. Noted that the reduced commercial area provides parking proposed is acceptable; pedestrian island is provided; location of set-down parking need to be adjusted to take account of ghost island associated with the right turning lane; Amended Transportation report considered acceptable. Conditions proposed;

Heritage – Bat survey required as per Recommendation 2 of Section 5.2.6 of the EIS;

Insufficient information in relation to how the construction phase activities related to de-culverting the Bloody Stream are to be carried out and managed so potential contaminants do not enter the adjacent SAC; Draft Construction management plans and operational site protocols are required pre-consent with Further information set out. Following the FI submission it was stated that: conditions are attached relating to mitigation measures and agreement with Inland Fisheries Ireland in relation to the Bloody Stream, Stage 3 Corrective Action Implementation and Aftercare Assessment and public lighting scheme which meets requirements of Bat Assessment Report. Stated that proposal will not give rise to significant adverse impacts.

Architects Department – layout and landscaping of spaces adjacent to traveller accommodation and community building; mansard roof of terrace housing to be replaced with flat roof; planting within public plaza in most easterly section; Light levels at eastern end of courtyard between block 3 & 4; amalgamation of retail units; amendments to east elevation of Block 1; materials to be mindful of maritime location; landscape scheme of community building to integrate with rest of scheme in event community building does not go ahead. Following the FI submission it was stated that: the materials proposed are acceptable and provide suitable weathering abilities with zinc coated cladding panels and proposed roof profile acceptable; Further planting required in the public plaza; Light levels within Block 3 & 4 acceptable; East elevation of Block 1 appropriately revised and better articulated;

Parks Department – sets out the public open space requirements for the site and refers to Objective OS10. States that not all of the open spaces outlined by the applicant in their 1.4138ha are considered public open space; Further information required to clarify the Class 1 and Class 2 open space; not all areas of open space would be taken in charge as some deemed private or semi-private or not open space; scale and boundary treatment of playground; tree and hedgerow survey, site constraints plan and Arboricultural Impact Assessment and method statement;

additional screen planting along western edge of the site; construction of tree pits in the street; details of the inlet and outlet points of the riparian corridor as well as gradients; details of the all-weather facilities; controlled open space at gable end of traveller units to be revised; layout of green areas at Block 7; specification for green roofs and roof gardens; boundary treatment.

Following the FI submission it was stated that: the open space shortfall should be dealt with by financial contribution; revised taking in charge plan is considered acceptable; Landscape plan proposes to located a playground and all weather facilities on or near a proposed wayleave with questions arising; positioning of all-weather facilities too close to traveller units; maintenance specification does not include elements of the scheme; Area of the playground deemed acceptable but equipment needs to be increased in number; Arboricultural report considered acceptable; clarification requirement regarding screen planting along the western edge of the site; boundary treatment to the riparian corridor considered with a 600mm high new rail with planting considered appropriate; further details required regarding all-weather pitches; location of boules area to be reassessed; landscape proposal at Block 7 appropriate with green roof on community centre to be agreed at compliance stage; boundary treatments in various locations require further consideration.

Housing Department - Contact made with the Housing Department to discuss the Part V obligation;

Irish Water - no objection with conditions proposed;

Water Services Section – no objection with conditions proposed;

EHO – no objection

6.5 Prescribed Bodies

An Taisce required compliance with the height provisions in the Plan. **Irish Rail** required a 2.4m solid block boundary wall, maintenance and security of the boundary is also addressed. Reference is made to the proposal to discharge to the Bloody Stream which discharges to the sea via a 900mm culvert under the railway. It is stated that the culvert is heavily silted reducing its capacity with the proposal not considered to be adequately addressed. The need to assess noise levels in the residential units is outlined. **Department of Arts, Heritage and Gaeltacht** states that the archaeological assessment in the EIS fails to adequately assess the archaeological potential of the site and requires archaeological monitoring.

6.6 Objections

A large number of objections were received by the Planning Authority. The issues are as per those outlined below in the grounds of appeal.

7.0 GROUNDS OF APPEAL

7.1 FIRST PARTY APPEAL

The first party appeal relates to Conditions 4, 7 & 8 of the PA decision as follows:

7.1.1 Omission of Condition No. 4

This condition refers to the delivery of the community centre building and associated playing pitches/courts by the developer. The applicant seeks the omission of the condition. They refer to correspondence from Fingal County Council dated 24th July 2015 allowing for the inclusion of Council lands to the west of the site which includes the proposed community centre. It is stated that the content of the letter provides that the applicant does not have any rights other than ability to include the lands and development proposals in the planning application.

Table 3.3 of the EIS, which is broadly similar to that in previous EIS, notes that the provision of the centre is subject to tender. It is stated that the applicant does not have sufficient legal interest to enter the lands or construct the centre and also may not be in a position at time of tender to deliver the project.

The existence of condition 4 could be problematic for compliance and conveyancing. The previous permission did not include such a condition with the benefit of including proposals to portray the final design solution for the site;

7.1.2 Omission of Condition No. 7

Condition No. 7 requires that Apartment No. 26 in Block No. 1 is removed from the scheme and the applicant is seeking the removal of the condition. The reason given by the PA for the removal of Apt. No. 26 is that it would not comply with Local Objective 512 which applies to the site and which requires that development be between 3 and 5 storeys. The design rationale for Blocks 1 and 2 are outlined including the creation of a sense of scale and enclosure above the commercial hub and the transition in heights within the scheme. Apt. 26 is located at uppermost fourth floor level in Block 1. The upper parapet level of this unit at 23.225m is below the adjoining approved height of 24.95m with the previous permission having an approved parapet height of 25.5m.

Apt. 26 is stated to be located in an important position in Block 1 achieving a successful height transition from east to west with its omission creating an abrupt drop in scale between the taller and lower elements of the building. Two views are included showing the with and without scenarios with the applicant stating that the omission exposes a long length of blank wall never intended to be visible, disrupts the stepping down rhythm and creates a flat roof at the junction. Apt 26 is also noted as being one of the best 3-bed family apartments in the scheme given its triple aspect, size and size of private roof terrace.

While acknowledged that it represents a 6th storey apartment not strictly complying with the objective as written it does not comprise a material contravention. The Board has discretion to retain it in the interest of good urban design and proper planning and request that given its positive contribution to the scheme that Condition No. 7 is omitted.

7.3 Amendment of Condition No. 8

Condition No. 8 states that notwithstanding the phasing details submitted that a detail and comprehensive phasing plan shall be submitted for agreement which shall include a number of specific elements including: Social housing units to be delivered in accordance with the provisions of the Part V agreement may precede other phases, Traveller accommodation to be delivered in accordance with the Traveller Accommodation Programme. The Community Centre and play facilities may precede other phases should demand and favourable circumstances allow, provisions for planting if Community centre not delivered in early phases.

The applicants state they require clarity with the proposed phasing outlined in Section 3.7 of the EIS and then subject of a request for further information which was addressed in page 18 of the response. It is proposed that the first phase will comprise 30 housing units and that while all elements are intended for completion during the lifetime of the permission there is no material planning consequence should certain elements proceed in advance of others. Reference is made to Condition 3 of the previous permission which it is stated had a simple and reasonable wording and did not seek to define a programme in advance of an agreement. It is suggested that the condition (stated in appeal to be 3 but presumed to be 8) includes provision for determination by the Board in default of agreement with the Planning Authority.

7.4 THIRD PARTY APPEALS

Six third party appeals were received by the Board. The issues raised are summarised as follows:

Development Plan Policies and Objectives

- Proposal materially contravenes the Development Plan as the residential accommodation is not a permitted use on lands zoned OS;
- Development Plan earmarked part of Techrete-Teeling lands and not Baltray Park for traveller housing;
- Contravenes Local Objective 512 of Development Plan which allows a maximum of 30% of overall development to be 5 storeys;
- Insistence in previous permission of reduction from 7-5 storeys given lack of discretion in Objective 512 the same reduction is required in current application;
- Use of double height retail space with 4-5 floors above creates equivalent height of 6-7 storeys which materially contravenes Obj 512;
- Impact on High Amenity area to the south of the site;
- Impact on the integrity of protected structure Ref's 558 & 559 adjacent to the site;
- Current Development Plan seeks to retain the village character;

Height, Design, Visual Impact and Density of Proposal

- Inappropriate height and massing which is disproportionate to village scale of Howth with taller elements inconsistent with the area and unsympathetic to overall architectural character of Howth;
- Housing units appear as large apartment blocks rather than houses;

- No attempt to step down the height of the blocks from the existing two-storey dwellings in the vicinity;
- Design of the site offered opportunity to open up views of the sea with proposal blocking views of and from the sea;
- No consideration of providing access to Claremont beach given;
- Height of blocks at 25.4m and 23 metres significantly higher than what was approved in previous decision;
- Height should be reduced further than was at FI stage to protect residential amenity, coastal views and prospects and overall amenity of the area;
- Height and scale of proposal unacceptable opposite sensitive high amenity area and protected landscape;
- Scale of proposal adjacent to single and two-storey properties inappropriate;
- Visual amenity of dwellings to the south impacted by height of proposal which will be overbearing with views and prospects from the south lost;
- Height of plaza at 3m above street level will limit views of the sea from the street;

Scale, Mix and Nature of Uses Proposed/Omitted

- Community centre not considered suitable location and should be closer to village centre;
- Howth Sutton & District Community Centre committee no longer in favour of building a community centre and in discussions about a site in the village and not clear how a centre could succeed at this location without local committee support;
- Scale of retail development well in excess of the needs of potential new residents and will directly compete with village shops which is currently suffering vacancy with the retail study inadequate;
- Location of traveller accommodation isolated from rest of residential is contrary to social integration;
- Additional pressure placed on schools within the area with no assessment of same in EIS with local schools oversubscribed;
- Omission of previously proposed retirement facility is disappointing;
- Inclusion of a hotel within the scheme would meet needs of the area;

Public Open Space and Baltray Park

- Loss of the park would result in the loss of a popular and well-utilised public open space;
- Proposal would increase number of people living in the area but decrease the quantum of net public open space;
- Proposed phasing would result in loss of all public amenity spaces for the duration of the construction phase;
- Inadequate public open space provision with use of Baltray Park in calculations allowed by PA with the applicant required to meet the open space requirements on their own lands;
- Not clear how the developer intends to gain possession of the Park;
- Questions regarding title of Baltray Park and legal propriety of including the Park in current and previous application must be addressed prior to any decision being;

- Local councillors likely to oppose any future attempts to transfer the land to the developer given huge community opposition;
- Previous application in 2011 implied a purchase of land but given applicant in receivership not clear how block 7 and other elements of scheme can be built on land on licence.
- Open space calculations based on population of 452 persons which appears low given bed spaces proposed;

Overlooking and Overshadowing

- Inappropriate loss of residential amenity of two properties opposite 6 storey blocks 1 & 2 due to overlooking and loss of privacy;
- Request revised location of the 6 storey blocks to a more appropriate location on site;
- Proposed buildings will overshadow existing properties in the vicinity of the site;

Transportation Issues and Parking

- Local Authority failed to have regard to potential traffic implications for the peninsula due to the proposal;
- Traffic study carried out during off-peak hours on a weekday (Tues 15th May) and unreliable;
- 46% increase in weekday rush hour traffic since 2009 rendering previous surveys of little relevance;
- Significant more retail proposed than previously permitted exacerbating traffic impact at weekends;
- Increase problems already being experienced at Sutton Cross which has passed saturation point, junction with Baldoyle Road and at level crossings in Sutton;
- Howth's unusual situation with only one access/egress point creates a constraint on new development;
- Traffic congestion at the weekends not considered;
- Impact of proposal on already weak dart services and inadequate parking at Dart station which has not been addressed;
- Insufficient parking on site for the community centre;
- Impact of the proposal on cyclists and cycling routes in the vicinity of the site;
- Traffic calming proposed in Object Howth 4 not taken into account;

Drainage issues, Flooding Risk and De-culverting of Bloody Stream

- Concern raised by Water Services Department and Irish Rail that there may be a restriction in the 900mm diameter culvert under the railway line with the applicant requested to carry out a survey to demonstrate that the restriction does not affect the risk of flooding or the discharge from the development. This concern was not communicated in the further information but attached as Condition No. 44 and has not been satisfactorily addressed;
- Significant risk to the environment arises and to the Baldoyle SAC and SPA with a sewer pipe also running through the culvert increasing the risk with same not considered in the NIS;

- Culvert under the railway line not within application site and outside control of the applicant;

8.0 RESPONSES TO APPEALS

8.1 FIRST PARTY RESPONSE TO THIRD PARTY APPEALS

The response to the appeals is summarised as follows:

Previous Permission on the Site

- A comparison table is provided between the permitted scheme and the current scheme as revised in the RFI as many issues raised were previously raised and set aside by the Board;
- States plot ratio, density and no. of units lower in proposed with height range the same;
- Community centre the same with retail area increased and other commercial uses reduced in area;
- Residential parking spaces increased in current scheme, commercial spaces reduced and bicycle parking reduced;
- Current proposal includes 51 no. own door houses with permitted scheme all apartments;

Density and Overdevelopment

- Proposal provides a 6.5% increase on number of residential units in the area;
- Site identified as an 'Opportunity Site' for higher density and higher scaled development in the Howth Urban Centre Strategy;
- Objectives RD15 & RD16 support increased densities;
- Baltray Park included in the Urban Centre Strategy development brief for the area identifies all of the lands within the application site as a distinct planning unit;
- Brownfield site directly adjacent to the DART station and Howth Village centre;
- National Guidelines (s.6.3) minimum figure of 50 dwellings per ha within 1km of a rail station with net density excluding Baltray Park etc, 73 units per/ha;
- Sustainable Residential Guidelines (s.5.6) no upper limit in no. of dwellings within any town centre site subject to certain considerations;

Height, Scale and Massing

- Intent of LO512 to provide a range of heights across the site to avoid a uniform height which would undermine the urban design intent of the UCS Development Brief;
- Intent also to provide a transition between the residential areas to the west and urban centre to the east;
- Do not agree with claim that some of the buildings should only be 3-storeys with previous permission providing for a variety of heights within blocks;
- Appropriate height transition provided with table of heights (Table 2) provided showing compliance with maximum 30%;
- Claim that 4-storeys over commercial in Blocks 1&2 provides 6-storeys and contrary to LO512 does not acknowledge arrangement is identical to permitted scheme, provided for in a reduction from 7 to 5 storeys in the previous application;

- Height range proposed matches previous permission (Table 3 – roof height comparison);
- Reference is made to Planners conclusion that LO512 refers to number of storeys rather than overall height;
- Design and scale of Blocks 1 & 2 based on key urban design principle rather than simply counting floors with UCS indicating height potential of up to 7-storeys;
- Blocks 1 & 2 perform an important urban design role overlooking the new plaza;
- Minor deviations from previous permission with inclusion of two small 6th storey penthouse pop up elements in Blocks 1 & 3 necessary and attractive design measures to accentuate end of each block with scale of same not considered to materially contravene LO512;
- Omission of Apt 26 from Block 1 equally not a material contravention given important urban design role in a gradation in height (first party appeal);
- LO512 broadly complied with as it was in previous permission with the Objective to be read in conjunction with the Development Brief for the site in the UCS;

Visual Impact on Character of Howth

- Reference to previous reason for refusal on site for visual impact irrelevant as refused scheme far more significant scale with permission granted in meantime;
- Impact on character of the area, the SAAO and protected structures addressed by visual impact assessment with 26 different viewpoints with overall impact deemed negligible/slight with only 2 views directly adjoining site considered substantial;
- Scheme will not dominate views at long distances with existing views within historic village/harbour not unduly impacted and overall character of village protected;
- Impact positive given existing visual context of the site;
- Site designated a landmark opportunity site for significant mixed use development;
- Architecture is modern and contemporary but respectful of character of area;

Impact on Views through the Site

- Proposal rather than negatively impacting existing views will provide new views within the site and new views not currently achieve from the Howth Road due to industrial buildings;
- Range of new views in excess of those outlined in Howth UCS;
- Views from the sea considered in the VIA with 3 views from Baltray Bay;
- Impact on St Marys Church will not be significant with previous scheme deemed acceptable from a visual perspective;

Impact on Residential Amenity – Overshadowing, Overlooking, Loss of Privacy, Visual Overbearance

- Distance from southern edge of Block 2 to Evor Lodge opposite is c.30m which is substantial with overlooking not achievable;
- Block 1 specifically graded in height to 3-storeys at eastern boundary with no habitable room windows located on that eastern elevation with private terraces at upper floors set back and screened;

- No reasonable overshadowing of residential properties within or outside scheme with house to the east of the site assessed with scheme located north of Evor Lodge and adjoining properties so overshadowing not material;
- Location of the height within the scheme complies with site development Brief, development Plan and previous permission;
- While visual environment will be altered it will be positive given existing environment;

Public Open Space

- Loss of Baltray Park is adequately compensated for with public facilities— Community centre and outdoor sports area as designated by the Howth UCS and supported by Development Plan;
- Significant additional public spaces, public recreational facilities and public routes within scheme;
- Open space calculation taken directly from Objective OS02 (Development Plan);
- Public space proposal comprises 3 principal open spaces – urban public plaza (east), riparian space either side of the stream (centre) and a new public park with 800m² playground (west) with combined total of 8,320m² or 19% of the gross site area;
- Requirement for 10% for use as public open space met within the scheme with Baltray Park excluded;
- Objectives OS10A & B provides 30% of open space can be intensive recreation/amenity facilities provided by the Community Centre and outdoor area;
- Combination of a number of public open spaces, community centre and sports facilities comply with the open space requirement of the Development Plan;
- PA did not consider the public plaza to be open space and required a financial contribution in lieu (Condition 50) as is their discretion;
- While Board has similar discretion to allow for a contribution, they chose not to do so in previous permission with same number and extent of open space;

Public Access and Cycling Objectives

- Access to Claremont Strand previously considered but abandoned due to access issue across the DART with no local objective to provide such access;
- If situation changes, potential for a pedestrian bridge from the new public park;
- Public accessibility through the scheme central design consideration with dedicated east-west routes within the site with improved public footpath on the Howth Road;
- Vehicular access matches that previously permitted and nothing in scheme which would hinder further development of additional routes along the Howth Road;

Removal of Trees

- Tree Survey undertaken states none of trees in the park deemed to be of High value with majority of moderate value and quality and some of low value;
- Trees to be removed are to be replaced with proposal reflecting previous permission;

Retail Impact

- Intention is for development to become a destination for the local area as well as serve the new residential community in compliance with the 'TC' zoning;

- Site seen as natural extension of the town centre onto underutilised brownfield site;
- Slight increase of c.300m² not significantly more retail than previously granted with commercial area in total over 200sq.m less than granted in previous scheme;
- Commercial floor area only 8.5% of the total gross floor area with LO513 requiring a mixed use scheme on the site with commercial floorspace to be expected;
- Howth currently deficient in convenience retailing relying on Sutton Cross with historic village centre presenting difficulties for modern retail formats;
- Scale of retail does not required a retail impact assessment;

Traffic Impact

- Proposal broadly similar in parking spaces and traffic generation to previously granted;
- Comprehensive TIA in EIS with revisions in AI response;
- Traffic count carried out on Tuesday 26th May for entire day including AM & PM peaks;
- Previous scheme in 2009 would have recorded traffic during the recession therefore 46% less than 2015 but noted that 2015 results 20% lower than what was predicted for the site for 2013;
- As per previous permission, scheme only has a limited effect on the performance of heavily congested (peak) Sutton Cross;
- TIA demonstrates proposal will not significantly or detrimentally impact on surrounding road network;
- 70% of the parking is for residential units with traffic movements from development at weekend generally in opposite direction to tourist flows;
- Proximity of DART and access to village centre by foot and bike reduces car use;
- Commercial car parking clearly delineated in the basement car park with visitor car parking controlled with mobility management plan required by condition;
- Lack of parking at the DART station not of concern to current proposal as it is adjacent with capacity issues on DART unsubstantiated and not raised by CIE;

Flooding Risk

- Response to flooding issue from Roughan O'Donovan Cons. Engineers;
- De-culverting the stream through the site provides a significant natural attenuation area for surface water within the site and by the stream entering the site;
- Riparian corridor designed in accordance with OPW Planning System and Flood Risk Management Guidelines;
- Mitigation provided to deal with potential debris blocking the stream;
- Existing site situation provides risk of the culverted Stream surcharging during high intensity rainfall events and potentially flooding the Howth Road;
- Flood risk assessment included in EIS, Construction Management Plan and Stage II Environmental Risk Assessment provided during application to show how works to stream would create minimal impact to SAC at Baldoyle bay;
- De-culverting and providing a riparian corridor permitted under the previous scheme;

- Proposal will reduce the risk of flooding compared to current scenario;
- Restriction within the culvert comprising columns to support a foul pipe to be removed and new connection to the sewer to the east of the toilets provided;
- Full survey of the culvert required as per Condition 44(a);

Impact on Schools

- Demand for school places likely to be generated was carried out in previous application which concluded that the children likely to be within the development that sufficient choice was available within the area;

Traveller Accommodation

- The provision of traveller accommodation is a requirement as set out in the Development Plan;
- Traveller accommodation proposal remain unchanged from previous permitted scheme;
- Site development brief indicates potential land uses and location with the traveller accommodation and community centre indicated at western end of the site;
- PA outlined the rationale for location of the traveller accommodation on the OS zoned area which was accepted by the Board;

Community Centre

- Community centre proposal remains unchanged from previous permitted scheme;
- Location accords with the Development Brief for the application lands as per the UCS and the open space zoning;
- Specific details about other community centre proposals are scant;
- Recreational Department of FCC did not object to the proposal;
- Subject site provides an extension to the urban centre adjacent to the DART station with community centre within same;
- Parking for the centre is proposed as permitted in previous scheme;
- Confirmation on the final delivery and management of the centre is a matter for agreement between the applicant and PA;

Other Uses

- While TC zoning allows for a broad range of uses the Development Plan does not stipulate that the site should contain any specific commercial use;

Legal Matters

- Queries over legal title or the legal ability to carry out development are not planning matters and not role of the appeals process to entertain same;
- PA provided a letter of consent to the applicant for the subject lands to be included within the application;
- Noted by the Planning Officer that it is not the intention of the Council to sell the park to the developer;

8.2 THIRD PARTY RESPONSE TO FIRST PARTY APPEAL

A response was received on behalf of Ann Acheson as follows:

- Applicant is not committed to the provision of the civic amenity space upfront with the failure to provide adequate open space at outset at odds with alleged spirit of the scheme in respect of giving back to the community.

- Insufficient legal interest to develop Baltray Park with the loss of the open space to be resisted at all costs.

8.3 PLANNING AUTHORITY RESPONSE

The response from the PA to the first and third party appeals is summarised as follows:

- Proposed development given its location is considered to be generally in keeping with governed policy in relation to density and the policies of the County Plan;
- Traveller accommodation symbol is indicative with Techrete site always considered a single entity for mixed use including traveller accommodation;
- Inspectors report on previous decision considered that neither traveller accommodation nor Block 7 materially contravened the Development Plan;
- Shortfall of open space with 0.78ha required and 0.63ha with financial contribution necessary to meet shortfall;
- PA accepts that double height ground floor in Block 1 is one floor as Objective 512 refers to number of storeys rather than overall height;
- Proposed 6th storey on eastern section of Block 1 materially contravenes objective 512 (notwithstanding reduced height) and 4th floor apartment 26 (type P3) should be omitted;
- Request conditions No. 48, 49 and 50 are included in any decision of the Board;

8.4 OBSERVATIONS

Fourteen observations were received by the Board. The issues arising are summarised as follows:

Development Plan Policies and Objectives

- Proposal materially contravenes the Development Plan as the traveller accommodation cannot be located on lands zoned OS with traveller accommodation in isolation and no social integration;
- Contrary to Transitional policies set out in Section 9.3 and Objective Z04;
- Objective Howth 1 in the Plan requires implementation of the Urban Centre strategy;
- Contravenes Local Objective 512 of Development Plan which has statutory status;
- Inadequate open space provision contravenes requirements of the Plan;
- Objective to ensure key features of legibility remain dominant within the streetscape would be undermined;

Land Ownership and Location of Uses on Public Land

- Ownership and use of Public Park within Scheme and legal title/legal notice,
- Baltray Park used by the general public and is an important amenity space;
- Views from the Park of Ireland's Eye and Lambay obscured by untended hedges and would be permanently obscured;
- Applicants legal interest in developing the site requires clarification with lands owned by Fingal County Council, Dublin City Council and Iarnrod Eireann;

- Role of two local authorities in proposal needs to be understood with receivers making an application on lands not within their control;
- Community facilities, social housing and most of public open space included on lands in other ownerships;
- Use of licence to build on public land rather than previously proposed land transfer questioned;
- Proposed use of public land for a community facility should not have been approved while proposal for providing community facilities on library site being considered;

Height, Design and Density of Proposal

- Inappropriate Height and design which is disproportionate to scale of Howth with inappropriate concentration of highest elements adjacent to existing two-storey houses;
- Quality of design poor as per report of Fingal's Architects Department;
- Proposal has not addressed the impact on the Station Masters House and the Howth Castle ACA;
- Inappropriate density of the proposal with proposal overdevelopment and an over intensification of the site;
- Howth's village character not appropriate location for high density development;
- Impact on the distinctive character of Howth Village and visual amenities of the area;
- Inclusion of housing units within the scheme reduces the amount and effectiveness of open space from previous scheme;
- Inadequate landscaping proposals on site;
- Finishes on proposed community building out of character with the area;
- Net density of apartments on eastern area of the site very high;
- Insufficient photomontages provided from important local locations in Howth;

Public Open Space

- Inadequate public open space with developer not providing any intensive recreational/amenity facilities as required by Objective OS10;
- Riparian strip with steep banks and railings would be a dry drainage channel for most of the year;
- Linking proposed development to Claremont Beach a missed opportunity;
- Inspectors report in respect of PL06F.235083 argued against use of open space in Baltray Park for housing;

Scale, Mix and Nature of Uses Proposed/Omitted

- No provision for a hotel within the scheme when one badly needed;
- Excessive retail space in the area with retail impact failing to reflect level of existing retail and extant permissions with no supporting impact assessment;
- Level of retail increased significantly on permission granted under F11A/0028;
- Health and leisure amenities unsuitably located and do not meeting needs of community with swimming pool required;

- Omission of retirement element which was of merit;
- Location of community centre appears to create impression of community gain but not clear for whom it is being built with viability of same questioned with original proposal by Howth Sutton Community Centre Ltd being progressed elsewhere;
- Motivation of proposal to maximise investment rather than provide appropriate facilities for the area;
- Welcome the long awaited community centre;
- If permission granted conditions regarding phasing should be re-imposed;
- Tennis courts being reduced in number;
- Traveller housing smaller than the rest of the proposed housing;

Overlooking and Overshadowing

- Loss of residential amenity and shadowing of existing properties;
- Loss of privacy with overlooking of adjoining two-storey properties from Blocks 3, 4 & 7;
- Overlooking overshadowing of two-storey property directly to east of site with sun study requested at FI ignored by PA and contravenes Objective RD13;
- Overshadowing of Claremont Beach

Ecological, Drainage Issues and De-culverting of Stream

- Insufficient detail and treatment of proposed culvert and realignment of the river with effects on river not assessed for different seasons;
- No details provided on surface water captured;
- Incidents of serious flooding in the peninsula especially in August 2014;
- Conditions 42-44 requiring strengthening to address ongoing drainage and flooding problems at the Bloody Stream and other areas in vicinity;
- Impact of the construction phase on the strand and sea bed;
- Concerns that foul drainage layouts are incorrect and clash at many different manholes and junctions with surface water layout;

Transportation Issues and Parking

- Traffic Impact and traffic congestion with inappropriate accesses onto Howth Road;
- Impact on Howth Road and Sutton Cross;
- Insufficient parking;
- Weekend traffic peaks not considered in traffic survey;
- Large public car park for visitors to Howth required;
- Detailed traffic management and street enhancement plan for the Howth Road required for during and post construction;
- Medium and long-term plans are required for the enhancement of Sutton Cross by Fingal County Council;

9.0 ASSESSMENT

9.1 INTRODUCTION

In the interest of clarity it is the scheme as received in response to the further information request that I intend to address for the purposes of this assessment. I will address the third party appeals first followed by the first party appeal. The application will be considered as follows:

- Compliance with Planning Policy
- Density, Design, Layout and Residential Mix
- Retail/Commercial/Community Uses
- Height and Local Objective 512
- Visual Impact and Character of the Area
- Overshadowing and Overlooking
- Public Open Space
- Transportation Issues and Parking
- Drainage Issues, de-culverting of the Bloody Stream and Flooding
- Ownership of Lands and Baltray Park
- Other Matters
- First Party Appeal against conditions
- Environmental Impact assessment;
- Appropriate Assessment

9.2 THIRD PARTY APPEAL

9.2.1 Compliance with Planning Policy

9.2.1.1 Extant Permission

Firstly, I would note that the Board has previously permitted a mixed use scheme on this site with c.250 no. apartments and a range of retail, office and leisure uses. In addition, the extant permission provided for the provision of the community centre, traveller accommodation, block 7 and the de-culverting of the Bloody Stream. Therefore, the principle of the uses are already established on the site. However I will address the relevant policy contained in the Development Plan as it relates to the site specifically and that which is included in the Howth Urban Centre Strategy in turn.

9.2.1.2 Development Plan

The development plan zoning map contained in the current Fingal County Development Plan provides that the site has two zonings. The majority of the site is zoned Town Centre the objective of which is to protect and enhance the special physical and social character of town and district centres and provide and improve urban facilities. I would note that all the uses proposed are permitted within the zoning. The remainder of the site to the west of the application area is zoned Open Space. The objective of this zone is to preserve and provide for open space and recreational amenities. On this part of the site, a community centre and 4 traveller accommodation units are proposed. I consider that the community centre and its attendant facilities are specifically provided for by the uses outlined in the permitted uses for this zone, that being community facility. Traveller community

accommodation is not permitted on the zone. I would note that there is a number of appeals and observations which state that the use is a material contravention of the zoning. This also ties into the matter of the location of the traveller accommodation symbol on the site. The symbol is located on the zoning map within the TC zone and in the location of proposed Block 7. The Urban Design Framework set out in the Urban Centre Strategy includes a symbol – 30 – on the north western part of the site which ‘encourages’ the development of traveller accommodation at this location. I note the comments of the Planning Authority regarding the location of the symbol in the County Development Plan and it being indicative and not being locational specific on the site. As I outline in the following section the UCS is part of the Development Plan – although not a statutory document in its own right. In this regard and particularly having regard to the extant permission on the site, I consider that the uses proposed are acceptable in principle in the locations proposed on site. I would also note that there are two specific local objectives on the site, LO 512 is discussed separately below in respect of height. I would note LO513 promotes the development of a mixed use scheme on the site. The development as proposed would, in my opinion, comply with this objective.

9.2.1.3 Howth Urban Centre Strategy

The Howth Urban Centre Strategy was prepared in 2008 and is a non-statutory document. However policy UC09 as set out in the current Fingal County Development Plan requires the implementation of the Urban Centre Strategies for specific locations including Howth. Furthermore, Objective Howth 1 in the County Plan states that the Planning Authority will implement the Urban Centre Strategy for the village core. In this regard the strategy provides a framework for the site which is identified as opportunity Site 1 with a site specific development brief developed for the site. I note that the opportunity site includes Baltray Park. I also note that the site development brief in terms of indicative land uses states that there is an opportunity to develop a community centre to the western edge of the site and reference is made to traveller accommodation at the western edge of the site. Other uses also outlined include retail, commercial including hotel, office, crèche and residential. In terms of the hotel use I would note that this use was mentioned by a number of appellants/observers. The first party refer to the wide range of uses permitted by the zoning but that it does not stipulate that the site should contain any specific commercial use. I would agree with this. The commercial uses must be economically viable and in this regard it is a decision of the applicants to propose the uses included with the objective to create a vibrant new community. In addition, I would note that the indicative built form for the site set out in Map 6.3 provides blocks of development/units within the site of Baltray Park. In this regard I consider that the proposal now before the Board complies broadly with the proposals included in the Development Brief for the site. Furthermore, Element 7 of the Development strategy vision provides for the expansion of the village centres retail, residential and commercial offer. It also refers to greatly improving the appearance of the existing site from the Howth Road.

Therefore I would suggest that the proposed development complies with the principles set out in the relevant policies in both the Fingal County Development Plan 2011 – 2017 and the Howth Urban Centre Strategy which apply to the site.

9.2.2 Density, Design, Layout and Residential Mix

9.2.2.1 Density

The subject site is a brownfield site located adjacent to Howth DART station and the existing village centre of Howth. The site has been designated Opportunity Site in the Howth Urban Centre Strategy and in that regard an intensive form of development has been envisaged for the site since the Strategy was developed in 2008. The current permission on the site provides for 250 residential units. The net residential density of the existing permitted development based on a site area of c.2.74 ha which excludes Baltray Park, pumping station and community area to the west is c.91 units per ha with the gross residential density including Baltray Park calculated at c.75 units per ha. The current scheme of 200 units provides a net density (excluding Baltray Park, pumping station and community area to the west) of 73 units per hectare and a gross density of 59 units/hectare. Therefore the proposed net density is just under the permitted gross density on the site. In this regard I do not consider that the density proposed is inappropriate.

9.2.2.2 Design and Layout

In terms of the design and layout I note the concerns raised regarding, views through the site of the sea. However, I would note that currently, there are very limited views of the sea along the length of the site and the fencing which separates the site from the DART line also limits the available views. I consider that the proposed development will increase available views of the sea both within the scheme and from the Howth Road at a number of locations. In respect of the concern that the development is not stepped down as it addresses adjoining two-storey properties, I would note that the eastern boundary is the only boundary where elements of the development above two storeys directly adjoin properties. The development is three storeys above ground where it adjoins the eastern boundary stepping up from this point to 4, 5 and 6 storeys. In an urban context on a site adjoining a DART station this transition between two and three storeys is considered appropriate. The matter of residential amenity is addressed below in respect of overlooking and overshadowing.

9.2.2.3 Residential Mix and Design

I consider that this scheme provides a more sustainable mix of house types and design. As I note elsewhere in this assessment, the housing proposed seeks to provide a balance between seeking a sustainable use of serviced urban land and providing a type of residential unit similar to traditional housing. It is my opinion that the future development of sites will see housing units on smaller footprints over a greater number of floors. The 51 housing units proposed provide a contrast in unit type to the apartments proposed in the Blocks 1-4 and 7 providing greater choice.

9.2.3 Retail/Commercial/Community Uses

9.2.3.1 Retail and Commercial Uses

There is some considerable concern expressed at the scale of retail and commercial space proposed. There is reference to a need to complete a retail impact assessment however the scale of the anchor retail unit is below what would necessitate same. There is also concern at the vacancy rate in the existing village which was stated to have been 17% in a retail study undertaken by Council. However I would note that the subject site is envisaged in the Howth Urban Centre Strategy as an extension of the village. In this regard it is appropriate to provide retailing of the scale proposed. The retail space proposed in the revised scheme is relatively small in scale and is required, in my opinion, to service the needs of the new population on the site. While there is an increase in the quantum of retail proposed herein when compared to the permitted scheme, it is not of such a scale as to warrant concern. The other uses, crèche, gym etc. will facilitate the population on site and the cafes and restaurant will create active uses in the vicinity of the proposed plaza. I do not in that regard consider that the retail and commercial uses proposed are of a scale to warrant concern.

9.2.3.2 Community Use

There is an observation on site from the Howth/Sutton Community Council which states that it is not clear for whom the centre is being built and are concerned that the centre proposed is located too far from the village centre. It refers to the Recreation Department of Fingal County Council's consideration of proposals for providing community facilities on the Library site in the village centre. A letter from the Community Council's Company Secretary states that they and the Council are jointly advanced in actively pursuing alternative sites for the proposed facility with options including a joined community facility on the Library site. The applicant in response to the appeal state that confirmation on the final delivery and management of the centre is a matter for agreement between the applicant and the PA. While I acknowledge that the existing extant permission provides for a community centre in the location now proposed I would acknowledge that there would appear to be a number of concerns in respect of the delivery of this facility. Firstly, as outlined by the Community Council there appears to be proposals to provide facilities elsewhere and it is not clear whether the facility is required. However, the Council do not appear to have made any comments in this regard. Secondly, the applicant is including the proposal in their scheme but does not have legal entitlement to deliver the facility. However, I would note that with the possible exception of the tennis courts the remainder of the scheme could be developed in the absence of this facility with the site remaining in open space use until such time as it is clear whether the centre is required at this location. The all-weather pitches have been conditioned out by the Planning Authority. I consider that this is reasonable given their proximity to the traveller accommodation and potential impact on same. Alternatively the Board may decide that it may be appropriate to condition out the centre and require revised proposals for this area of the site and require that the developer provide a contribution to a community fund in lieu.

9.2.8.3 Uses Not Included

There has been some concern expressed about the absence of a hotel on this site. I note that it is one of the indicative uses included for the site in the development brief included in the Howth Urban Centre Strategy. However, the uses proposed are indicative and I would note that the applicant can propose uses which are considered to be the most appropriate use for the site given its location. While I would acknowledge that there may be a need for a hotel in Howth and that the site would have been an appropriate location, there are arguably a myriad of other uses which would have been suitable on the site. The Boards role herein is to assess and adjudicate the nature of what is proposed rather than what is not included. This applies similarly to the inclusion of retirement units in the previous application and their omission in the subject development.

9.2.3 Height and Local Objective 512

In respect of the consideration of height it is the revised scheme as submitted to the PA in response to the further information request that is the subject of my assessment. There is considerable objection to the height of the scheme. It is stated that the height is inappropriate and inconsistent with the character of Howth. I address the matter of visual impact in the next section. Prior to addressing the matter I would note that considerable height has been permitted on this site in the previous extant permission thereby establishing a precedent for heights of varying degrees on this site. The height permissible on the site is determined by a specific local objective applying to the site. Local Objective 512 states “*development shall be between three and five storeys and that the three storey aspect of the development shall be on the western side of the site and a maximum of 30% of the overall development shall be five storeys*”.

There has been some considerable debate about how the lower and upper ground floors in Block 1 and 2 are considered with the PA accepting the argument that the two ground floors can be treated as one storey or a double height floor. I would note that in the revised scheme an element of the Upper ground floor comprises the upper area of a number of the units with mezzanine floors proposed in areas. I would however note that the eastern element of the upper floor of Block 1 comprises 4 no. apartment units over the lower ground floor retail unit below. This could not be described as one floor as there are two distinct uses. Therefore in elements of Block 1 it can be argued that 5 storeys would encompass the 2 ground floors and 4 floors of residential development above. However I would suggest that the eastern element of Block 1 is 6 distinct storeys and would not comply with the 5 storey limit on the site. Condition 7 of the PA’s notification requires the omission of Apartment Unit No. 26 from the scheme. This is located on the fourth floor plan but is in effect a sixth storey having regard to the floors below this unit and there distinctive uses.

The first party have appealed this condition and I address this separately below at Section 9.3.2. I would note that this unit is not part of the extant permission on the site. Therefore I consider that there are two options. The first is the omission of Apartment 26 as proposed by Condition 7 or omit the Upper Ground Floor apartments – Units 1-4 in Block 1 – which comprise 4 no. 2-bed apartments and create double height retail units in Units 1a, 1b, 1c and 1d. In the interest of ensuring

the best solution for the site, I would suggest to the Board that retaining 4 units in favour of the omission of one unit would be more sustainable.

Drawing 14-012-PL-1.109 provides a diagrammatic representation of compliance with LO512 with Table 2 in the first party response to the appeal providing a height comparison with the previous scheme. Accepting the argument for a double height ground floor – with the exception of the eastern part of Block 1 as discussed in detail above, I consider that the applicants have met the objective with less than 30% of the site comprising 5 storeys. I would tend to agree that the pop up elements in blocks 1 & 3 are not a material contravention of the plan or LO512. I would also note that apart from the pop up mezzanine elements, that the proposal complies with the heights already permitted on the site and in this regard I consider that the heights proposed are acceptable.

I would note that it is stated that the height of the plaza above ground level will limit views of the sea from the street. It is also stated that the proposed height should be reduced further to protect coastal views and prospects. As I already mentioned above, currently, there are very limited views of the sea along the length of the site and the fencing which separates the site from the DART line also limits the available views. I consider that the proposed development will increase available views of the sea both within the scheme and from the Howth Road at a number of locations. In relation to the proposed houses, there is objection to the height of the houses which are four storeys in height. The terraces have a height of c.13.6 metres with Terrace 8 lower. I consider that given the need to provide houses that a balance must be met between making the most sustainable use of land and providing a traditional housing unit. The unit proposed is a modern interpretation of a traditional format and in my opinion is an appropriate means of achieving this balance.

9.2.4 Visual Impact and Character of the Area

Firstly, I would suggest to the Board that the site in question has a significant negative visual impact on the entrance to Howth and on views from the beach at Claremont Strand. In respect of obstruction of views coming into Howth and from Baltray Park as I have outlined elsewhere currently, there are limited views to the sea and the views coming into Howth are negatively impacted by both the industrial character of the lands and now its derelict state. The EIA below provides an assessment of the visual impact on the area with a series of views undertaken as part of the visual impact assessment in EIS addressed. Additional views were submitted in response to the further information request.

Views from Baltray Park will be significantly altered given the proposal to develop the community centre however, the proposal seeks to create open views through the development at a number of locations which are not currently achievable due to the nature and location of the buildings on the site. I would note that the views from the sea and from Irelands Eye will not be significantly impacted with the development being read as an extension of the village fabric. Similarly views from the Harbour and the Village Centre while altered will not be negatively impacted as the proposal reads as an extension of the built up area albeit of a different scale. However I consider

that the impact is acceptable. Views along the Howth Road will also be significantly altered with the proposal creating a strong urban edge to the views into and out of the village. This differs significantly from the existing situation where the views are comprised of large derelict industrial structures set back from the road. It is the creation of this boundary to the site comprised of tall modern buildings that creates the significant change. However having regard to the context it is considered that this is an appropriate response to the extension of the village and the removal of unsightly dereliction.

The visual impact on the Station Masters house is outlined in View 20 included in the response to further information. I would suggest that there will be a significant impact on the house however its immediate visual context has already been significantly altered by the two-storey red brick property located between the Station Masters House and the eastern site boundary. Howth Castle ACA is located to the south of the site with the view from the gates of the Castle a preserved view. I would note that View 4 in the original EIS shows the proposal as viewed from a position behind the gates. This shows the development visible to the right of the gateway over the arch. The response to further information moves the visible terrace to the east with the structure appearing lower than originally proposed with the impact lessened. View 26, an additional view taken directly at the gates was submitted at further information stage and shows that the development is visible in the view from the gates creating a substantial imposition on the view. However, I would note that the sea remains visible and in the context of facilitating an extension to the village it is considered that this impact is acceptable. The views from within Deerpark Golf Course are not impacted by the proposal nor is the remainder of the area of high amenity to the south of the site. The topography of this area and mature vegetation to the south provides that views are taken above the level of the site out to sea and Irelands Eye.

9.2.6 Overshadowing and Overlooking

The impacts of concern on the residential amenity of adjoining properties relate to overshadowing and overlooking particularly in respect of residential properties in the to the east, west and south of the site and the impact on Claremont strand. A report prepared in response to the Further Information Request by Aurea Consultants examined the potential for overshadowing of properties to the east and west of the site as a result of the proposed development. In relation to the house to the west, it was found to be significantly screened from the site by a continuous belt of deciduous trees and shrubs. For the majority of the year, while there are leaves on these trees, this building will have no view to the proposed development. The report concludes that no overshadowing of this building would occur when there are leaves on the trees and that no appreciable increase in overshadowing would occur when no leaves were present on the dividing tree belt. It is also noted that the separation distance between the boundary and the proposed building and the height of the development would assist in ensuring that there would not be a negative impact on their residential amenity. I would note that there are no windows at first floor level in the community centre building.

In relation to the house to the east of the site (Ashbury), this 2-storey property was not considered be impacted upon by loss of daylight to the interior of the buildings as there were found to be no habitable rooms facing the development. The only window facing west, towards the site is a frosted glass window on the gable end of the building. It was also noted that loss of sunlight would not occur in the garden of this dwelling for a number of reasons including the distance to the boundary, the height of Block 1 which is stepped down to 10.22 metres closest to the adjoining dwelling, the set back from the boundary of between 5.7m and 9m, the landscaping proposed at this location, and the existing boundary walls which serve to block the influence which the new development could have on sunlight availability for the existing garden. In terms of overlooking, I would note that there are no habitable room windows on the eastern elevation of Block 1 addressing the property to the east and measures have been proposed to provide that private terraces at upper floors are set back and screened to ensure that no overlooking arises. I would propose that details of same should be submitted for the agreement of the planning authority to ensure they are satisfactory. In respect of the residential dwellings located to the south of the site on the other side of the Howth Road, given the significant separation distance between the building line of the proposed development and the properties and their location to the south of the appeal site any impact likely to arise would not be significant.

The issue of the overshadowing of Claremont strand was raised but I note that it was not included in the further information request in respect of the daylight and shadow analysis. I would however refer to the previous Inspectors report where it was specifically included in the report and where the following was noted. *“Having examined Figures 2-5 of the shadow casting diagrams attached to Appendix A of the report by Aurea Consultants submitted to the Planning Authority dated the 28th of February 2012, only Figure 5 shows that there will be a significant impact on Claremont Strand. Figure 5 demonstrates shadows cast at 6pm on the 21st of March. Figures 2, 3, and 4 show impacts at earlier times of the day on the 21st of March (9am, 12pm, and 3pm) and the impact is marginal at these times. Having regard to the fact that the strand is a public amenity space and the low impact for most of the day, I am of the view that the impact of overshadowing in this instance will not unduly impact on the amenities of the area”*. I consider that this is a reasonable judgement to make and I would also note that the subject site is separated from the Strand and promenade by the DART line therefore the development is not directly addressing the Strand. In conclusion on this matter, I consider that the concerns raised in respect of overlooking and overshadowing have been appropriately addressed in the design and in the documentation submitted with the application and I do not consider that they will unduly impact on either residential amenities of neighbouring dwellings or on the amenities of the area.

9.2.11 Public Open Space

There is considerable consideration on the file about the matter of public open space on the file. The response to further information on the matter includes Drawing 14-012-PL-1.110 which outlines the areas of open space considered to be calculable for the purposes of open space. The applicant outlines 3 area of the site, the plaza, the

riparian corridor and the public open space to the west of Terrace 2 which includes a playground. This has a combined total area of 8,321 sq.m or 18.9% of the site. In addition intensive recreational open space is proposed by way of the community centre and outdoor sports areas in accordance with Objective OS10 of the Development Plan. Objective OS10 allows recreational/amenity (indoor or outdoor) of a more intensive nature be provided in tandem with larger developments in place of open space requirements. Where such is proposed Objective OS10A states that a minimum open space requirement equal to 70% of the open space requirement is required in addition to the intensive recreational/amenity facilities and the area occupied by the intensive facilities is not calculable for the 70% requirement (OS10b).

The Planning Authority in their response to the appeals state that the proposal generates a requirement of 1.13ha of public open space. (They state that 70% of this figure is 1.183ha. I would note that 70% of 1.13hectares is 0.791 ha and this is clarified elsewhere in their submission). The PA state that an area of 6331sq.m of open space or 14% of the site is being provided as open space and not 8,321 sq.m or 18.9% of the site suggested by the applicant in the drawing referred to above. Therefore the requirement is stated to be 0.78ha (70% of 1.12ha) with the provision 0.63ha. Therefore there is a shortfall. Condition 50 of the notification from the PA includes Condition No. 50 which requires a financial contribution of €102,300 in lieu of open space based on a shortfall of 0.15hectares of Open Space. The PA have requested that the Board retain this condition and I consider that this is reasonable but I would note that it was not included in the previous permission. While there is a shortfall of space on the site I would note that the site is located adjacent to Claremont Strand an amenity area and within walking distance of the village centre and the walking trails in Howth Head. There are significant amenity areas within easy reach of the site and in this regard I consider that the layout and open space provision is acceptable.

9.2.12 Transportation Issues and Parking

In respect of this issue I would also refer the board to Section 9.4.9 which addresses traffic impact in respect of the Environmental Impact Assessment. The first party in response to the appeals note that the proposal is broadly similar in parking spaces and traffic generation to that previously granted. I would concur with this assertion. Permission exists for a substantial development in excess of that now proposed. Therefore a precedent exists on the site for a development with a significant traffic generation. In respect of issues raised about the traffic study I would note that concerns raised about the day and time of the count are addressed by the first party with the count undertaken at peak times on a weekday which complies with best practice. Concerns raised about the increase in retail and that exacerbating traffic impact at weekends is not a material concern as the increase in retail over the permitted scheme is c.300sq.m which is not considered significant.

Concern is raised as to the traffic congestion at the weekends which it is stated was not considered. I would concur with the applicants that the development would not make weekend flows into the village any worse as traffic leaving the development

would be travelling in the opposite direction. It is claimed that the proposal includes inappropriate accesses onto the Howth Road however there is no evidence produced to substantiate the claim with the traffic details submitted outlining sufficient sightlines for the accesses proposed. This site includes several access points at present with traffic accessing and egressing effectively.

While it is stated that the impact of the proposal on cyclists and cycling routes in the vicinity of the site is not appropriately addressed I would suggest that the proposal incorporates significant bicycle parking on site with cycle routes and cycle facilities incorporated appropriately. In respect of parking, I do not consider that there is sufficient evidence produced to support claims of insufficient parking. While the proposal does not meet the parking requirements as they are set out in Table T03a and T03b in all instances I would refer the Board to Note 2 and 3 on page 124 of the County Development Plan which states that car parking with 1000m of DART stations will be determined on merit by the Planning Authority and in mixed use developments, the car parking requirement will take account of different uses having peak demands at different times of the day and week. In addition, I would note that a mobility management plan is proposed which will seek to reduce the need for the private car and set out arrangements for multi-modal accessibility including mini-bus for older residents and groups, walking, cycling etc. In addition it is not the role of the applicant to provide parking at the DART station which residents of the proposed scheme would not use given their ability to walk to the DART. Parking on the site is proposed to be controlled with commercial car parking clearly delineated in the basement car park with visitor car parking controlled with mobility management plan required by condition

In relation to Sutton Cross it is stated that the proposal would increase problems already being experienced at Sutton Cross which has passed saturation point. As noted below in the EIA, the Howth arm at Sutton Cross is saturated at peak times. It is stated in the EIS and revised addendum that the proposal would not create significant additional impact on an already saturated arm. As noted below the TIA states that the proposal will not significantly or detrimentally impact on surrounding road network. Having regard to the brownfield nature of the site, its negative visual impact on the village, the proximity of the DART and the permission extant on the site I suggest that the development as proposed is acceptable. I would agree with the appellant's suggestions that medium and long-term plans are required for the enhancement of Sutton Cross by Fingal County Council.

9.2.13 Drainage Issues, de-culverting of the Bloody Stream and Flooding

The development seeks to open the Bloody Stream as it travels through the site in a south north axis via a 600mm underground culvert with outfalls on Claremont Strand. The culvert would remain to the north of the site under the DART line and promenade. The proposal seeks to create an open channel creating a riparian corridor. There are concerns expressed in respect of the impact of the development and in particular the construction phase on the outfall to the SAC given that the channel would be open and susceptible to risk. I would note that the Appropriate Assessment in Section 9.5 addresses the possible effects on the Natura 2000 sites.

In addition there is concern expressed regarding the potential for flooding and the capacity of the culvert to discharge surface water to the marine outfall. Specifically the Acheson appeal refers to concern raised by the Water Services Department and Irish Rail that there may be a restriction in the 900mm diameter culvert under the railway line with the applicant requested to carry out a survey to demonstrate that the restriction does not affect the risk of flooding or the discharge from the development. It is stated that the concerns were not communicated in the further information but attached as Condition No. 44 and has not been satisfactorily addressed. It is also stated that a significant risk to the environment arises and to the with a sewer pipe also running through the culvert increasing the risk with same not considered in the NIS. Reference is also made to incidents of serious flooding in Howth in 2014.

The response to the appeal from the first party notes that the de-culverting of the stream and the provision of a riparian corridor was permitted under the previous scheme. It is noted that the creation of the open channel by de-culverting the stream creates a significant natural attenuation area for surface water within the site and by the stream entering the site. This in effect will assist in addressing the issue of flooding. It is noted that the existing site situation provides a risk of the culverted Stream surcharging during high intensity rainfall events and potentially flooding the Howth Road. It is noted that in addition to SuDS measures the proposal will reduce the risk of flooding. It is noted that the riparian corridor is designed in accordance with OPW Planning System and Flood Risk Management Guidelines. I would note that there is a footbridge proposed over the open channel and I would suggest that full details of same would be submitted by way of condition.

In terms of the culvert itself it is noted that the culvert currently accommodates pillars which hold up the foul sewer pipe which serves the public toilets on the promenade. It is proposed to remove these potential blockages diverting the foul pipe and removing the columns. These works are on public lands and the appellant correctly points out that this property is not within the applicants lands however as noted in the appeal response the developer has indicated that they are willing to undertake these works on behalf of the relevant authority or the works could be carried out by the authority itself. Notwithstanding the development proposed it would appear to me that the removal of this blockage is a sustainable measure in the context of assisting in the free flow of the surface water in the culvert.

In terms of the potential impacts on the SAC I would concur with the applicant that the NIS, the flood risk assessment included in EIS, Construction Management Plan and Stage II Environmental Risk Assessment provided during application adequately demonstrate how works to stream would create minimal impact to SAC at Baldoyle bay

9.2.5 Ownership of Lands and Baltray Park

There is considerable objection in the appeals and observations to the inclusion of Baltray Park within the application area and within the scheme. Firstly, I would note that the applicant has included a letter from the Local Authority dated 24th July 2015, who own the remainder of the application site, allowing the applicant make the

application on their lands. It specifically states that “*the Property Services Division, Corporate Affairs Department consent to the inclusion of Council owned land, as outlined in red on dwg no. 14-012-S-1.101 in respect of a planning application being lodged on behalf of Glenkerrin Homes (in receivership) and for no other purpose*”. The letter goes on to state that the within consent does not confer any rights on the land. I would note that this is sufficient for the purposes of the planning application. In this regard, I would refer to Section 34(13) of the Planning and Development Act 2000, as amended, which states that “*a person shall not be entitled solely by reason of a permission under this section to carry out any development*”. Furthermore, I would note that Baltray Park is included within the boundary of Opportunity Site No. 1 as included in the Howth Urban Centre Strategy and was thereby intended to be part of the overall development of this site.

9.2.14 Other Matters

9.2.14.1 Integration of Traveller Accommodation

One of the grounds of appeal is that the traveller accommodation is isolated from the rest of the residential development and is contrary to social integration. Firstly, I would note that the traveller accommodation was permitted in this location in the previous permission and therefore there is a precedent for its location at its proposed locations. Secondly, the Howth Urban Centre Strategy includes a site development brief for the site with the traveller accommodation located to the west of the site. I consider that the location of the traveller accommodation is therefore acceptable.

9.2.14.1 Conditions

The Planning Authority in their response to the appeals have requested that the Board include Conditions 48, 49 & 50 in any Order if they decide to grant permission. Condition No. 48 requires a financial contribution of €2,304,240, Condition No. 49 requires the lodgement of a bond in the sum of €796,000; and Condition No. 50 requires a financial contribution of €102,300 in lieu of open space based on a shortfall of 0.15hecatres of Open Space. I would suggest to the Board that the contents of these conditions should be included in any Order.

9.3 FIRST PARTY APPEAL AGAINST CONDITIONS

Three conditions of the Notification from the Planning Authority have been appealed as follows:

9.3.1 Condition 4

Condition No. 4 of the Notification of the Planning Authority states as follows:

“The developer shall deliver the community centre building and associated playing pitches/courts, the manner and timeframe for their delivery shall be agreed in writing with the planning authority. The proposed all weather pitches shall be omitted unless otherwise agreed. A revised layout shall address proposed boundary treatment, surface finishes and pitch/court layout.

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

The first party grounds of appeal seeks the omission of the condition. The applicants refer to correspondence from Fingal County Council dated 24th July 2015 allowing for the inclusion of Council lands to the west of the site which includes the proposed community centre. It is stated that the content of the letter provides that the applicant does not have any rights other than ability to include the lands and development proposals in the planning application. I note that the letter states that Final County Council consent to the inclusion of the lands in respect of the planning application being lodged and for no other purpose.

The applicants also refer to Table 3.3 of the EIS, which is broadly similar to that in previous EIS, and notes that the provision of the centre is subject to tender. It is stated that the applicant does not have sufficient legal interest to enter the lands or construct the centre and also may not be in a position at time of tender to deliver the project.

It is stated that the existence of condition 4 could be problematic for compliance and conveyancing and that the previous permission did not include such a condition. I would note that the Planning Authority response to the appeals made no mention of this condition or the grounds of appeal related to it. It appears pretty clear to me that the applicant cannot deliver the community centre and therefore I would suggest to the Board that Condition No. 4 should be omitted from any Order.

9.3.2 Condition No. 7

Condition No. 7 of the Notification of the Planning Authority states as follows:

“Apartment 26, type P3, in Block 1 as indicated on drawing 14-012-PL-2.106 (Nov.2015) shall be omitted from the scheme. That part of the roof area not utilised by services shall be designed as a roof garden for use by the residents, where feasible. The developer shall submitted revised drawings, to be agreed in wiring with the Planning Authority.

Reason: To comply with Local Objective 512 of the Fingal Development Plan 2011-2017”.

The applicant seeks the omission of Condition No. 7. They state that the design rationale for Blocks 1 and 2 includes the creation of a sense of scale and enclosure above the commercial hub and the transition in heights within the scheme. Apt. 26 is stated to be located at uppermost fourth floor level in Block 1. The upper parapet level of this unit at 23.225m is below the adjoining approved height of 24.95m with the previous permission having an approved parapet height of 25.5m.

The rationale for Apt. 26’s context is stated to be its location in an important position in Block 1 seeking to achieve a successful height transition from east to west with its omission stated to create an abrupt drop in scale between the taller and lower elements of Block1. Two views are included in the appeal showing the with and without scenarios with the applicant stating that the omission exposes a long length of blank wall never intended to be visible, disrupts the stepping down rhythm and creates a flat roof at the junction. Apt 26 is also noted as being one of the best 3-bed family apartments in the scheme given its triple aspect, size and size of private roof

terrace. I would tend to agree with the applicant that this unit provides a transition in height and its removal jars the stepping of the Block. The unit does not create any overlooking or overshadowing issues and therefore I would agree that in design terms it should be retained.

However, it is acknowledged by the applicant that it represents a 6th storey apartment not strictly complying with the objective as written but they do not consider that it comprises a material contravention. While the Board has discretion to retain it in the interest of good urban design and proper planning and it is requested that given its positive contribution to the scheme that Condition No. 7 is omitted. I would note that the Planning Authority state in their response to the appeals that with regard to the eastern section of Block 1 that it is the Planning Officers view that the proposed 6th storey materially contravenes LO512 (notwithstanding the reduced height compared to western end of Block 1) and therefore given the wording of LO512 the fourth floor apartment 26 should be omitted. As I note above in section 9.2.3, in the revised scheme an element of the Upper ground floor of Block 1 comprises the double height over the entrance to the anchor unit with the remainder comprising a mezzanine café creating some street activity onto the Plaza which I would note is a necessary urban design consideration. I would however note that the eastern element of the upper floor of Block 1 comprises 4 no. apartment units over the retail units below. The lower and upper ground floors in this part of Block 1 could not be described as one floor as there are two distinct uses.

Therefore in elements of Block 1 it can be argued that 5 storeys would encompass the 2 ground floors and 4 floors of residential development above. However I would suggest that the eastern element of Block 1 is 6 distinct storeys and would not comply with the 5 storey limit on the site. Therefore, while on the fourth floor plan it is in effect a sixth storey having regard to the floors below this unit and their distinctive uses. Having regard to this I would have to agree with the Planning Authority that the unit should be removed. However, as I have suggested above there are two options, firstly, to omit Apartment 26 or secondly to omit the 4 residential units on the Upper Ground Floor of Block 1 and create double height retail units below. In the interest of ensuring the best solution for the site, I would suggest to the Board that retaining 4 units in favour of the omission of one unit would be more sustainable.

9.3.3 Condition No. 8

Condition No. 8 of the Notification of the Planning Authority states as follows:

“Notwithstanding the phasing details submitted, prior to the commencement of any development on site, a detailed and comprehensive Development Phasing Plan clearly detailing the proposed phasing of the development, reflecting any amendments by way of condition, and including demolition, construction and operation phases shall be submitted to and agreed in writing, by the Planning Authority, Such a Plan shall incorporate the following elements within the phasing:

(a) Social Housing Units, which shall be delivered in accordance with the provisions of the Part V agreement entered into, may precede other phases of development subject to the necessary enabling and ancillary works and facilities being in place.

(b) *The Traveller Accommodation shall be delivered in accordance with the requirements of Traveller Accommodation Programme.*

(c) *The Community Centre, play facilities and associated infrastructure may precede other phases should demand and favourable circumstances allow.*

(d) *in the event that the Community Centre and associated play facilities are not delivered as part of the early phases of development, as set out within the proposed Development Phasing Plan, the developer shall prior to the completion of phase 1 deliver on additional planning as well as improvement works to the surface of the tennis courts within the existing Baltray Park in consultation with the Planning Authority.*

(e) *The development shall proceed strictly in accordance with the approved Development Phasing Plan, unless otherwise agreed in writing by the Planning Authority.*

Reason: *To ensure the development of the site proceeds in an orderly and co-ordinated manner”.*

The applicants state they require clarity with the proposed phasing outlined in Section 3.7 of the EIS and then subject of a request for further information which was addressed in page 18 of the response. It is proposed that the first phase will comprise 30 housing units and that while all elements are intended for completion during the lifetime of the permission there is no material planning consequence should certain elements proceed in advance of others. Reference is made to Condition 3 of the previous permission which it is stated had a simple and reasonable wording and did not seek to define a programme in advance of an agreement. It is suggested that the condition (stated in appeal to be 3 but presumed to be 8) includes provision for determination by the Board in default of agreement with the Planning Authority.

I would note that as noted by the applicant the previous permission included Condition No. 3 which stated that *“The development, including provision for open space and playgrounds, shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.*

Reason: *To ensure the timely provision of services and to ensure that the development of the site proceeds in an orderly and co-ordinated manner”.*

In addition, the matter of phasing was addressed in the EIS at section 3.7.1 with Table 3.3 providing a preliminary phasing schedule and Figure 3.1 mapping the development phasing with Phase 1 comprising of Terraces 1-4, the open space and riparian corridor, Phase 2 comprises Blocks 1-4, Phase 3 comprises Terraces 5-8 and the final phase comprising the social housing, community centre and traveller accommodation. I would note that the current Condition as worded seeks to pull the social elements of the scheme forward. However, the applicant does not own this land and has no legal ability to carry out the works. The details provided in respect of the Part V agreement clearly shows that the applicant is providing the finances to the Local Authority for the development of this Block. Therefore, I do not consider that the condition as currently worded is reasonable and in this regard it should be

amended to reflect what was included in the previous permission and I would agree with the applicant that an additional provision providing that in default of agreement that the matter refer back to the Board be included. I would also suggest that any phasing agreement agreed between the applicant/developer and the Planning Authority should clearly delineate the responsibility for each of the elements of the development i.e. the applicant/developer or the Local Authority.

9.4 ENVIRONMENTAL IMPACT ASSESSMENT

9.4.1 Overview

The EIS accompanying the application has been prepared by McGill Planning Ltd. and is presented in the grouped format. The proposal falls within the requirements of Item 10(b)(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 as amended whereby an EIS is required for projects comprising of urban development which would involve an area greater than 2ha in the case of a business district...". The Non-technical summary is set out in a separate document included on the file and is required to provide a summary of the EIS in non-technical language. The statement submitted with the current application provides such a summary, in my opinion. It addresses the contents in respect of the potential impacts, mitigation and predicted impacts with interactions and alternatives addressed at the end. The main EIS is in one Volume with the appendices associated with each of the chapters to the rear of the document. The specialist chapters are set out from Chapter 3-12 and provide a background, addresses the existing environment, potential impacts and any proposed mitigation measures.

I would note that Chapter 2 outlines alternatives considered which include alternative locations, designs and uses. I consider that the EIS provides a reasonable and rationale response to these matters. The site in question is one of the only large development sites available in Howth and is a designated Opportunity site. The EIS describes the development in Chapter 3. This is provided in considerable detail and is clear and legible. This Chapter also provides details of the proposed construction programme and phasing which is a matter of discussion in the application process. The following Chapter, No. 4 provides a detailed planning and development context for the site from National to local and also outlines the planning precedent, the extant permission pertaining on the site. This is very detailed and covers, in my opinion all relevant considerations. Chapter 5 addresses the specialist aspects of the environment in 13 separate sections many of which have accompanying appendices. These individual matters are discussed in turn in the following sections. The Natura Impact Statement is included as Appendix 5.2.1 as is assessed separately in the following Section of this report. Chapter 6 outlines the interactions arising. Chapter 7 addresses the difficulties encountered in compiling the information. It should be noted that as per Item 19 of the request for further information, the applicant in response, submitted an EIS addendum which revises Chapters 5.4, 5.7 and 5.8 of the EIS.

9.4.2 Human Beings

Impacts on population, employment and community and social aspects are addressed. In terms of population no adverse impacts are predicted with the proposal facilitating population growth of c.500 persons which is considered to be a positive impact as is the provision of a range of housing types and also the provision of a range of new uses. The 24 month construction phase of the proposal is estimated to generate a potential of between 300-400 jobs. When fully operational the development will provide a range of new employment opportunities and c.150 jobs. Construction impacts on the community such as increased traffic and increased noise, dust etc can it is suggested be mitigated. The impacts on the community during the operational phase are for the large part positive with the potential negative impacts accommodated by the existing infrastructure. I would concur with the impacts predicted and the generally positive nature of same. The current Development Plan designated the site to facilitate an extension to the village centre of Howth which is constrained by topography as well as other factors. While visual impact is discussed separately below, the redevelopment of this industrial site will assist in improving the overall socio-economic status of the area eliminating an existing eyesore from the urban area.

9.4.3 Flora and Fauna

The appropriate assessment which is contained in Appendix 5.2.1 is considered separately in section 9.16 below. While the survey work was undertaken in January which is outside of the optimal season for birds and flora but reference is made to the use of previous studies undertaken for the site in the summer of 2008. It is noted that 'broadly speaking' there are six areas within 2km of the subject site that are subject to designations: Baldoyle Bay, North Dublin Bay, Howth Head, Howth Head Coast, Rockabill to Dalkey marine area, and Ireland's Eye with multiple layers of designations. The statement outlines the qualifying interests and features of interest for the SAC's and SPA's. Water quality is addressed noting that the good status of coastal water surrounding Howth suggests that it is currently complying with the standards set out in the Water Framework Directive. The site is stated to be composed primarily of buildings and artificial surfaces considered a habitat of low biodiversity value although it is noted that buildings provide roosting space for bats. The site also includes an area of recolonizing bare ground towards the west and an areas of amenity grassland further west. The only watercourse on the site is currently culverted and the site is bounded by the rail line with no direct connection with the coastal fringe.

The general habitat study revealed that there is no likelihood that rare or protected plants occur on site. The small woodland area to the south west of the site is designated to be of low local biodiversity value. Impact to water quality is stated to be low as there are no freshwater bodies of fishery value with coastal waters less susceptible to sediment intrusion as they are naturally sediment-rich habitats. Other potential operational impacts identified include lighting, pollution from surface water run-off, wastewater discharges and landscaping. I would note that the only impact of significance above neutral is the moderate negative potential impact on bats. It is noted in a number of areas of this Chapter of the EIS that a further study is required to determine the use of structures for bats. I would note that this was requested at

the further information stage. The report submitted provided a comprehensive bat survey and states that there is no evidence of bats roosting in the existing buildings and therefore there is no loss or risk to bats. Bats were observed feeding and commuting and while lighting is a likely impact mitigation is proposed in respect of the public lighting scheme and elements proposed. Reduced vegetation is not considered to be a significant impact. It is my opinion that this Chapter of the EIS is a reasonable and rationale consideration of Flora and Fauna. The site while proximate to the designated Baldoyle Bay is of little ecological value within its own right. The matter of bats has been satisfactorily addressed.

9.4.4 Soils, Geology & Hydrology

Potential impacts identified at construction phase include contaminants such as fuel and lubricants used in connection with on-site machinery, excavation of 39,500m³ of soil and subsoil and 3,500m³ of bedrock requiring off-site disposal. In addition, this excavation will increase the vulnerability of the underlying aquifer although it is noted that this area is covered in hard standing mitigating potential for contaminants to enter the aquifer. In the operational phase the new surface water drainage system is outlined as a potential impact as it is discharging to the opened Bloody Stream. The proposed new system is stated to include swales, bioretention areas, green roofs and permeable paving. Mitigation measures for the site include implementation of a fuel/chemical handling and storage management plan. Wheelwash facilities are to be employed as is the covering of stockpiled material. Regular monitoring of the surface water drainage system is advised to make sure they are working properly with no residual impacts predicted. The identification of impacts is in my opinion reasonable and the mitigation proposed and particularly the implementation of the fuel/chemical handling and storage management plan is considered acceptable.

9.4.5 Water Services

This section of the EIS is divided into three sections for ease of review. I would also note that this section was revised in response to the further information request from the Planning Authority. I will address each of the 3 elements in turn and refer to revisions necessitated.

9.4.5.1 Surface Water

It is noted that the site at present does not attenuate any storm water or improve the quality of the water prior to discharge into Baldoyle Bay. Reference is also made to the 600mm culvert containing the 'Bloody Stream' crossing the site from south to north. It is proposed to direct the storm water generated by the scheme into the Bloody Stream with attenuation not required given proximity to the Bay. It is stated that the periods of heavy rainfall can be accommodated within the stream which can rise without any detrimentally impact on the surrounding development. The potential impacts identified include increase conveyance of storm flows during storm events, risk to public falling into Bloody Stream and from debris falling into/building up in the Bloody Stream and risk of pollution entering the Bloody stream and flowing into the SAC. I would note that the addendum alters the potential impacts to include risk to the public of drowning due to the presence of an open watervourse. It is also amended to include risk of flooding due to debris falling into/building up in the Stream.

Mitigation of the proposed highlighted risks are outlined. It is noted that surcharging of the culvert can occur during extreme rainfall events. By removing the culvert and replacing it with an open channel, greater capacity is provided allowing storm flows to enter the outfall at a more controlled rate. Other proposed SuDS features also assist. It is proposed to clearly delineate the edge of the stream zone with a gradual sloping down to the stream. The Construction Management plans and operational site protocols provide for best site practice to prevent polluting materials entering the SAC. Run-off is proposed to pass through the SuDS systems to remove harmful contaminants before outfalling. The addendum alters the mitigation somewhat with the issue of debris build up mitigated by a two stage trash screen at the culvert inlet. Reference is also made to the works in the vicinity of site being carried out in accordance with the Inland Fisheries document regarding the Protection of Fisheries Habitats during construction works. In terms of predicted impacts it is considered that the re-routed and de-culverted stream will enhance the proposed development improving flora and fauna improving the amenity of the area. Regular monitoring and inspection of the channel and safety equipment. In my opinion, the impacts both potential and predicted are reasonable and I would agree that the mitigation measures are satisfactory.

9.4.5.2 Foul Drainage

The current site, it is stated, discharges its wastewater into a 300mm sewer located on site before it outfalls into the Local Authority pumping station located to the west of the site. There is no wastewater disposal into Baldoyle Bay. The potential and predicted impact outlined relates to the increase in volume of effluent entering the pumping station. It is noted that preliminary discussion with the Local Authority indicated adequate capacity was available with the pumping station infrastructure recently upgraded. It is noted that the Ringsend facility where the effluent will ultimately be pumped for treatment has capacity to deal with what is described as an insignificant increase. The proposed scheme has a PE of 930 per day, on average. I would note that this section refers to the construction phase management plan ensuring that during construction effluent/wastewater shall not be allowed to flow into the de-culverted Bloody Stream and on into Baldoyle Bay. I consider that this a reasonable consideration of the impacts likely to arise.

9.4.5.3 Water Supply

In relation to water supply, it is stated that the potential impacts would be the drawing off of significant volumes of water potentially reducing the volumes of potable water for other areas in the catchment. Mitigation proposed includes using low demand water appliances, rain water harvesting and grey water re-use allowing the potable water to be significantly reduced. In terms of predicted impacts it is noted that the previous use of the site involved a process with a very high potable water demand greater than proposed. Therefore there is no significant impact predicted particularly given the mitigation proposed by way of low water appliances. I consider that this a reasonable consideration of the impacts likely to arise.

9.4.6 Noise and Vibration

The report sets out the survey undertaken and the location of the noise monitoring locations. The results states that the lower background noise levels indicate that traffic movements were the dominant source at all monitoring locations. The potential construction noise and vibration impacts are outlined with operations noise impacts likely to derive from car parking, additional parking on public roads, crèche activities and building services. A schedule of noise control measures have been formulated to mitigate both construction and operational phases such as construction activities to be limited by specific hours of operation and other measures such as selection of plant with low noise and/or vibration levels. In terms of the operational phase mitigation measures for building services include noise barriers and selection of quiet plant items. I consider that the EIS provides a satisfactory consideration of the likely noise and vibration impacts and given the urban location of the site between the DART line and a busy road that the proposal will not create significant noise or vibration impacts.

9.14.7 Climate & Air Quality

This section states that the existing air quality environment is principally defined by traffic from the Howth Road (R015) and local networks with fuel combustion for space heating for commercial activities and residential development also contribute to ambient air quality. Potential impacts at construction phase include air quality and dust emissions, construction traffic, plant and machinery and climate. At operational phase impacts include air quality, stationary source emissions and mobile source emissions however given the nature of the development are limited to minor stationery sources. Mitigation measures for the construction phase include measures included in a dust control management programme. Measures to mitigate against traffic emissions include regular maintenance of plant and equipment and implementing the traffic management plan to minimise congestion. With mitigation in place significant residual impact are not envisaged in relation to air quality.

9.4.8 Landscape and Visual Assessment

This section of the EIS provides a landscape character assessment and visual impact assessment which I will address in turn.

9.4.8.1 Landscape Character Assessment

The landscape character assessment provides a detailed account of the methodology and receiving environment as well as policy implications in respect of Architectural Conservation Areas and Howth SAAO. The landscape character is outlined. In terms of potential impacts those identified at construction stage include: visual impacts of new structures, roads, lighting and hoarding, change of character due to change in use, removal of trees and vegetation, increase in traffic and alterations to entrance routes and change in ground levels. It is stated that adverse impacts to the landscape character during construction will be temporary. In terms of the operational phase, the impacts include changing the industrial/commercial nature of the site to a mixed use development. It is considered that the impact is a significant landscape improvement on the current landscape. A new amenity created by the de-culverted stream is also considered a positive impact. I would concur with the statement that there is no loss of existing important landscape. An assessment of each of the landscape character areas considered to be directly affected by the

proposal is set out and determines the sensitivity of the receptor and the magnitude of change. I would note that the significance of the effect on many of the character areas is considered to be beneficial with many negligible.

9.4.8.2 Visual Impact Assessment

Reference is made to views designated in the Development Plan including views to Baldoyle Bay and Howth Hill from various locations. The view from Howth Castle ACA across the site to the Irish Sea is also noted. Views of the site and views through the site are addressed. It is stated that the principle views of the site currently are on approach along the Howth Road from the western side with the poor boundary treatment negatively impacting the street view entering the village. It is noted that potential construction impacts will be negative short term and temporary. The potential operational phase impacts include a new character and land use and new built form with new landscape features. It is noted that ameliorative, remedial and mitigation measures have been incorporated into the design. It is stated that the zone of visual influence is limited to a range of up to approximately 3km from the proposed site. A series of views produced in a series of montages reviews the impact of the proposal. The addendum to the EIS has regard to the reduced height proposed in the revised scheme submitted in response to the further information. It also includes additional views not included in the original EIS. I will address the views in respect of impact categories as follows: No perceived change, slight impact, moderate impact and substantial impact and refer where relevant to amendments in the addendum.

No Perceived Change

Views 1 & 2 are taken from Deerpark Golf Course and it states that there will be no perceived change in the view. I would agree with same having regard to the extent of existing vegetation on the Golf course and the higher elevation of this site. View 3 is taken from a point between the Golf Course and Howth Castle. Again the development will not be visible and I concur with this. I would also agree with this assessment of the impact on View 5 from St Marys Church. View 9 from Howth Head provides that the view is screened from view. View 11 from Harbour Road is not impacted in any way and I would concur with the assessment made. View 21 from Dunbo Hill with the site not visible.

Slight Impact - Negative

View 4 is the view from the gates of Howth Castle which is an important view in the context of the ACA. The impact on the view is considered to be negative but the magnitude is slight. I would note that the revisions to the scheme provide that Terrace 1 has been repositioned on the site such that while the block is still visible and the stated impact while negative remains slight as outlined in the addendum. The revisions in my opinion provide that the degree of impact is lessened but the view will be altered. I do not however consider that the alteration of the view will materially alter the enjoyment of the view of the sea. Views 6, 7 & 8 from the Strand Road and Portmarnock form part of a protected view in the Development Plan. It is considered that given the prominence of Howth Head that any change will be negligible and therefore the impact would be slight and negative. I would agree as

the dominant feature in the view as proposed remains the natural context of the landform of Howth Head. View 12 shows the visual envelope in full bloom so the absence of such foliage would provide that the view would be altered but I agree that given the urban context it would only comprise a slight impact. View 13 from Martello Tower, a protected structure, with the scheme visible from this view but the scale and light finishes considered to allow it to integrate. I would tend to agree particularly as the existing Techrete structure is visible in this view. The proposal while greater in extent and scale are views as an urban development within an urban context. Views 14 & 15 similarly while altered are not impacted to such a degree as to change the context of the view which is an urban landscape.

View 25 comprises a view from Muck Road looking North with partial views of the development with trees screening large elements of the scheme. Views of Irelands Eye are not considered to be impacted. There is no impact on this view in my opinion.

View 26 from the Howth Gates at the Gates similar to View 4 which is set back behind the gates. View 26 provides that the view to the sea is at best partial due to lower topography and screening. It is considered that the scale of the Terrace in the scheme which is visible does not overwhelm the view. I would agree with this. This view has changed over time and the proposal provides an additional change but one which retains a partial sea view. While it is clear that the view is significantly changed the view includes an element of the sea with the new urban extension of the village also visible. I consider that the impact while significant is acceptable.

Moderate Impact – Negative and Neutral

View 10 is from the junction of Harbour Road and the West Pier and is determined to be negative – moderate. It is stated that the proposed development comprises a significant new building element in the background of the view but that the scale does not dominate the existing streetscape. The existing view includes the three storey commercial building adjacent to the dart station and the harbour wall. While the development is highly visible it comprises an additional building within an urban context and in this regard I consider the impact to be acceptable. At View 16 from the West Pier the proposal is stated to replace the existing negative visual impact creating a positive urban edge which it acknowledges is more visually prominent. I would consider that the impact is on the substantial side of moderate. However, given the existing context, the creation of a new urban extension to the village provides that the impact whether moderate or substantial is acceptable. Views 17, 18 and 19 are taken from the Bay and Irelands Eye. The development is clearly visible but given the topography of the backdrop and the urban setting the impact of the development is acceptable in my opinion.

View 24 is from the Howth Road looking east and it is considered that this view towards the village is comprised of the Community Centre and it is considered that while it is a significant new built form in the view that it doesn't overwhelm the view given the existing residential context in the vicinity of the site which is also two storey. It is considered that the proposed planting will mitigate and further planting

might further mitigate. I would concur with this assertion. The views along the Howth Road will be significantly altered with the creation of an urban edge not currently visible given the set back of the existing buildings.

Substantial Impact – Negative, Positive and Neutral

View 20 is taken from the Howth Road at the Station Masters House which is a protected structure. I agree that the impact is substantial however I would note that the existing view with the industrial commercial buildings also provides a negative impact on the setting of this structure. The grading of the proposed development assists in mitigating the impact as the highest part of the proposal in the view is not directly adjacent. Given the context of the proposed development and its role in extending the village I consider that the impact is acceptable.

View 22 is taken from the Howth Road from a mid-point along the site looking towards the village. It is stated that while substantial in scale the impact of the new view is considered to be more positive than the existing negative impact from the existing industrial views. The proposed view is considered to be a more appropriate view for the urban context. Similarly with View 23 which looks west along the Howth Road from the village and considered to be similar to View 20. The proposal is considered to replace an existing industrial and commercial mix with a dominant urban edge with a significant scale and Block 1 creating a landmark. As I outlined above, the views of the site along the Howth Road will be significantly altered but this is due to the poor urban edge currently created by the development on this significant site. The proposals design seeking to define the road edge will create a sense of urban development replacing the poor industrial character of the lands.

I would agree with the conclusion that the overall impact is considered to be acceptable having regard to the existing site context and the urban location of the site.

9.4.9 Material Assets – Traffic Impact Assessment

The traffic study notes that the traffic count, undertaken on Tuesday 26th May 2015, found the busiest period on the Howth Road in the vicinity of the site was between 17:00 and 18:00 with 45% going towards Howth Village and 55% towards Sutton Village. It is stated that the traffic currently recorded is approximately 46% higher than what was recorded in 2009 but is 20% lower than what was predicted for the site in 2013. The road layout along the front of the site comprises a wider single carriageway with two 1.5m cycle lanes. The increase in the number of bicycle spaces from 332 to 354 is clarified in the addendum. Public transport accessibility given the proximity of the DART station is outlined. The access arrangements for the proposed site is set out and it is noted that there is a very high degree of visibility available in both directions along the R105 for the proposed access points. The addendum report sets out the car parking standards and actual provision in a series of four tables which provide more detail than outlined in Table 5.8.2 in the original EIS. It is considered that a lesser provision of parking is acceptable given the location of the site adjacent to the DART and in close proximity to the village centre. I would concur with this claim with the requirement to promote sustainable transport

modes. In relation to construction I would note that the level of excavation required from the site has been reduced from 54,800 sq.m in the permitted scheme to 39,500sq.m reducing construction traffic. The trips generated by the proposed 'masterplan' have increased in the addendum during the hours of 08:00-09:00 and 17:00-18:00 from 94 to 115 and from 146 to 176 respectively. The development of a Construction Traffic Management Plan is outlined with parking during construction to be provided on site.

It was stated that there is no issue with the right turn capacity out of the proposed development from any of the proposed junctions and it is noted that the EIS for the previous permitted scheme estimated that that development would generate 60% more traffic than that currently proposed. Reference is also made to the previous EIS not excessively adding to any existing junction issues in the area. I would refer to the addendum report which states that six junctions from the Harbour Road to Sutton Cross were assessed in the previous assessment which was a larger development with larger volumes. The subject EIS re-examined these junctions with the proposal only have a small impact with a lesser impact predicted than previously permitted. The percentage impact from the proposal on Sutton Cross is stated to be 1.5% at AM peak and 2.2% at PM peak which it is stated would not cause major disruption on an already busy junction. The highest impact associated with the proposal is at the Harbour Road/Church Street junction with 9.2% and 11% increase on Am and PM peak respectively. A review of the Harbour Road/Church Street junction and Sutton Cross was undertaken. It is noted that a junction is considered to be within capacity with a degree of saturation below 90%. While the Harbour Road/Church Street junction operates well within capacity, Sutton Cross suffers from queuing and delays at peak times and has a degree of saturation on its Howth Arm of 104.7% increasing to 109.3% during the AM peak. It is stated that the proposal will only contribute a marginal increase in the degree of saturation of an already saturated arm. While it is clear that the proposal will add to an already saturated junction arguably creating a significant impact, the permitted scheme on the site has a higher traffic generation and therefore the proposed scheme would have less of an impact than that permitted. In this regard and notwithstanding the Sutton Cross junction I consider that the impacts predicted are acceptable having regard to the planning history of the site.

9.4.10 Cultural Heritage: Local History, Archaeology and Architectural Heritage

It is noted that there are no previously identified sites of archaeological interest within the boundaries of the subject site with a number of sites located within the vicinity of the site the details of which are outlined including Howth Castle and its attendant elements with protected structures in the area also outlined. It is noted that the subject development area comprises a tract of land which was reclaimed from the sea shore in the 1840's and does not contain any previously recorded archaeological monuments. There are not considered to be any predicted impacts from the proposal although it is noted that the existing views through and from the Howth Castle entrance gates will be permanently compromised with the existing vista reduced to a visual avenue through the development with this impact to be of moderate permanent significance. It is noted that the views from the gates have changed over

time since their constriction in 1835 and are already compromised by the existing site. Mitigation measures are not considered necessary.

The Department of Arts, Heritage and Gaeltacht in response to the matter of archaeology state that the archaeological assessment in the EIS fails to adequately assess the archaeological potential of the site. They refer in particular to the reclaimed nature of the land which has the potential to retain buried shipwrecks which may have been wrecked on the seabed prior to reclamation. It is also stated that reclaimed land may also have covered over earlier shoreline structures and archaeological sites such as quays. The potential for underwater archaeology to be impacted is also outlined. In this regard it is recommended that Archaeological monitoring is carried out of all works to take place in areas of reclaimed seabed. Such monitoring is considered reasonable and a condition should be attached if the board are minded to permit the proposal.

9.4.11 Waste Management

Reference is made to legislation and policy relating to waste management. The proposed development requires the demolition of the existing buildings on site. This is one of the identified potential impacts. In addition, there will be significant excavation of soil/subsoil and bedrock as outlined above in Section 9.4.4. The operational phase of the proposal will generate waste which is proposed to be managed by the Operational Waste Management Plan. In relation to mitigation measures a range of measures are outlined for the construction phase. These are to be included in the Construction Waste Management Plan. I consider that this element of the EIS is satisfactory and addresses all of the likely predicted impacts particularly in respect of a development with a significant element of demolition.

9.4.12 Conclusion regarding EIA

Having read the EIS and addendum I would note that the document provides a fair and satisfactory outline of the issues arising within the specialist areas required to be considered. The interactions outlined in Chapter 6 are in my opinion a reasonable reflection of the likely interactions which may arise. I would suggest that there are a number of issues which are outstanding which are addressed in my assessment above, which can be resolved in my opinion by way of condition. Overall the document itself and the addendum thereto, complies with the requirements set out in the Regulations. In addition, the EIS and addendum, in conjunction with other documentation and submissions received facilitates a thorough assessment of the likely significant impacts on the environment. The ongoing management and monitoring of the site where deemed necessary incorporating the mitigation measures proposed is considered to be an effective means of ensuring that the development as proposed would not have a significant impact on the environment.

9.5 APPROPRIATE ASSESSMENT

The Natura Impact Statement is contained in Section 5.2.1 of the EIS.

9.5.1 Screening

The boundary of the Baldoyle Bay SAC (0199) is located adjacent to the site, separated from same by the DART rail line which is c.25m wide. It encompasses the estuary of the Sluice and Mayne Rivers that is largely enclosed by a sand spit stretching from Portmarnock to Howth. Its conservation objectives are to maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide [1140], *Salicornia* and other annuals colonizing mud and sand [1310], Atlantic salt meadows (*Glauco- Puccinellietalia maritimae*) [1330], Mediterranean salt meadows (*Juncetalia maritimi*) [1410]. It is noted that the mudflats and sandflats not covered by seawater at low tide [1140] are located in the vicinity of the subject site. As noted in the site synopsis. The area surrounding Baldoyle Bay is densely populated and so the main threats to the site include visitor pressure, disturbance to wildfowl and dumping. In particular, the dumping of spoil onto the foreshore presents a threat to the value of the site.

The Baldoyle Bay SPA (04016), which is located 2.25km west of the site and overlaps with the SAC, is of high conservation importance, with an internationally important population of Brent Geese and nationally important populations of a further seven species, including two which are listed on Annex I of the E.U. Birds Directive. The conservation objectives are to maintain the favourable conservation condition of Light-bellied Brent Goose [A406], Shelduck [A048], Ringed Plover [A137], Golden Plover [A140], Grey Plover [A141], Bar-tailed Godwit [A157] and wetland habitat [A999]. The inner estuarine section is a Statutory Nature Reserve and is also designated as a wetland of international importance under the Ramsar Convention. The main threat to the birds is disturbance as it is located in a densely populated area.

A list of 10 Natura 2000 sites within 10km of the proposed site, in addition to the two sites outlined above, was set out in the Screening carried out by the applicant. I would note that the Rockabill to Dalkey SAC (003000) is included in the map outlining the site in the context of designations but was not included in the list of sites at section 2.3 of the NIS. It is however considered in Appendix 3 of the document and I have included it here.

- Ireland's Eye SAC (02193),
- Ireland's Eye SPA (04117),
- Howth Head Coast SPA (04113),
- Howth Head SAC (0202),
- Broadmeadow/Swords Estuary SPA (04025)
- Malahide Estuary SAC (0205)
- North Dublin Bay SAC (000206)
- North Bull Island SPA (04006)
- South Dublin Bay and River Tolka Estuary SPA (04024)
- South Dublin Bay SAC (0210)
- Rockabill to Dalkey SAC (003000)*

It is noted in the NIS that there are no habitats on the site associated with Natura 2000 areas in Baldoyle Bay or which are examples of habitats listed on Annex 1 of the Habitats Directive. The waters surrounding the headland are classified as coastal and are assessed by the EPA as being 'unpolluted'. The culverting of the Bloody Stream through and to the north and south of the site would indicate that it is not likely to be of fisheries value. It is stated that while close to the boundary of the SAC/SPA the appeal site is physically separate from it by the DART line. Reference is made in the NIS to previous discussions undertaken with the NPWS in respect of the previously permitted development. It notes the potential impact of a bridge from the site over the DART line onto the beach however I would note that this is not part of the current proposal. Reference is also made to correspondence with the IFI who support the proposal to de-culvert the stream and create a riparian corridor.

In terms of potential impacts the following potential impacts were considered, direct loss of land/habitat, surface water, domestic wastewater, abstraction, disturbance to habitats during construction, disturbance to birds during construction and operation and shadowing of habitats by buildings. It was stated that the reopening of the stream creates a potential risk for pollutants to enter the sea during the construction phase. Potential for indirect pollution of the stream from litter and landscape maintenance activities during operation is outlined. It was also noted that there is a potential risk to disturbance to birds within the SAC during construction mostly due to noise. During operation it is noted that there is a potential risk of disturbance to birds within the nearby SPA's due to resident population increasing the number of users of the promenade. An assessment of significance looks at the sites within 10km (Appendix 3) and notes that they are in most cases excluded from further assessment on the basis that it can be demonstrated that the proposed project will have no adverse effects on the integrity of the site as defined by their status and conservation objective. It is considered that the main concerns to be examined are (i) the risk to Baldoyle Bay SAC as a result to risk to water quality during construction and risk of disturbance to habitats during construction works and (ii) risk to Baldoyle Bay SPA due to potential risk to birds during construction and operation. In this regard the interests of two sites, Baldoyle Bay SAC and SPA, have the potential to be affected by the proposal and a Stage 2 Appropriate Assessment is considered necessary in this regard.

In respect of the remainder of the sites mentioned above, I consider that due to the separation distance of the appeal site from these sites, the absence of any pathways to same and the nature of the proposed development that it is reasonable to conclude that on the basis of the information on the file which I consider to be adequate that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Ireland's Eye SAC (02193), Ireland's Eye SPA (04117), Howth Head Coast SPA (04113), Howth Head SAC (0202), Broadmeadow/Swords Estuary SPA (04025), Malahide Estuary SAC (0205), North Dublin Bay SAC (000206), North Bull Island SPA (04006), South Dublin Bay and River Tolka Estuary SPA (04024), South Dublin Bay SAC (0210), Rockabill to Dalkey SAC (003000) in light of the site's Conservation Objectives and a Stage 2 Appropriate Assessment is not therefore required.

9.5.2 ASSESSMENT

The NIS outlines the conservation objectives for the sites and features of interest which I have outlined above. The area in the vicinity of the site is described in some detail with details of the promenade which adjoins the DART line and which provides access to the beach via a revetment within which steps are located. It is noted that below the promenade are extensive areas of intertidal sand and mud flats. It is noted that the tide rises to the concrete promenade and the retaining sea wall along the railway line. The area of flats is noted to extend out from the shore to the low tide mark at the edge of the channel draining Baldoyle Bay. Details of bird surveys in the vicinity of the site and in the SPA are outlined. The potential impacts are outlined as follows:

9.5.2.1 Stream Re-opening

The proposal to de-culvert the Bloody Stream and create an open channel with riparian corridor has the potential to facilitate contaminants entering the stream to enter the marine environment. The potential contaminants include suspended solids, concrete washings, oils etc. Mitigation is considered necessary. In relation to mitigation it is stated that during the construction phase, detailed construction managements plans and operational site protocols will be agreed with the Planning Authority to ensure that contaminants do not enter the re-opened stream. During operation it is proposed that run-off will pass through oil interceptors and catchment systems to remover harmful contaminants or sediments before out falling. This also applies to general construction impacts and accidental spillages. I would also refer the Board to Item 16(a) of the Planning Authority's request for further information. This item considered that insufficient information had been provided in relation to how the construction phase activities related to de-culverting the stream are to be carried out and managed so that potential contaminants do not enter the adjacent SAC. In response it was noted that all works undertaken at the site would be managed in accordance with the Inland Fisheries document 'Requirement's for the Protection of fisheries Habitat during Construction and Development works at River sites. An extensive list of mitigation measures are then outlined. The employment of an qualified ecologist for the duration of the construction phase to advise on the implementation of the mitigation measures is also proposed as a mitigation measure in the NIS and is considered appropriate with the effect on the SAC not considered significant.

I would also note that in response to Item 16 of the further information request the applicants submitted a response prepared by Roughan O'Donovan Consulting Engineers including a draft Construction Management Plan which sets out a series of mitigation measures proposed to prevent the occurrence of any pollution incidences. In addition a Stage II Environmental Risk Assessment of contaminated land was submitted which identifies the need for remediation with excavation and disposal the most likely form of remediation. This has been addressed in the EIS. It is recommended that prior to any works taking place on site that a Stage 3

Corrective Action Implementation and Aftercare Assessment should be completed and implemented.

9.5.2.2 Potential Disturbance to waterbirds from construction works and increased access to beach

It is stated that the construction phase could cause localised disturbance to birds on the nearby intertidal flats particularly during the winter months. This impact is not considered significant given the temporary and localised nature of the impacts and the ability of the birds to relocate if disturbed. The carrying out of the potentially disruptive works during the summer months would mean the impact could be avoided. The increased use of the beach is considered to be a potential disturbance to birds. However as noted above there is no direct access from the site to the beach. The greatest use of the beach is during the summer when the birds are not present and it is considered that during the winter months when they are present the beach is less used and there is potential for the bird to move to other areas. In terms of mitigation bird monitoring is proposed as is the erection of information signage on the designation of the area. The likely effect is not therefore considered significant. It is also noted that it is not considered that the proposal would have a significant effect on birds within the SPA due to disturbance given the location of the site.

9.5.2.3 Conclusion

Having regard to the mitigation measures proposed in the NIS, the Construction Management Plan and the Stage II Environmental Risk Assessment I consider that it is reasonable to conclude that on the basis of the information on the file which I consider to be adequate in order to carry out a Stage 2 Appropriate Assessment that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European Sites No. 0199 and 04016 or any other site in view of the site's Conservation Objectives.

10.0 CONCLUSION

The proposed development is proposed on a brownfield site located on the entrance to Howth both by road and train. It is derelict and unkempt for most parts and detracts from the amenity of the attractive urban area of Howth. Permission has previously been granted for a similar scheme on the site with elements of the proposed scheme already permitted in the same location and format. The subject proposal introduces houses into the residential mix proposed with a modern design of house on a small footprint over 3/4 floors. Such an addition is welcome in my opinion as it provides a range of house types to cater for a mix of households in close proximity to a public transport node. While the proposal will significantly alter views along the Howth Road and from Claremont Strand I consider that the impact is a positive one in general given the existing context and the proposal to create a modern urban edge to the streetscape. I consider that the proposal will create a good quality mixed use extension to the village centre as envisaged by the Howth Urban Centre Strategy.

11. RECOMMENDATION

I recommend that permission for the development be granted subject to conditions in accordance with the following **Draft Order**:

REASONS AND CONSIDERATIONS

The Board had regard, inter alia, to the following:

- (a) the provisions of the Planning and Development Act, 2000, as amended,
- (b) the provisions of the Fingal County Development Plan, 2011 - 2017,
- (c) the Environmental Impact Statement submitted with the application and the EIS addendum submitted in response to the request for further information from the Planning Authority;
- (d) the Natura Impact Statement submitted with the application and further information response;
- (e) the report of the Board's Inspector, including in relation to potential significant impacts on the environment,
- (f) the planning history of the site,
- (g) the pattern of development in the area,
- (h) the nature and scale of the development the subject of this application, and

Environmental Impact Assessment

The Board considered the Environmental Impact Statement submitted with the application, supported by the Further Information submitted to the planning authority including the document referred to as EIS addendum and the report, assessment and conclusions of the Inspector with regard to this file and other submissions on file, including the appellant and observers. The Board considered that this information was adequate in identifying and describing the direct and indirect impacts of the proposed development. The Board completed an Environmental Impact Assessment, and agreed with the Inspector in her assessment of the likely significant impacts of the proposed development, and generally agreed with her conclusions on the acceptability of the mitigation measures proposed and residual impacts. The Board generally adopted the report of the Inspector. The Board concluded that, subject to the implementation of the mitigation measures proposed, the proposed development would not be likely to have significant impacts on the environment.

Appropriate Assessment

The Board agreed with the screening assessment carried out and conclusion reached in the Inspector's report that the European site for which there is a likelihood

of significant effects is the Baldoyle Bay SAC and SPA (site codes 0199 and 04016). The Board considered the Natura impact statement and all other relevant submissions, including the Response to Further Information and the documentation submitted by the appellants and observers, and carried out an appropriate assessment of the implications of the proposed development for this European site in view of the site's Conservation Objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment.

In completing the assessment the Board considered, in particular:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects in the area;
- ii. the mitigation measures which are included as part of the current proposal;
- iii. the conservation objectives for the European site set out above;

In completing the Appropriate Assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European site, having regard to the site's conservation objectives. In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the European site in view of the site's Conservation Objectives.

Conclusion

It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the character of the area or the amenities of property in the vicinity, would not have unacceptable impacts on ecology, water quality or the landscape and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 16th day of December 2015, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject to written agreement and shall be implanted in accordance with the agreed particulars. In default of agreement, the matters in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. Notwithstanding the submitted details, prior to commencement of development, the applicant shall submit for the written approval of the planning authority full details including drawings, plans and particulars of the following:

- (i) The footbridge to be provided over the Bloody Stream.

- (ii) Screening to the terraced areas of residential units addressing the eastern elevation of Block 1.
- (iii) the all-weather pitches shall be omitted from the development;
- (iv). Revised plans of Block 1 shall be submitted which show the omission of Apartment No. 26.
- (v) the requirements of the Transportation Planning Section shall be agreed in writing with the Planning Authority in respect of the basement car park, set-down parking and delivery bays and pedestrian crossing and island.

Reason: In the interest of clarity and orderly development

3. The development, including provision for open space and playgrounds, shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development. In default of agreement, the matters in dispute shall be referred to An Bord Pleanála for determination.

Reason: To ensure the timely provision of services and to ensure that the development of the site proceeds in an orderly and co-ordinated manner.

4. (a) The integrity of Natura 2000 sites in the vicinity of the development shall be protected at all times, including demolition, construction and the post operation phases of the development. In this regard, the developer shall comply fully with the implementation of mitigation measures detailed in the 'Natura Impact Statement'. Prior to any works taking place on site, the developer shall submit a detailed Construction Management Plan and a Stage 3 Corrective Action Implementation and Aftercare Assessment to the planning authority and obtain the written approval of this body prior to commencement of any works on site. Within any submitted plan particular attention shall be made to detailing how the Bloody Stream shall be protected prior to any demolition activity on site and preparatory site clearance work, works to de-culvert and re-align the Stream and works to protect the integrity of the Stream during such works and thereafter, including footbridge construction and works necessary to ensure the stability of the banks.

Reason: To ensure the integrity of protected Natura 2000 sites are maintained.

- 5. (a) All materials used in the construction of the development shall be of a high quality and all workmanship shall be to a high standard.
- (b) Variations in the surface texture and palette of the external stone finishes to be employed shall be proposed.
- (c) Details, including samples as appropriate, of the materials, colours and textures of all the external finishes to the proposed buildings, civic platform and viewing platform shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. The proposed Retail Units numbers 1a, 1b,1c, 1d and 2 shall be restricted to that use identified in Class 1, Part 4 of the Exempted Development Regulations, 2001, no other use shall take place without the prior grant of planning permission by the planning authority or An Bord Pleanála on appeal.

Reason: To protect the amenities of the area and in the interest of the proper planning and sustainable development of the area.

7. (a) The proposed retail units shall not exceed daily opening hours from 07.00 to 22.00 hours Monday to Saturdays and between 08.00 and 22.00 hours on Sundays and Public Holidays.

(b) The proposed restaurants shall be open only from 10.00 to 24.00 hours Mondays to Saturdays and between 10.00 and 23.00 hours Sundays and Public Holidays.

(c) The proposed crèche shall be open only from 07.00 to 19.00 hours Mondays to Fridays and shall not be open on Saturdays, Sundays or Public Holidays.

(d) The proposed gym shall be open only from 06.00 to 22.00 hours Mondays to Saturdays and from 09.00 to 20.00 hours on Sundays and Public holidays.

(e) Goods deliveries to all commercial uses shall not be permitted between the hours of 22.00 and 07.00.

Reason: In the interest of residential amenity.

8. The site shall be landscaped in accordance with the details received by the planning authority on the 16th day of December, 2015. All planting, seeding and earthworks shown on the said plan shall be carried out in the first planting season following completion of development.

Reason: In the interest of visual amenity.

9. Water supply and drainage arrangements, including the attenuation and disposal of surface water and provision for existing foul sewer connections within the site, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

10. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs and the underground car park shall be in accordance with the detailed standards of the planning authority for such works.

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

11. Public Lighting shall be provided in accordance with a scheme, (which shall include lighting along pedestrian routes through open spaces), details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interest of amenity and public safety.

12. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interest of visual and residential amenity.

13. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interest of urban legibility.

14. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be levelled, soiled, seeded and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open spaces by the developer until taken in charge by the local authority.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

15. Prior to commencement of development:

(a) A management company shall be established by the developer and membership of this company shall be compulsory for all persons owning property in the development (whether or not there is a single owner of the entire development or individual owners of the residential units).

(b) A separate management company shall also be established by the developer at this stage regarding the operation of the apartment units identified in Block 3. Membership of this company shall be compulsory for all persons owning property in Block 2 (whether or not there is a single owner or the entire Block or individual owners of the residential units).

Details of both companies and/or any other management company necessary to ensure appropriate management of the development shall be submitted to, and approved in writing by the planning authority prior to first occupation of any units within the development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of orderly development and residential amenity.

16. The developer, landowner and/or management company as appropriate, shall at any time facilitate and ultimately provide for any subsequent works to allow for a direct pedestrian/cycle link to be made between the proposed foot and cycle path at the north east corner of the site to the existing footpath that links to the Bloody Stream Public House to the east of the site.

Reason: To further enhance permeability and links between the development and centre of Howth.

17. Prior to the first occupation of the development, the developer shall agree following consultation with the planning authority, a timetable for and details of a suitable piece of public art to be installed at an agreed location on site.

Reason: In the interest of public amenity.

18. Prior to the opening of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide incentives to encourage the use of public transport, cycling, walking and car pooling by staff employed in the development and reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the management company for all businesses within the development. Details to be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

Reason: In the interest of encouraging the use of sustainable modes of transport.

19. Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

20. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures, railway safety and offsite disposal of construction/demolition waste including any excess soil arising from the proposed excavation of the site.

Reason: In the interest of public safety and residential amenity.

21. A plan containing details of the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

22. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. [The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.]

Reason: In the interest of sustainable waste management.

23. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

24. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in

writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

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

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

26. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

27. The developer shall pay the sum of €102,300 (on hundred and two thousand and three hundred euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under

section 48 (2)(c) of the Planning and Development Act 2000, as amended, in respect of the shortfall in open space proposed on site. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Una Crosse
Senior Planning Inspector
June 2016