



An
Bord
Pleanála

S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016

Inspector's Report ABP-301722-18

Strategic Housing Development

Demolition of existing structures, construction of 164 no. residential units, commercial/retail space, community room and associated site works.

Location

Former Baily Court Hotel, Main Street, and at lands located south of the Martello Tower on Balcadden Road, Howth, Co. Dublin.

Planning Authority

Fingal County Council

Applicant

Crekav Trading GP Limited

Prescribed Bodies

National Transport Authority

Minister for Culture, Heritage and the
Gaeltacht

Heritage Council

An Taisce

Irish Water

Fingal County Childcare Committee

Observer(s)

202 submissions received- see
Appendix 1

Date of Site Inspections

05th August 2018

15th August 2018

Inspector

Lorraine Dockery

Decision Quashed

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1.0 Introduction

This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

2.0 Site Location and Description

- 2.1. The subject site, which has a stated area of 1.55 hectares, is located on the eastern side of Howth village, Co. Dublin. It has frontage onto Abbey Street via the old Baily Court Hotel and onto Balscadden Road, which is a narrow winding, steep road to the east. This is an irregularly shaped plot and for clarity purposes can be divided into three main plots.
- 2.2. Plot A is brownfield in nature and largely comprises the old Baily Court Hotel and its associated structures. It is a three-storey structure that is boarded up and currently adds little to the streetscape. Variation in plot width, height and design is evident in this part of the village.
- 2.3. Plot B is a greenfield area, higher in level than Plot A. This plot is bound to the east by Balscadden Road. A tight cluster of cottages are located on the opposite side of the roadway. A narrow footpath adjoins these properties. There is no footpath on the western side of Balscadden Road. The dwellings of Asgard Park are located to the south of this element of the site. A steep planted slope forms the western boundary of this plot.
- 2.4. Plot C is the most northern brownfield plot, roughly aligning with the former EDROS sports centre and its associated tennis courts. The Motte and Martello Tower are located at a significantly higher level to the north. A ridge is located along the western side with the rear gardens of the houses fronting onto Abbey Street, generally located at a lower ground level than the subject site. The eastern boundary fronts onto Balscadden Road and a car park with palisade fencing.
- 2.5. The site also contains part of Balscadden Road and adjoining footpath on the eastern side of the carriageway.

3.0 Proposed Strategic Housing Development

- 3.1. The proposed development will consist of the demolition of existing structures on site and the construction of 164 residential units, commercial/retail space, community room and associated site works at former Baily Court Hotel, Main Street and at lands south of the Martello Tower on Balscadden Road, Howth, Co. Dublin.
- 3.2. The development includes for one internal road from Main Street which will access the underground carpark beneath Block C. Works are also proposed to Balscadden Road, which include for two pedestrian crossings and associated signage, together with new footpath to eastern side of Balscadden Road for the length of the site frontage.
- 3.3. The following tables set out some of the key elements of the proposed scheme:

Table 1: Key Figures

| | |
|---|---|
| Site Area | 1.55 hectares |
| No. of residential units | 164 |
| Floor Area of Commercial Development | 757m ² |
| Density (nett) | 106 units/ha |
| Height | 3-5 storeys |
| Part V | 16 one-bed units (6 in Block B & 10 in Block C) |

Table 2: Unit Mix

| | 1 bed | 2 bed | 3 bed | Total |
|----------------------|-------------|-------------|-------------|-------------|
| Apartments | 40 | 92 | 26 | 158 |
| Duplex | - | 5 | 1 | 6 |
| TOTAL | 40 | 97 | 27 | 164 |
| As % of total | 24.4 | 59.1 | 16.5 | 100% |

Table 3: Parking Provision

| | |
|-----------------|---|
| Car Parking | Basement: 112 spaces incl 3 accessible spaces & 3 electric vehicle spaces Surface: 8 spaces Total: 120 spaces |
| Bicycle Parking | 397 |

3.4. A phasing plan has been submitted with the application, which outlines the following:

Table 4: Phasing

| Phase | Proposed Works |
|-------|----------------------------------|
| 1 | Demolition of existing buildings |
| 2 | Site works and sub-structure |
| 3 | Super-structure |

3.5. No childcare facility is proposed. It is stated in the submitted documentation that a demand for approximately 19 childcare places is likely to be generated by the proposed development. A Childcare Capacity Assessment included with the application concludes that such a facility would not be viable on this site. A community use is proposed, which is stated could be used for sessional childcare or parent and toddler groups.

3.6. In term of site services, a new water connection to the public mains is proposed, while it is proposed to construct a new foul water sewer which will be laid along the proposed access road and discharge by gravity to the existing foul drainage on Main Street. In terms of surface water disposal, it is proposed to connect to the existing surface water drainage on Main Street. An Irish Water Pre-Connection Enquiry in relation to water and wastewater connections has been submitted, as required. It states that subject to a valid connection agreement being put in place, the proposed connection to the Irish Water network can be facilitated, subject to:

- In relation to wastewater, the connection point to the IW network to be agreed and included in the detailed water and wastewater services layout submission to IW for review. In relation to water, upgrades are required to approximately 450m of existing 6” CI main primarily along Balglass Road and Main Street.

It is stated in the documentation submitted by the applicant that there is an existing trunk sewer (Howth Tunnel) running through the property at deep level. Discussions have been on-going with Irish Water about the appropriateness of the proposals to build over this tunnel.

- 3.7. An Appropriate Assessment Screening Report was submitted with the application, which concludes that from the field assessment of species and habitats found on site, no flora, terrestrial animals, avian fauna or habitats of conservation importance were found on site. No records of rare and threatened species or protected species were found in the vicinity of the proposed development, at a fine resolution. Works are proposed on a public road which is within Howth Head SAC. Features of interest of this SAC are on the far side of houses and the drainage of this road does not flow towards the features of interest. Construction phase controls need to be put in place to control dust on site. The site clearance, construction, drainage and operational aspects of the development will comply with planning conditions. No impact is foreseen on Natura 2000 sites or their features of interest.
- 3.8. An Environmental Report was submitted with the application. The applicants state that the proposal is below the threshold for mandatory EIAR. The report concludes that the proposal will not have any significant impacts on the environment.
- 3.9. A letter from Fingal County Council (dated 14/05/18) is included with the application giving consent only to the inclusion of that land in the ownership and/or charge of Fingal County Council for the purpose of the application for planning permission and no other purpose.

4.0 **Planning History**

There is quite an extensive planning history on the overall site, which has been detailed within section 3 of the submitted planning report prepared by the applicants.

The subject site is an amalgamation of three sites for the purposes of the previous planning history, which is outlined in Figure 3 of the planning report. The three parts comprise (A) site of former Baily Court Hotel to the SW of the site (B) the site referred to as Cluxton to the south of the site and (C) site referred to as Balscadden to the north. I will give a brief summary as follows:

Site A- site of former Baily Court Hotel

F15A/0072

Permission GRANTED for amendments to PL06F.242595 increasing number of units from 7 no. to 8 no.

F13A/0110 (PL06F.242595)

Permissions GRANTED to demolish hotel and construct four-storey structure containing seven apartments

Site B- Cluxton

F15A/0545 (PL06F.246183)

Permission REFUSED for 9 no. three-storey dwellings and entrance onto Balscadden Road. Reason for refusal related to design, height and scale of proposal and visually incongruous at this sensitive location

F06A/1897 (PL06F.224372)

Permission GRANTED for 6 detached dwellings and new vehicular entrance from Balscadden Road- Permission extended under Ref. F06A/1897/E1

Site C- Balscadden

F14A/0108 (PL06F.244026)

Permission GRANTED for demolition of existing structure and construction of 23 residential units and commercial kiosk unit, with upgrade works to existing vehicular access onto Balscadden Road and pedestrian link from Abbey Street to Balscadden Road

F07A/1349 (PL06F.227972)

Permission REFUSED for demolition of existing structures and construction of 64 residential units and café unit, with upgrade works to existing vehicular access onto Balscadden Road and pedestrian link from Abbey Street to Balscadden Road and access to Martello Tower. Reasons for refusal related to open space zoning of the lands, high amenity area within SAO and ACA and impact on Balscadden Road

5.0 Section 5 Pre Application Consultation

- 5.1. A Section 5 pre application consultation took place at the offices of An Bord Pleanála on the 20th March 2018. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. Following consideration of the issues raised during the consultation process, and having regard to the opinion of the planning authority, An Bord Pleanála was of the opinion that the documentation submitted required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála. The applicant was advised that further consideration of the documents as they relate to the following issues was required:

Internal Access Road

Further consideration of the documents as they relate to the hierarchy and configuration of the proposed internal spine road and turning area with specific reference to the Design Manual for Urban Roads and Streets and to the potential to

create a pedestrian zone linking Main Street and the Balscadden Road and the proposed public plazas within the site.

Car Parking

Further consideration of the documents as they relate to car parking on the site. This further consideration should have regard to Chapter 4 of the Sustainable Urban Housing: Design Standards for New Apartments (2018) and to the National Planning Framework and in particular National Policy Objective 13. This should include a detailed analysis of car parking demand particularly in the context of the proximity of the site to the Dart and Dublin Bus Services, the nature of the non-residential uses proposed on site, and the provision on the site of measures to support car sharing.

5.2. Furthermore, the prospective applicant was advised that the following specific information should be submitted with any application for permission:

1. Additional photomontage images from the Balscadden Road and from Abbey Street and a series of drawings, specifically cross sections at appropriate intervals showing the proposed development and the relationship with existing dwellings adjacent the site to the west. Drawings should be appropriately scaled. Site sections should be clearly labelled and located on a layout 'key' plan.
2. Detailed rationale for the design approach of both Block A and the height and design of the northern element of Block C as it relates to the Martello Tower and the western element as it relates to Abbey Street.
3. Details of all materials proposed for the proposed buildings, open spaces, paved areas, boundary and retaining walls.
4. Cross sections of all SuDS features proposed on site in the context of surface water management on the site.
5. A full and complete drawing that details all boundary treatments.
6. A plan of the proposed open space within the site clearly delineating public, semi-private and private spaces.
7. The inclusion of Sutton Cross in the Traffic Impact Assessment.

8. A phasing plan for the proposed development.
9. A site layout that details areas to be taken in charge by the local authority.

Applicant's Statement

A statement of response to the Pre-Application Consultation Opinion was submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016. This statement provides a response to each of the issues raised in the Opinion- internal access road and car parking.

Internal Access Road- internal access road removed and linear plaza created

Parking- TIA and Mobility Management Plan prepared; removal of underground car park to Block B and surface spaces along previously proposed internal road- 120 car parking spaces now proposed; bicycle parking increased to 397 spaces

The applicants have also attempted to address Points 1-9 listed above.

6.0 Relevant Planning Policy

National Policy

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant S.28 Ministerial Guidelines are:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated 'Urban Design Manual')
- Design Manual for Urban Roads and Streets
- Sustainable Urban Housing: Design Standards for New Apartments
- The Planning System and Flood Risk Management (including the associated 'Technical Appendices')

- Childcare Facilities – Guidelines for Planning Authorities
- Architectural Heritage Protection- Guidelines for Planning Authorities

Local Policy

Fingal County Development Plan 2017-2023 is the operative County Development Plan.

Howth is defined as a 'Consolidation Area within a Gateway' in the Fingal settlement strategy- seeks to gain maximum benefit from existing transport, social and community infrastructure through the continued consolidation of the city and its suburbs.

Part of the site, principally along the western boundary facing Main Street and Abbey Street and along the northern boundary addressing the Motte/Martello Tower, is within the boundary of the Howth Village Architectural Conservation Area.

The Howth Special Amenity Area Order (SAAO) buffer zone covers part of the site with the western boundary of the SAAO located along Balscadden Road. Lands to the north and east of Balscadden Road including the Motte site are within the SAAO.

The site has three separate zoning objectives:

Part of the southern portion of the site is zoned '**Objective RS-Residential**', the objective for which is 'to provide for residential development and protect and improve residential amenity'

The majority of the site is zoned '**Objective TC- Town Centre**' which seeks to 'protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities'.

A small linear area of ground to the north of the site adjoining the boundary with the Martello Tower is zoned '**Objective HA- High Amenity**' which seeks to 'protect and enhance high amenity areas'.

Specific Objectives

Specific Objective 115 applies to the site which seeks to 'ensure that the layout, scale, height and design respects the high amenity status of the surrounding area, the Martello Tower and the village character'.

Specific Objective 110 to the northeast of the site seeks to 'provide access to Balcadden Beach from the start of the East Pier'.

The Martello Tower is a Protected Structure (RPS:570) and the Tower and Motte are recorded monuments (RMP Ref. DU016-00201 Castle-Motte and DU016-002-02 Martello Tower).

There is a map based objective 'to preserve views' along the northern boundary of the site and along Balcadden Road- Map 10.

There are a number of objectives within the operative Development Plan relating to residential development, including inter alia dwelling mix, density, design, open space provision and the development of underutilised sites

Howth Urban Centre Strategy (2008)

-applies to Howth village and the site

-not a statutory document, however provides guidance for development based on analysis of the urban form of the village

7.0 Third Party Submissions

7.1. A large volume of third party submissions were received, 202 in total. I note that two main pro-forma/objection templates were used (see Objection Template 1 and 2 below). Other template objections were used, but were generally from smaller groups. In addition to this, individual submissions that represented a mix of templates or no template were received. A number of residents associations/ concerned groups in the vicinity made submissions, as did some public representatives. A petition against the development was also received. A list of all submissions received is contained within Appendix 1 of this report.

Objection Template 1 covered:

- Bulk, scale and layout of proposed development

- Proposal contravenes Urban Design Manual 2009 and Fingal County Development Plan 2017
- Landscape and views- when viewed from Tower Hill, the proposal will overwhelm the village and seriously harm its charm and character- more sensitive approach required
- Risk of subsidence- land slippage in area in recent years, which varied in scale and damage- proposal would exacerbate this risk
- Permission to develop the site would be in contravention of Objective DMS174 (Coastal Erosion) of operative CDP
- Fault line bisects subject site- indicated as Site No. 33 of Map B of Howth SAAO
- Removal of 40,000 cubic meters of sand and gravel would have impacts on traffic, apartment dwellers and walkers
- Heritage impacts- concerns regarding demolition of Baily Court Hotel and concerns regarding impacts on Martello Tower, a registered Monument
- Conflict with Policy CH33 of operative CDP (note it is Objective CH33)
- Parking provision is inadequate and would exacerbate existing pressure

Objection Template 2 covered:

- Density, height, scale and density of proposal- out of character with area, incongruous at this location, contravenes Objective 115 of CDP
- Lack of information relating to geo-technical issues
- Issues with construction management plan- in particular traffic movements relating to removal of material from site
- Parking and congestion concerns- particular concerns regarding number of parking spaces proposed

In addition to the above other issues raised, inter alia, include:

- Inappropriate location- not an urban location

- Demolition of hotel building and contravention of CDP in relation to demolition of such structures- no structural survey/Conservation Architect's Report submitted
- Loss of hotel use to the town
- Retail uses over-subscribed in village centre- no requirement for further retail as proposed- number of vacant units- no Retail Impact Assessment
- Retail uses under-subscribed- need for greater facilities/commercial uses on the site
- Damage to retail area- will reduce footfall through Abbey St
- No haulage plan/access for emergency vehicles
- Congestion at Sutton Cross- needs to be considered in light of other permitted development in vicinity
- Balscadden Road not suited as a haulage route
- Construction impacts including concerns regarding damage to adjoining properties during works
- Technical reports/information lacking in information
- Need for EIAR
- Impacts on tourism
- Excessive density/overdevelopment/scale and height of proposal/design of building to replace Baily Court hotel
- Negative impacts on Martello Tower, Tower Hill, ACA and SAAO
- Size of proposed apartments
- Impacts on existing residential amenity- privacy, overlooking, overshadowing
- Deficiency of public open space/ lack of playground
- Impact on flora and fauna of site not properly considered
- Impacts on right of way
- Community space too small
- Health and safety concerns
- Site topography
- Flooding concerns
- Capacity of existing infrastructure- ESB, water and drainage

- Procedural issues relating to SHD process/visibility of site notice/ABP website
- Layout of buildings at Main Street difficult to understand
- Welcome new pedestrian street- should be aligned with view of sea
- Lack of prior public consultation

8.0 Planning Authority Submission

8.1. In compliance with section 8(5)(a) of the 2016 Act the planning authority for the area in which the proposed development is located, Fingal County Council, submitted a report of its Chief Executive Officer in relation to the proposal. This was received by An Bord Pleanála on 23rd July 2018 and is detailed and thorough in nature. The report is summarised below and reference to pertinent issues raised therein is made within the main assessment:

Information Submitted by the Planning Authority

Details were submitted in relation to the site description, proposal, pre-application consultations, planning history, interdepartmental reports, comments of elected members and local policy context. A summary of representations received was outlined.

Summary of Inter-Departmental Reports

Water Services: No objections, subject to conditions

Roads and Traffic Planning Division: No objections, except concerns relating to under provision of parking- Conditions attached

Parks Division: Shortfall in quantum of public open space/playground provision with contribution to be paid in lieu; conditions/recommendations attached in relation to landscape plan/layout, boundary treatments and taking-in-charge

Community Archaeologist Report: Conditions attached

Housing Department: Agreement in principle in relation to Part V has been reached

Conservation Officer: Conditions attached

Environment Department: Condition attached

County Architect: Comments incorporated into Conservation Officer's Report

The main issues raised in the assessment were as follows:

- Appropriate density for a mixed use infill site over 1 hectare in an area located within the village core and largely zoned Town and District Centre within 1km of high frequency public transport in the form of the DART
- Proposed uses are all permissible within zoning matrix
- Provides for an effective pedestrian linkage, urban form, street frontage, passive observation, privacy for users and creates new character while integrating effectively with the existing streetscape and character of the village core
- Considered that layout and design of the proposal, which includes design measures to provide urban grain are an appropriate modern response to the need to provide a connection from the village to Balcadden Bay and to connect into the existing street network of the historic core area. It is considered that scale, height and design would form a new urban extension to the village, would be an appropriate response to the village character, is sufficiently setback from the high amenity lands including the Martello Tower and is an appropriate development when viewed from Balcadden Road and subject to amendment would comply with Objective 115 relating to the lands.
- Acknowledges that overlooking and overbearing impacts will occur to certain houses as a consequence of the proposed development- revision to the parapet and penthouse level would reduce impacts to an extent. Considered that while the proposed development will impact on amenity, this is not considered so significant as to warrant refusal of permission
- Amendments to Block C recommended to avoid significant visual impacts on the ACA when viewed from Abbey Street- amendment to parapet recommended
- While the proposal will present a long and tall façade towards the mound that

contains the Protected Structure of the Martello Tower (RPS No. 570), the majority of views to and from the tower have been preserved.

- Material use is generally considered acceptable with the exception of the dark brick to Block A, which is not found within the ACA- recommends condition be attached in relation to materials and window pattern
- Having regard to the location of the site in a village core with a high degree of vitality, its location within an urban area zoned for TC and RS uses, the largely brownfield nature of the lands and its proximity to a DART station, it is considered that the proposal would comply with the requirements of National Policy Objective 13 of the NPF and Section 4 of the Design Standards for New Apartments (2018). No concerns were raised regarding Sutton Cross operating at capacity within the Transportation Report- conditions recommended in relation to transport issues
- In terms of public open space, no Class 1 open space has been provided and is not considered feasible on this site. The spaces proposed are considered more appropriate to this urban development than green area which would suffer from a lack of robustness. Spaces are overlooked, fronted by active uses and would be open to all. Contribution in lieu of open space be provided and other conditions attached
- Water Services report raises no concerns and recommends conditions in the event of a grant of permission. A Flood Risk Assessment is provided which indicates that the site is not subject to flooding
- In terms of archaeology, Community Archaeologist notes that the details submitted satisfactorily set out measures to avoid slippage to the mound- report recommends conditions
- A verbal report from the Biodiversity Officer indicates that the site does not appear to be used by Sand Martins for nesting. Bat survey was undertaken which indicated that none of the buildings on site are being used as roosts, although part of the site is used for foraging.
- Matter of community use should be dealt with by condition; considered

reasonable in this instance not to provide for a crèche on site

- Provision of 16 x one-bed units for Part V allocation is indicated to be acceptable- condition should be attached
- Construction traffic will be significant, with traffic proposed to be routed up Balscadden Road. This is less trafficked than Abbey Street and Main Street and is a preferable route for construction traffic in this regard. Vibration monitoring for adjoining housing is provided for as part of the overall suite of construction measures. The site presents difficulties for construction traffic access, however such difficulties are temporary in nature and can be effectively managed as part of the construction traffic management plan.
- In terms of excavation, no concerns were raised by the Community Archaeologist or the Conservation Officer. It is considered that matters relating to management and monitoring of works by a suitably qualified engineer having regard to the relevant Eurocode can be dealt with by condition in the event of a grant of permission
- The eastern area of open space would be overly burdensome to be taken-in-charge. Access to the public open spaces should be permanent, available 24 hours a day and should not be gated or pedestrian access restricted- a condition should be attached to this effect
- Having regard to the nature of the proposed development and the location of the subject site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site
- Have reviewed the EIA Screening Exercise and considers the supplied assessment to be robust
- Concludes that the proposed development...will provide for an appropriate standard of residential development, will improve linkages and permeability and will allow for improvement of underutilised lands in accordance with national, regional and local guidance and strategies

- Conditions attached

9.0 Prescribed Bodies

9.1. The applicant was required to notify the following prescribed bodies prior to making the application:

- The Minister for Culture, Heritage and the Gaeltacht,
- Heritage Council
- An Taisce — the National Trust for Ireland
- Transport Infrastructure Ireland
- National Transport Authority
- Irish Water
- Fingal County Childcare Committee

Two of the above bodies responded and the following is a brief summary of the points raised. Reference to more pertinent issues is made within the main assessment.

The Minister for Culture, Heritage and the Gaeltacht:

Archaeology:

Have examined archaeological reports submitted with application and on basis of information contained therein, have recommended conditions pertaining to pre-development testing and rescue excavations by included in any grant of permission

Nature Conservation:

Notes that proposed development is close to the boundary of the Howth Head SAC (Site Code 000202) designated under the EC Habitats Directive (Council Directive 92/43/EEC). In addition, a small part of the proposed development site appears to be within the SAC.

In any decision reached, ABP should ensure that there will be no adverse impacts on the integrity of the SAC. In particular, they should ensure they have enough details of construction methodology as proposed in any construction management plans supplied.

Biodiversity:

The EclA details that field survey work was carried out on the 29th September and 15th October 2017. This is inadequate for a comprehensive survey. For example, it could mean that some plant species were not recorded. It also means that there was no breeding bird survey. It is unclear if a flora survey and breeding bird survey have since been carried out this year. It should be noted that local staff of this Department report that Sand Martins are known to nest in the embankment in the vicinity of the proposed development and these are not mentioned in the EclA.

Architectural Heritage:

Comments to follow

Irish Water:

Based upon the details provided by the developer and the Confirmation of Feasibility issued by Irish Water, it confirms that subject to a valid connection agreement being put in place between Irish Water and the developer, the proposed connection(s) to the Irish Water networks can be facilitated.

Although not notified by the applicants at application stage, the Department of Agriculture, Food and Marine made a submission, as was their entitlement. They note and are opposed to the fact that the proposed development intends to make use for private car parking, lands owned by them which are currently used by harbour users and employees. They contend this is a breach of their rights as owners and will impinge on their ability to manage the Fishery Harbour Centre appropriately. This is a busy working Fishery Harbour which facilities fishing, marine leisure and other compatible port businesses. Management and operation of the harbour requires that the parking spaces provided for harbour uses can be restricted, altered or permanently removed as necessary to facilitate core operations, events and usages. The Department also reserves the right to charge for parking spaces in the future. Parking within the harbour is already stretched and requires on-going management and any suggestion that a further demand is being directed without the Department's permission is not acceptable.

Also notes that the Department, as land owner, was not approached or consulted in

this matter.

Concludes that Department is opposed to this development in its current proposed form.

10.0 Oral Hearing Request

10.1. A number of submissions received requested an oral hearing. Section 18 of the Act provides that, before deciding if an oral hearing for a strategic housing development application should be held, the Board:

- (i) Shall have regard to the exceptional circumstances requiring the urgent delivery of housing as set out in the Action Plan for Housing and Homelessness, and
- (ii) Shall only hold an oral hearing if it decides, having regard to the particular circumstances of the application, that there is a compelling case for such a hearing.

In my opinion there is sufficient information on file to allow for a proper and full assessment of the case without recourse to an oral hearing. I note the observer submissions received and the contents thereof. Having regard to the information on file, to the nature of the proposed development and to the location of the development site, I do not consider that there is a compelling case for an oral hearing in this instance.

11.0 Assessment

11.1.1. I have had regard to all the documentation before me, including, *inter alia*, the report of the planning authority; the submissions received; the provisions of the Fingal County Development Plan 2017; relevant section 28 Ministerial guidelines; provisions of the Planning Acts, as amended and associated Regulations; the Record of Section 5 Consultation Meeting; Inspector's Report at Pre-Application Consultation stage and Recommended Opinion; together with the Notice of the Pre-Application Consultation Opinion. I have visited the site and its environs. In my mind, the main issues relating to this application are:

- Principle of development
- Design and layout
- Impacts on visual amenity including impacts on architectural/archaeological heritage
- Impacts on residential amenity
- Geotechnical stability
- Traffic and transportation
- Drainage
- Biodiversity
- Appropriate assessment
- Other matters

11.1.2. I refer the Board to the previous, most recent history on the site, PL06F.246183, whereby permission was refused in 2016 for development on part of this site for nine dwellings. That proposal had little similarity to this current application, with nine large detached dwellings proposed on a site area much reduced from that before me. The site area did not include the former Baily Court hotel site and access to the proposal was from Balscadden Road. I also refer the Board to PL06F.244026 on the

Balscadden site whereby permission was granted for residential development of 23 units and PL06F.224372 whereby permission was granted for 9 dwellings with access off Balscadden Road. I am also cognisant in this assessment of other large-scale residential developments permitted within the general area of Howth.

11.2. Principle of proposed development

- 11.2.1. I note the nature and scale of the development proposed, namely an application for 164 residential units, together with a commercial element not exceeding 4,500 square metres gross floor space. The proposal is located on lands which are substantially located within the zoning objective 'RS' and 'TC', in which residential and commercial development, as proposed, is 'permitted in principle'. I note the small element of the site located within the high amenity zoning and this area is proposed to be landscaped. I am of the opinion that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016.
- 11.2.2. I am of the opinion that given its zoning objectives, the delivery of residential development on this prime, infill, underutilised site, in a compact form comprising well-designed, higher density units would be consistent with policies and intended outcomes of the NPF and Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness. The site is considered to be located in a central and accessible location within the village centre, it is within easy walking distance of good quality public transport in an existing serviced area. It is not a rural, peripheral area, as has been suggested in some of the submissions received. Howth is defined as a 'Consolidation Area within a Gateway' in the Fingal settlement strategy as contained in the operative County Development Plan, which seeks to gain maximum benefit from existing transport, social and community infrastructure through the continued consolidation of the city and its suburbs. The proposal serves to widen the housing mix and commercial facilities within the general area, and, if permitted would improve the extent to which it meets the various needs of the community. The proposed development is considered acceptable in principle.
- 11.2.3. The principle of the proposed demolition of the hotel structure has been raised in many of the submissions received. While a Conservation Assessment has been

submitted with the application, it is correctly stated in some of the submissions received that a structural survey of the existing structure was not submitted. I note the policies and objectives within the operative County Development Plan in relation to historic building stock and vernacular heritage; replacement of older buildings; their re-use and re-development. I refer the Bord to a previous decision, PL06F.242595 (dated 2014), whereby the principle of the demolition of the existing hotel structure was accepted. The Bord considered that notwithstanding the historic nature of the subject site and the inclusion of the Baily Court Hotel in the NIAH, the subject structure was not a Protected Structure. This remains the situation today- the subject structure is on the National Inventory of Architectural Heritage but has not been placed on the Record of Protected Structures in the interim period. The Bord decision recognised that the former hotel occupied a prominent and important location in the centre of the village and was at that time considered to be in a dilapidated and unsightly physical condition. I would concur with this assertion, which holds true to the present time. I would also concur with the Inspector at this time who stated that the front elevation of the structure bears little resemblance to the original structure on site and that its context in the village has changed considerably. The Board considered at that time that demolition of the former hotel and its replacement by a proposed mixed use development was deemed acceptable. This decision issued in 2014 and in the interim, the building has most likely fallen into further disrepair. On my second site visit, I viewed the interior of the structure. A visual inspection showed that it appears to be in a poor state of repair. In its current state, it adds little to the village core or the ACA and in fact, detracts significantly from it. A quality development on this site could add significantly to the streetscape at this location. Having regard to all of the above, I consider that the principle of its demolition has been previously accepted by the Board and I consider it acceptable in this current instance. Additionally, the loss of the hotel to the village has been cited in some of the submissions received. I note the length of time the hotel is stated to be closed, in excess of ten years. It is my opinion that the hotel has been lost to the village already, irrespective of whether planning permission is granted on this site or not for the current development. Further assessment of the impacts of the proposal on the architectural character of the area are dealt with below.

11.3. Design and Layout

- 11.3.1. The proposal involves the demolition of existing structures on site and the construction of 164 residential units, together with commercial development in the form of two retail units, café and community room. Block A fronts onto Main Street with commercial uses at ground floor level and residential uses above. It aims to replace the former Baily Court Hotel and a three-storey building with associated civic space is proposed at this location. Block M is a long, narrow building, three storeys in height, of simple A-shaped form which aims to provide a defined street edge to the rear of existing properties along Abbey Street/Main Street. It has commercial use at ground floor with residential uses above. Block B is the second largest block proposed and is primarily residential in nature. It is 3-5 storeys in height and is dug back into the hill, which aids in the screening of the retaining walls. It has own door access at ground floor level to many of the apartments, giving an active streetscape to the proposed civic plaza at this location. Block C is a large, orthogonal building within the main body of the site, three storeys in height with setback penthouses on the south and west wings. It also has a small retail unit at ground floor level. Access to the proposed development is from Main Street, with further pedestrian access from Balscadden Road. The access road leads to the underground carpark, with a large, semi-private garden above. The development also creates a new pedestrian link from Main Street through to Balscadden Road.
- 11.3.2. The focus of the development is such that it aims to improve connections between the village core and Balscadden Bay, an extension to the urban fabric of the village core, with publically accessible streets and spaces. I note the sensitivities of the site including its location within the buffer zone of the Howth Special Amenity Area; parts thereof located within the Architectural Conservation Area for the historic core of Howth and its proximate location to the Martello Tower and Motte. There are many Protected Structures in the vicinity and likewise many structures are listed on the NIAH for their architectural, historical, technical, social and archaeological importance.

11.3.3. Having examined the proposal before me, I consider that the proposal generally achieves the aims set out above. I consider that the height, scale, layout and design of the buildings fronting/gabbling onto Main Street/Abbey Street are appropriate for the village centre. They are traditional in style with pitched roofs and contemporary detailing. I consider that these blocks would integrate well with existing development in the immediate vicinity and would not adversely affect the visual amenities of the ACA. The village centre of Howth contains a mix of building types, sizes, styles and designs. Relatively new apartment blocks stand cheek and jowl beside small cottages and public buildings. New extensions take advantage of sea views. Standing at east pier and looking up the hill, differing roof types and colours are evident as development creeps up the hill. This is similar to many places throughout the world in such hilly seaside locations. New development slots in beside the old as the village evolves and rejuvenates. The village is not a static entity, it is where people live, work and socialise. This character and charm needs to be protected whilst at the same time, allowing appropriate new development. I note the recommendations of the Conservation Officer in relation to alterations to the height/elevational treatment of Block A, which involves lowering its height by 1.5 metres and omitting the overhang at first floor level. I do not have undue concerns in relation to the overhang- I consider it may aid in views through the building but I do concur with their opinion in relation to the pitch of the proposed roof. A shallower pitch would be more appropriate in my opinion, given the pitches of existing roofs in the vicinity. I note the concern raised by the planning authority in relation to the colour of the proposed dark brick to Block A. This dark brick is not generally found in the ACA and if the Board is disposed towards a grant of permission, these issues could be adequately dealt with by means of condition.

11.3.4. The opening up of Main Street/Abbey Street as a pedestrian urban realm is noted in terms of its impacts on the Howth Village ACA and on the Martello Tower and Motte and this will be dealt with further in my assessment below. Blocks B and C are to be dug into the site, making them less obtrusive than would otherwise be the case. They are contemporary in style, with a good palette of materials proposed. A number of attractive spaces/plazas are proposed within the development, all of quality design and materials and I consider that the proposal will add significantly to

the amenity of the general area. The site frontage onto Abbey Street/Main Street is currently in a poor state- the existing structure detracts significantly from the streetscape at this location. I am satisfied that the submitted photomontages give a fair and reasonable interpretation of the proposal and the impacts it will have on the village as a whole. The provision of retail uses at this location is considered to be compatible with the town centre zoning objective. I have no information before me to believe that retail uses are over-subscribed in the area, as has been suggested in some of the submissions received. The village centre would appear to be thriving and the provision of additional retail space will add to the vibrancy and vitality of the area. This is an underutilised site in a prime location and its appropriate redevelopment is to be welcomed, both in aiding the provision of commercial and residential floor area, but also in enhancing the public realm at this location.

- 11.3.5. Density at 106 units/ha is considered appropriate for this location and in compliance with relevant section 28 ministerial guidelines. It is stated that 53.5% of all units are dual-aspect and 8.5% are triple aspect. Single aspect units primarily have views of landscaped courtyard/street or the sea. This is considered acceptable.
- 11.3.6. Unit mix is good with 24.5% of the units being 1 bed units; 59% being 2 bed units and 16.5% being 3 bed units. This would lead to a good population mix within the scheme, catering to persons at various stages of the lifecycle, in accordance with the Urban Design Manual. Given the established nature of the area, the proposed development could aid those wishing to downsize but remain in the general area, thereby freeing up some existing housing stock in the locality. Unit size is also acceptable and most units are well in excess of minimum standards.
- 11.3.7. In terms of public open space provision, two landscaped public spaces are proposed, in addition to landscaped streets which together provide a series of spaces, which are openly accessible to all. A shortfall in public open space is noted and has been calculated by the planning authority as equating to approximately 0.685 hectares. A contribution in lieu of this shortfall is considered acceptable to the planning authority. This was considered acceptable in the previous appeal on site (PL06F.242595). Given the urban location of the site, I consider this shortfall, with payment in lieu, to be acceptable in this instance. A good quality public realm is

proposed by way extending the existing urban form and creating a series of high quality, accessible, durable spaces. Permeability through the site is good, as are connections with the wider area. The proposal will create new and improved connections through the site towards the sea, by means of an attractive series of public spaces. If the Bord is disposed towards a grant of permission, a condition ensuring that access through the site be permanent, available 24/7 and should not be gated or restricted in any way. There is an existing right-of-way at the bottom of the mound and tower, but the path is in poor condition and the area is not overlooked. This current proposal aims to improve this scenario and is seen as a positive for the area.

- 11.3.8. A contribution towards the proposed shortfall in playground space is being proposed, which will aid in the upgrade of the existing playground at the harbour. This too is considered reasonable and acceptable. Private open space is provided to all units in the form of terraces/balconies. All open space is considered to be of a high quality, generally above minimum standards and a high degree of passive surveillance is noted. I would concur with the opinion of the planning authority that the ground floor private amenity spaces to the apartments within Blocks B and C fronting onto the linear plaza should be wintergardens having regard to the proximity to the footpath of the new street. If the Bord is disposed towards a grant of permission, this matter could be dealt with by condition.
- 11.3.9. The proposed phasing arrangement, with development taking place over three distinct phases, is considered reasonable and acceptable.
- 11.3.10. The location of the 16 Part V units is generally considered acceptable, located within Blocks B and C. All are one-bed unit and the Planning Authority has raised no issue in this regard, subject to conditions.
- 11.3.11. The proposal does not include for the provision of a childcare facility. A Childcare Capacity Assessment was included with the application which identifies that a demand of c.19 no. childcare places is likely to be generated by the proposed development. Following an assessment of existing facilities in the local area, the report concludes that a significant vacancy rate exists within full-time, purpose built

facilities which will easily cater for the insubstantial demand potentially generated from the proposed development. It continues by stating that there is no compelling case for an additional childcare facility on the site and the provision of such a facility may adversely affect existing childcare facilities in the area. I consider this justification acceptable in this instance.

11.3.12. The subject site is located within a town centre location- in a well serviced, established area where amenities and facilities are generally good. Having regard to all of the above, I consider that the proposal before me, in terms of layout and design is such that it will positively contribute to the town centre; will aid in its vibrancy and vitality and will be a welcome addition to the streetscape at this location.

11.4. **Impacts on visual amenity including impacts on architectural/archaeological heritage**

11.4.1. Local Objective 115 applies to the site, which aims to “ensure the layout, scale, height and design respects the high amenity status of the surrounding area, the Martello Tower and the village character”. As has been stated above, the Martello Tower to the north of the site is a Protected Structure (RPS No. 570). The Tower and Anglo-Norman Motte on which the tower is located are also Recorded Monuments (RMP Ref. DU016-00201 Castle-Motte and DU016-002-02 Martello Tower). The subject site directly abuts these structures and includes within it a small section of the slope of the mound that contains the Martello Tower. There is a map based objective ‘to preserve views’ along the northern boundary of the site and along the Balcadden Road; from the lower section of Balkill Road and from Main Street, as indicated on Map 10 of the operative County Development Plan. The Howth Historic Core Architectural Conservation Area (ACA) applies to part of the site, roughly aligning with Plot C as indicated on the submitted drawings. The Baily Court Hotel is within the boundary of the ACA, while its boundary runs along the western and northern boundaries of the application site. The Baily Court Hotel while not a Protected Structure, is listed on the NIAH (Ref. 11359019), assigned a Regional rating for its Architectural and Artistic Interest. The Martello Tower is also included on the NIAH (Ref. 11359033), assigned a National rating for Architectural, Historical

and Technical Interest. The Howth Special Area Amenity Order (SAAO) Buffer Zone covers Plot A and the eastern part of Plot B, closest Balcadden Road. The western boundary of the SAAO applies to Balcadden Road and all lands to the north and east of the road including the Motte are within the SAAO.

- 11.4.2. It can be seen from the above that an extensive range of designations apply to the site and general area combined. This is acknowledged to be a sensitive location and any development thereon needs to respect these sensitivities- needs to enhance the general area, rather than detract from it. I note that these sensitivities have formed the basis for previous refusals on the individual sites by An Bord Pleanála. It would appear from the information before me that this issue was dealt with at length by the planning authority in their section 247 meetings. This potential issue was highlighted in the Section 5 Pre-Application Consultation Opinion which issued from An Bord Pleanála, which informed the applicant that detailed rationale for the design approach of both Block A and the height and design of the northern element of Block C as it relates to the Martello Tower and the western element as it relates to Abbey Street should be submitted at application stage. This has been addressed in the architects design statement, submitted with the application.
- 11.4.3. I note that a significant volume of information has been submitted with the application in this regard. This includes inter alia, a Conservation Assessment, Archaeological Impact Assessment, Archaeological Testing Report, together with a Landscape Design Statement and Landscape and Visual Impact Assessment Report, in which the potential impacts of the proposed development were assessed. Photomontages and CGIs were also submitted with the application. I acknowledge that impacts on views and prospects are a significant issue in this application. The Martello Tower is a prominent structure and it is important that it remains so within the skyline of Howth. I note that the site in its current state detracts significantly from the view from the Martello Tower and Motte when looking south across the site. It also detracts significantly from the amenity along Balcadden Road and Main Street/Abbey Street. The removal of the Baily Hotel from Main Street would be a significant intervention, but not necessarily a negative intervention. The development, as proposed would also lead to a significant change in outlook when

one travels from Abbey Street up towards the Martello Tower and along the right of way through to Balcadden Road. I do not consider this change to be a negative. The proposal if permitted would, in my opinion, improve significantly improve the visual amenity of the general area. Views, inter alia, from/to the tower are noted, as are the views across the site towards/from the church/the abbey/along Balcadden Road/from the seafront looking south/from Balcadden Bay looking west/Asgard Park and along Abbey Street/Main Street. I am satisfied, that the submitted photomontages are an accurate reflection of the proposal and I have assessed all information before me in this regard. I note the report of the Conservation Officer in this regard, as contained within the Chief Executive Report which concludes that while the proposal will present a long and tall façade towards the mound, the majority of views to and from the tower have been preserved. The report recommends that the top floor of Block C at the NW corner be overall slightly lower or stepped in height in part to make the block less imposing. This would involve the omission of one apartment, No. C5-16. The Conservation Officer states that the excavation of Block C to a lower level or the stepping/reduction of its overall height would facilitate views southwards over/of the green roofs from the Martello Tower area which would create a more appealing environment than looking directly across at the top floor apartments. I do not have undue concerns in this regard. I draw the attention of the Bord to the fact that the relocation of the western penthouse level 1.5 metres eastwards would have major implications for the overall floor plans below, in particular with regards to the location of the stairs and I query whether there is adequate justification for this. I also note the condition attached by the planning authority in relation to the setting back of the parapet edge along the whole northern part of Block C. Again, I do not have undue concerns with regards the proposal as submitted, in this regard. If the Bord is disposed towards a grant of permission, both these matters could be dealt with by means of condition.

- 11.4.4. Block A is the principal element of the proposal that will directly impact on the historic core and the ACA and I concur with the planning authority that the design of this element of the proposed scheme is crucially important. The Conservation Officer acknowledges that this block has traditional, simple form with pitched roofs. It would appear that the design of Block A has had many iterations through pre-planning

stage. The recommendation to reduce the overall height of Block A in order to allow for a shallower roof pitch has been dealt with above. The Conservation Officer is now generally satisfied with the proposal with clarification required for finishes/materials. I would concur that there appears to be some confusion between drawings as to proposed materials- this matter could be easily rectified by condition.

11.4.5. In terms of archaeological assessment, I note the contents of the Archaeological Impact Assessment and Archaeological Testing Report. The Archaeological Impact Assessment states that the primary surface levels over more than half the site have been truncated by modern sand and gravel extraction. Archaeological investigations have located archaeological material along the top of the ridge to the south of the site. In addition, it is likely that archaeological deposits survive in proximity to the medieval street frontage in the vicinity of the Baily Court Hotel, together with on the slope behind the hotel which was too overgrown to test adequately.

Recommendations are included within this assessment which appear reasonable and robust. The submitted Archaeological Testing Report states that archaeological testing took place on the site over three days from November 7th 2017. Seven trenches were excavated over three areas of the site. The Cluxton lands constitute the only unquarried part of the site which retains a historical ground level. Evidence of medieval food waste and pottery sherds were found on this part of the site. Recommendations are also included within the report. I note the report of the Department of Culture, Heritage and the Gaeltacht in relation to archaeology and their recommended conditions, to be attached in the event of planning permission being granted. I also note the report of the Community Archaeologist of the planning authority in this regard.

11.4.6. Having regard to all of the information before me, I consider that impacts on the visual amenity of the area, together with the architectural and archaeological heritage would not be so great as to warrant a refusal of permission. There will be some impacts on views and prospects as a result of the proposal, but I consider these impacts to be acceptable. I am satisfied that the Motte and Martello Tower would retain primacy in the general area, due to the building heights/site levels proposed. I am also satisfied with regards the information before me in relation to

archaeological heritage and consider that the matter could be adequately dealt with by means of condition, if the Bord was disposed towards a grant of permission. Additionally, I have no information before me to believe that the proposal will impact on the character or setting of the Howth Village ACA, the Howth SAAO and its associated buffer zone, any Protected Structures/Recorded Monuments or buildings of interest in the vicinity of the site to such an extent as to warrant a refusal of permission.

11.5. Impacts on residential amenity

- 11.5.1. The issue of impacts on residential amenity has been raised in many of the submissions received, namely concerns regarding overlooking, overbearing, loss of light and privacy. This potential issue was highlighted in the Section 5 Pre-Application Consultation Opinion which issued from An Bord Pleanála, which informed the applicant that additional photomontage images from the Balscadden Road and from Abbey Street and a series of drawings, specifically cross sections at appropriate intervals showing the proposed development and the relationship with existing dwellings adjacent the site to the west should be submitted at application stage. This information has generally been submitted as requested.
- 11.5.2. The level of amenity being afforded to proposed occupants is considered good. There are a number of single aspect units proposed within the development, however I note that orientation of these units is generally good with views primarily over the courtyard, pedestrian street or the sea. Adequate separation distances are proposed between blocks to avoid issues of overshadowing or overlooking. I note the Daylight and Sunlight report submitted with the application, the results of which are considered acceptable for proposed units.
- 11.5.3. In terms of impacts on surrounding existing properties, I note that this was raised as an issue in many of the submissions received. This is currently an undeveloped/brownfield site and it is acknowledged that the proposal will result in a change in outlook for many of the local residents, if the proposed development is constructed. This is not necessarily a negative. The appropriate redevelopment of this site, could in the medium to long-term improve the amenity of the area considerably. I note the location of existing properties relative to the subject site and

acknowledge that the properties along Balcadden Road would appear to be the nearest residential properties to the proposed development. In general, I note the separation distances involved, the existing site conditions and existing height of ground level relative to existing properties, together with the site and roof levels proposed, which includes for setback of top floor of Block C. I also note the location of the site, within an urban location in an area zoned primarily for town centre uses. In such urban locations, a degree of overlooking/overshadowing could be reasonably anticipated. Having regard to all of the information before me, I am satisfied that the impacts on the residential amenity of the area would not be so great as to warrant a refusal of permission. I have no information before me to believe that the proposal, if permitted, would lead to devaluation of property values or lead to damage to properties in the vicinity.

11.5.4. It is inevitable that there will be some noise disruption during the course of construction works, in particular in this instance given the volume of material to be removed from the site, which is not insignificant. Due to the existing levels involved, the proposal will involve a substantial amount of regrading of levels and digging into the site. This will impact on traffic movements during construction works. Relatively limited information has been submitted by the applicant in this regard. However, I am of the opinion that while intensive during the construction phase, such movements will be relatively short-lived in nature. Exact details regarding this matter should be dealt with by means of condition, if the Bord is disposed towards a grant of permission. The nature of the proposal is such that I do not anticipate there to be excessive noise/disturbance once construction works are completed. I note that vibration monitoring for adjoining houses, together with dust monitoring is provided for as part as the overall construction measures. The planning authority is of the view that the removal of the material along Balcadden road is the preferable option, rather than out through Abbey Street/Main Street. I would concur with this opinion, it appears to me to be the option of least disruption. I accept that this route is widely used for walking by locals and tourists alike and while not pedestrianised, it is much more heavily trafficked with walkers than vehicles. It is noted that footpaths along Balcadden Road are narrow in width and walkers on the road are a common sight. This appears to work well due to the lightly trafficked nature of the road. I

acknowledge the important role of tourism to Howth village. However, the nature of the development proposed is such that I do not anticipate there to be long-term impacts on the tourism potential of the village, as a result of the proposal. Traffic movements will obviously increase during the construction phase of development and therefore, a detailed construction management plan is crucial in terms of finer details like hours of operation, traffic stacking of construction vehicles and the like all need to be comprehensively agreed with the planning authority, prior to the commencement of any works on site. If the Bord is disposed towards a grant of permission, I recommend that this issue be dealt with by means of condition. Once the operational phase begins, all traffic entering/exiting the site will do so from Main Street. I do note that as part of the proposal, a 1.8m wide footpath is proposed along a portion of the length of the proposed development site on Balscadden Road. This is to be welcomed.

11.5.5. Having regard to all of the above, I am of the opinion that while there will inevitably be some short-term disruption for local residents, in particular those along Balscadden Road, this will be short-term in nature and I consider that impacts on the residential amenity of the area would not be so great as to warrant a refusal of permission.

11.6. **Geotechnical Stability**

11.6.1. I note this issue has been raised in many of the submissions received and I acknowledge the concerns contained therein. I note the applicant has submitted an Engineering Report, which contains a Geotechnical Report, prepared by Gavin and Doherty Geosolutions Ltd (GDG) (dated 24/05/18). This report contains three main elements- firstly the earth retaining scheme designed by OCSC was analysed, with preliminary design for sheet pile walls to form the earthwork structures. The overall safety factor for the slope was calculated and found to be adequate. Secondly, an initial assessment of the impact of the proposed residential development along Balscadden Road on the Howth Tunnel was carried out. It was found that the pressure on the Howth Tunnel should be negligible considering the applied pressure from the building, the foundation type and the ground conditions. The third part of this report analysed the earth retaining scheme on the northern boundary of the site

and proposed a preliminary design for the sheet piles and berm to be constructed to enable the construction of the basement under Block C. The overall safety factor of the slope was calculated in this report and it was found to be adequate. In addition, the report includes a ground movement assessment in the vicinity of the sheet pile wall and GDG conclude that the influence of the basement excavation on the Martello Tower and Motte is negligible.

11.6.2. I note the contents of this report, together with its appendices, which appear robust and reasonable. The presence of a fault line traversing the site is noted. The geology of the site is noted as is that the site is covered predominantly by gravels derived from limestone. No groundwater was encountered in the site investigations. The design approach was completed on the advice of Eurocode 7 and the Irish National Annex, with Design Approach 1 used. I note the report of the planning authority in this regard, which does not raise concerns and considers that matters relating to management and monitoring of works by a suitably qualified engineer having regard to the relevant Eurocode can be dealt with by condition in the event of permission being granted. I note that a lack of information on this matter formed the basis for a refusal by the planning authority under Reg. Ref. F15A/0545. On appeal (PL06F.246183), this issue did not form a reason for refusal. I note the assessment by the Inspector at that time in this regard who quoted from the Inspector's Report of PL06F.224372. This stated that the stability of the site and risk of slippage should be treated in a precautionary manner; that is not to say that sound engineering solutions are not available. Previous Inspector's reports have stated that the responsibility for assessment as well as investigation of ground conditions and the design and execution of remedial or precautionary measures rest with the developer and not with the Planning Authority. It was further recommended in PL06F.246183 that no development should commence on site until a construction method statement has been submitted and approved by the Planning Authority. Condition No. 11 of PL06F.224372 required, inter alia, that "*no development shall be commenced on site until a construction method statement to remediate any instability on the site has been prepared by a qualified structural engineer which shall be submitted to the Planning Authority for agreement*". I would concur with the opinion of the Inspector in PL06F.246183 in that if the Board are minded to grant planning permission in this

instance, that a similarly worded condition be attached in any grant of permission. It is clear from previous decisions on the site in question that the Board were satisfied that any geotechnical issues in respect of developing the site could be addressed but that a detailed construction method statement is required to be agreed with the Planning Authority prior to any commencement of development on site. I am of the opinion that the issue of site instability is an issue that requires additional information/engineering solutions prior to the commencement of works rather than forming a basis of refusal.

11.7. Traffic and transportation

- 11.7.1. The Notice of Pre-Application Consultation Opinion which issued from An Bord Pleanála referred to further consideration of the documents as they relate to the hierarchy and configuration of the proposed internal spine road and turning area with specific reference to the Design Manual for Urban Roads and Streets and to the potential to create a pedestrian zone linking Main Street and the Balscadden Road and the proposed public plazas within the site. In the 'Statement of Response to ABP's Opinion' which accompanied the application, the applicants address this issue by stating that on foot of the Opinion they decided to remove the internal road and create a linear plaza in its place, which will link the public plaza on Main Street and the proposed plaza on Balscadden Road. Fire tender access is available and this element of the scheme is a wholly pedestrian/cycle area. I consider this option to be a superior proposal to that originally submitted as part of the section 5 consultation process. As a result, the only motorised traffic to the site will be on a narrowed road which will access the underground car park under Block C.
- 11.7.2. The issue of car parking provision has been raised in the vast bulk of the third party submissions received. The Notice of Pre-Application Consultation Opinion which issued from An Bord Pleanála referred to further consideration of the documents as they relate to car parking on the site. This further consideration should have regard to Chapter 4 of the Sustainable Urban Housing: Design Standards for New Apartments (2018) and to the National Planning Framework and in particular National Policy Objective 13. This should include a detailed analysis of car parking demand particularly in the context of the proximity of the site to the Dart and Dublin

Bus Services, the nature of the non-residential uses proposed on site, and the provision on the site of measures to support car sharing. The Opinion also stated that Sutton Cross be included within the Traffic Impact Assessment. On foot the Opinion which issued from ABP and the subsequent redesigned scheme, car parking is now provided, in the main, under Block C. The car park originally proposed at pre-application stage under Block B and the surface spaces along the internal roadway have been omitted. A total of 120 car parking spaces are being provided (114 at basement level; 6 spaces at surface level), which includes for 3 car sharing spaces. This equates to 0.73 spaces per unit. The spaces at basement level will be for the sole use of the residents of the scheme and will be managed by the management company. I note the report of the Chief Executive of the planning authority which states that 272 car parking spaces are required to comply with Development Plan standards. It is noted that capacity does not exist for overspill parking in the area, with a large car park in the area in third party ownership. I shall deal with that issue further below. The planning authority acknowledge that having regard to NP013 of the National Planning Framework relating to flexible planning policies and standards for new residential development, that reduced car parking standards should apply. However, they are of the opinion that 1 space per unit would be more appropriate than that proposed, which would give a shortfall of 13 spaces. Additionally, 32 visitor spaces are required and 6 provided.

11.7.3. I note the submission from the Department of Agriculture, Food and the Marine in relation to the proposed use of the harbour car park for visitor parking, leisure and shopping trips. The submission from the Department is considered reasonable, given that the aforementioned car park is stated to be within their ownership and they contend that no discussions took place between the parties for its use as part of this current development. I note the extent of parking within the overall harbour area, where spaces appeared to be at a premium at the times of my site visits- a Sunday afternoon of a bank holiday weekend and a Wednesday morning, both during the summer months. I also note the extent of on-street parking within the overall area. While I accept the submission of the Department of Agriculture, Food and the Marine in this regard, I do note that currently the spaces would appear to be available to the general public, currently with limited restriction on use. While I

accept that the Department is within their rights to alter this arrangement at any time, the fact remains that there is quite a significant amount of parking available to the general public currently within the harbour/village centre area. If the case arises whereby this parking is no longer available to visitors of the proposed scheme, then they may have to examine their travel/parking habits and avail of public transport/cycling facilities which exist in the general area.

- 11.7.4. The number of bicycle spaces now proposed is 397 no. spaces and this is considered acceptable.
- 11.7.5. A Traffic Impact Assessment was included with the application, which includes for an assessment of Sutton Cross. Sutton Cross is acknowledged to be the sole vehicular access point to Howth. The details contained therein appear reasonable and robust. Traffic Surveys were undertaken on October 26th 2017. All links in the vicinity are shown to be operating within capacity. TRICS software modelling was used. When assigning traffic to Sutton Cross, no consideration was given to vehicles stopping at intermediate locations between it and the development site meaning the assessment is as conservative as possible. In addition, the approved development of 200 residential units at the former Techcrete and Teeling Motors site was also considered. Potential impacts of development construction and operation were examined within the submitted TIA. Of note was that the Sutton Cross junction was shown to be at or near full capacity in all scenarios under the existing layout, with very little reserve capacity on all approaches. However, the addition of the proposed development, together with the previously approved development on Techcrete lands is shown to have minimal impacts on this junction both in terms of queuing and RFC.
- 11.7.6. As has been stated above, I am of the opinion that the subject site is located within an outer suburban area, within a public transport corridor. It is located within Zone 1 of the Fingal County Development Plan 2017 in relation to parking provision, which allows for some flexibility in standards. The subject site is located between 650-850m of an electrified urban rail service. The site is located within the village core, in an established area with much of the site zoned for town centre uses. While the frequency of the DART service could be improved, the infrastructure is there and

may be improved in time as demand increases. As it stands the service is not bad- the Irish Rail website, www.irishrail.ie indicates that there is a train approximately every 15 mins to the city at peak commuter times in the morning and vice versa in the evenings. Outside of peak times, there is a train approximately every 30 mins in either direction. In many such areas, the problem is that the infrastructure is not there in the first instance- that is not the case in relation to this current application. A Dublin Bus service also operates from the village to the city centre, which is located approximately 17km from the site. It is stated in the documentation that three separate bus routes serve stops directly adjacent to the subject site. Details of services are outlined in Table 5 of the submitted TIA. Car sharing options are also included within the proposal and I note there are plans to improve the cycle network in the vicinity, as contained within the NTA Greater Dublin Area Cycle Network Plan. I have had regard to Chapter 4 of the Sustainable Urban Housing: Design Standards for New Apartments (2018) and to the National Planning Framework and in particular National Policy Objective 13 in relation to this matter. As is stated above, 0.73 car parking spaces are proposed per unit. The Bord, if minded to grant permission, may wish to increase this figure to 1 space per unit, as is the preference of the planning authority. This matter could be dealt with by condition. Issues raised in relation to inappropriate parking on surrounding roads and blocks of emergency vehicles is a matter for law enforcement, outside the remit of this planning application.

11.7.7. Having regard to all of the information before me, I am satisfied with the level of car and bicycle parking provided and have no information before me to believe that the proposal if permitted would lead to the creation of a traffic hazard or obstruction of road users in this instance.

11.8. Drainage

11.8.1. In term of site services, a new water connection to the public mains is proposed, together with a new connection to the public sewer, both connecting to the existing drainage on Main Street. In terms of water supply, it is proposed to connect to the existing water main at the entrance to the site on Main Street. An Irish Water Pre-Connection Enquiry in relation to water and wastewater connections has been

submitted by the applicant, as required. It states that subject to a valid connection agreement being put in place, the proposed connection to Irish Water network can be facilitated subject to a required upgrade to approximately 450m of existing 6" CI watermain along Balglass Road and Main Street. A report was received from Irish Water, at application stage, which raises no objections to the proposal, subject to condition.

- 11.8.2. It is noted in the documentation that there is an existing trunk sewer (Howth Tunnel) running through the property at deep level. It is stated that discussions have been on-going with Irish Water about the appropriateness of the proposals to build over this tunnel. Correspondence from Irish Water, dated 30/01/18, which confirms that subject to entering into a Build Over Agreement, the build over is feasible, subject to conditions is included with the application. Email correspondence from Irish Water to the applicant, submitted with the application states that the build-over and connection agreements can be finalised in parallel to or post planning. The report of the Water Services Department of the planning authority, as contained in the Chief Executive Report states that they have no objections to the proposed development, subject to conditions.
- 11.8.3. It is stated within the Engineering Report that the site is deemed as low risk for fluvial and tidal flooding due to its elevation and topography, and it was deemed a separate flood risk assessment was not required, following consultations with the planning authority. The proposed drainage system has been analysed for a 30-year return and 100-year return period storm events. The analysis shows that no flooding will occur in either event. The ground levels in the subject lands vary from 19.0m AOD at the junction with Main Street to 34m at the south of the site. The site is not at risk of coastal flooding. All buildings are a minimum of 500mm above the design 100-year water level in the attenuation facility. I have examined all of the information before me in this regard. I have also examined the OPW website www.floodmaps.ie which has no reports of flooding in the immediate vicinity of the site. I note that this is a serviced, appropriately zoned site at an urban location. I consider that having regard to all of the information before me, including the guidance contained within

the relevant Section 28 guidelines on flood risk management that this matter can be adequately dealt with by means of condition.

11.9. Biodiversity

- 11.9.1. This section of my assessment examines biodiversity, with the issue of appropriate assessment being examined below in section 11.10. There is some overlap between the two sections. I draw the attention of the Bord to the fact that this proposal is considered to be a sub-threshold development for EIAR. An Ecological Impact Assessment (EclA) was submitted with the application, as was an Environment Report, EIAR Screening. I note that the Environment Report, EIAR Screening report incorrectly states in relation to biodiversity that the subject site is not included in any Natura 2000 site. As is stated above, a small portion of the site, namely Bascadden Road is included within the Howth Head SAC (Ref.000202). The Environment Report, EIAR Screening acknowledges that the Howth Head SAC is the nearest Natura 2000 site to the development site.
- 11.9.2. I note that a site assessment was carried out on 29th September 2017 and 15th October 2017 on behalf of the applicants. It appears that no other such surveys were undertaken. It was acknowledged in the documentation received that the field surveys were undertaken at a poor time to observe terrestrial mammal activity and no mammal activity or terrestrial mammals were noted on site. Rabbit burrows were noted. No amphibians were noted on site. No rare or threatened plant species of conservation value were noted during the field assessment. Records of rare and threatened species from NPWS were examined. No rare or threatened plant species were recorded in the immediate vicinity of the proposed site. No terrestrial mammal species were recorded by the NPWS rare and threatened species database in the immediate vicinity of the proposed site at a fine resolution. However, within 10km of the site, the hedgehog was noted. Good coverage of the area was observed due to poor ground cover. No badger setts or evidence of badgers were noted on site. It was acknowledged that the large area of bramble scrub was difficult to assess. No signs of digging or other activity by badgers was noted on site. Importantly, no habitats of conservation importance were found on the proposed development site.

11.9.3. I note the report of the Department of Culture, Heritage and the Gaeltacht which states that in relation to biodiversity, the field survey work, undertaken in September and October 2017 is inadequate for a comprehensive survey. Their report states that for example, it could mean that some plant species were not recorded and also that there was no breeding bird survey undertaken. I draw the attention of the Bord to the fact that in terms of nature conservation, the report of the Department has been divided into two parts- Special Area of Conservation (SAC) and Biodiversity. The concerns raised in relation to plant and bird surveys were raised under the biodiversity section of their report and were not raised under the Special Area of Conservation or Appropriate Assessment process. The Department have not expressed concerns in this regard in relation to the Qualifying Interests of any designated site within 15km of the development site under the SAC heading of their report.

11.9.4. From the information before me, it appears that no flora or breeding bird surveys have since been carried out. However, notwithstanding the above, I note the following. The concerns expressed by the Department do not relate to any Qualifying Interests of a designated site. The Qualifying Interests for the nearest designated site are the vegetated sea cliffs and European dry heaths. There are no sea cliffs on the site. The European dry heath occurs on slopes above the sea cliffs. As there are no sea cliffs on the development site, it is reasonable to conclude that there is no European dry heath on the development site. There is no information/evidence on file before me to believe that there is any European dry heath on the development site. The area of the development site which is located within the SAC is largely developed as a public roadway- Balscadden Road. No rare plant species or plant species of conservation value were noted during the field assessment. In addition, no rare or threatened plants species were recorded in the immediate vicinity of the site at a fine resolution. I am satisfied that the proposal will not result in any loss of designated habitat or species.

11.9.5. In terms of bird surveys, I note that the Qualifying Interest for the nearest SPA, Howth Head Coast SPA (Code 0004113) is the Kittiwake. The Department has not expressed any concerns in relation to this Qualifying Interest or Qualifying Interests

for any other designated sites. There is no information on file to suggest that the Kittiwake use this development site for nesting, roosting or feeding. They generally nest on sea cliff platforms. This development site is not a sea cliff platform. They generally feed on fish and fish waste. There are no fish or fish waste products on the subject site. Further details relating to the Kittiwake are dealt with below in the Appropriate Assessment element of this report. The bird species which were noted on site during the surveys completed are outlined in Table 4 of EclA, pg. 25. All, with the exception of the Herring Gull, are common species. I note that Howth Head SAC, the nearest designated site to the subject site, is of national importance for breeding seabirds and that the herring gull, which is red-listed, was observed on this development site. The herring gull is not a Qualifying Interest for the Howth Head SPA, although it is noted to be a Qualifying Interest for Ireland's Eye SPA. The submitted EclA states that the impact of the proposal on the herring gull was not deemed to be significant. There are stated to be two large colonies on nearby islands and along the cliffs of Howth Head. The roof of the Baily Court Hotel was not occupied by juveniles. The site is not a food source and did not appear to be a nesting location for herring gulls. It is expected that once development has been completed herring gulls will utilise the new buildings in a similar fashion to the existing onsite structures. This is considered reasonable.

- 11.9.6. There appears to be some discrepancy between agencies in relation to the Sand Martin. The Department of Culture, Heritage and the Gaeltacht state in their submission that their local staff report that Sand Martins are known to nest in the embankment in the vicinity of the proposed development and they are not mentioned in the EclA. The planning authority state that a verbal report from their Biodiversity Officer indicates that the Sand Martin does not appear to use this site for nesting. I note that the Sand Martin is not a Qualifying Interest for any of the designated sites within 15km of the subject site, and the Birdwatch Ireland website states that they are a widespread summer visitor to Ireland. They are Amber-listed in Ireland due to concerns over the European breeding population, though the population is currently stable. They almost exclusively feed on insects in flight; they breed in burrows dug into river banks or quarries and are less frequently seen in urban areas.

- 11.9.7. The following is noted. The Sand Martin is not a Qualifying for any designated site within 15km of the development site. The survey undertaken at the end of September did not record any Sand Martins on the subject site. I did not note any Sand Martins during my site visits in August. The site, which is located in an urban area is partly brownfield in nature with much hard-standing evident, particularly towards its northern end. While part of the site was previously used for quarrying, there are no river banks on the site. They do not feed on the grassland, instead they feed on insects in flight. Given the urban location of the site and having regard to all of the information above, I am not unduly concerned in this instance.
- 11.9.8. A bat survey was undertaken on October 15th 2017 and a Bat Fauna Assessment has been included within the application. Bats were noted to be foraging within the site but no evidence of bat roosts was noted in any of the onsite structures and it was considered by the applicant that no mitigation works are required with regard to these animals. This is considered acceptable.
- 11.9.9. I note the proposal includes for the introduction of native plant species found within the Howth SAAO into the landscape plan. I also note the provision of green roofs. These measures will improve biodiversity on the site.
- 11.9.10. Having regard to all of the above, I note the Natura 2000 sites in proximity to the development site and the Qualifying Interests of same. I note the urban location of the subject site, its partly brownfield characteristics and the nature of the proposal before me, which includes for measures to improve biodiversity. I note that Strategic Environmental Assessment was undertaken as part of the Development Plan process and that the site primarily has a town centre zoning. I note the report of the planning authority in this regard, which does not raise any concerns. No habitats of conservation importance were found on the proposed development site. The nearest designated site, Howth Head SAC has dry heath as one of its Qualifying Interest and considering there are no sea cliffs on the site, it is reasonable to conclude that there is no dry heath on site. No rare/threatened or protected plant or animal species, with the exception of the herring gull, were found on site. The roof of the Baily Court Hotel was not occupied by juvenile herring gulls. The site is not a food source and did not appear to be a nesting location for herring gulls. It is expected that once

development has been completed herring gulls will utilise the new buildings in a similar fashion to the existing onsite structures. The Kittiwake is a Qualifying Interest for the Howth Head SPA and given the information before me, I have no reason to believe that they utilise this site for nesting, roosting or feeding. I draw the attention of the Bord to the fact that the field surveys undertaken were limited in terms of timing. However, I note that if breeding birds or further plant species were found on site during further surveys, provided they were not Qualifying Interests for any designated Natura 2000 site, the environmental impact assessment process is such that it would not necessarily preclude development from taking place. I am satisfied with all of the information before me and having regard to all of the above, I consider that this issue is not so great as to warrant a refusal of permission.

11.10. Appropriate Assessment

- 11.10.1. A Stage 1 Appropriate Assessment Screening Report and Ecological Impact Assessment were submitted with the application, both prepared by Altemar. The subject site is located partly within the Howth Head SAC (Code: 000202) and the following Natura 2000 sites are located within 15km of it:

Table 5:

| Site Name and Code | Distance from subject site |
|---|----------------------------|
| Howth Head SAC (000202) | Within |
| Baldoyle Bay SAC (000199) | 720m |
| Rockabill to Dalkey Island SAC (003000) | 840m |
| Malahide Estuary SAC (000205) | 6.5km |
| Ireland's Eye SAC (002193) | 1.3km |
| Rogerstown Estuary SAC (000208) | 12.1km |
| Lambay Island SAC (000204) | 10.9km |
| South Dublin Bay SAC (000210) | 9.4km |
| North Dublin Bay SAC (000206) | 2.4km |
| Ireland's Eye SPA (004117) | 900m |
| Howth Head Coast SPA (004113) | 475m |
| Dalkey Islands SPA (004172) | c. 12.2km |
| North Bull Island SPA (004006) | 6.7km |
| South Dublin Bay and River Tolka Estuary SPA (004024) | 7.5km |
| Lambay Island SPA (004069) | 10.6km |
| Baldoyle Bay SPA (004016) | 2.8km |
| Malahide Estuary SPA (004025) | 7km |
| Rogerstown Estuary SPA (004015) | 11.4km |

11.10.2. The Screening Report identifies the qualifying interests and conservation objectives associated with each of the sites listed above. It also examines potential adverse impacts. Having regard to all of the information before me, including inter alia, the distances involved from designated sites, the fact that the development site is located within an urban environment, all soil removal and discharges will comply with planning authority conditions, on site drainage will comply with SuDS and foul water drainage will discharge to the public sewer, no impacts on these designated

sites or their features of interests is foreseen and no significant effects are likely. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the above listed European Sites, or any other European site, in view of the sites Conservation Objectives, and a Stage 2 Appropriate Assessment and submission of an NIS is not therefore required.

11.10.3. However, notwithstanding the above, given the proximity of the Howth Head SAC and Howth Head Coast SPA, together with the fact that the herring gull, a Qualifying Interest for Ireland's Eye SPA was noted on the development site I will, in the interests of clarity and to give fullness of assessment, further assess these sites. The Howth Head SAC (Code: 000202) includes for the road bordering the eastern side of the proposed development, namely Balscadden Road. It is proposed to carry out works to this road, which include primarily the provision of two pedestrian crossings with associated signage and lighting, together with the provision of a footpath along the eastern side of Balscadden Road, along the length of the site frontage. Some of these works lie within the SAC boundary. The Qualifying Interests for the Howth Head SAC are vegetated sea cliffs of the Atlantic and Baltic coasts (Ref. 1230) and European dry heaths (Ref. 4030). A number of Red Data Book plant species have been recorded at this site, as have a number of rare invertebrates and lichens. It also supports populations of at least two legally protected plant species and several other scarce plants. The site is also of scientific importance for its seabird colonies.

11.10.4. The Conservation Objectives are generic in nature aiming to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. The vegetated sea cliffs at Howth Head SAC extend for approximately 8.22km, with the greater part of the Howth Head SAC consisting of heathland and sea cliffs. Most of the cliffs are sheer with many reaching 30m or higher. European dry heath occurs on the slopes above the sea cliffs, which merges into dry grassland.

11.10.5. As has been stated above, the Qualifying Interests for Howth Head SAC are the vegetated sea cliffs and dry heath and these are stated to be 11m from the site outline on the far side of inhabited houses, as indicated by the NPWS Vegetated Seacliffs shapefile. However, it is stated that in reality, the seacliffs and dry heath are closer, approximately 8m from the subject site. Potential impacts on the Howth Head SAC have been examined in the Stage 1 Screening Assessment. Site works and operations will enter the SAC, only by use of the road by construction vehicles and for the proposed road upgrading works. Construction traffic will use the site entrance at this location, along with other site access routes for removal of soil and delivery of materials on site. Works will also be carried out on the road as detailed above. There is a potential risk that the road will see a build-up of soil and dust from construction traffic and debris and possibly petrochemicals from standard road resurfacing construction methods. It is stated that gullies from this road drain to the main drainage network in Howth village and do not enter the cliff area of the SAC to the east of the houses. As the features of interest are on the far side of the inhabited houses on the stretch of road, it is determined in the Stage 1 Screening Assessment that given standard construction phase controls outlined in the CMP and the proximity of the inhabited dwellings to the site between the development and the SAC, it is unlikely that soil and dust will significantly impact the features of interests of this SAC due to stringent requirements that will be placed on managing dust due to proximity of dwelling houses. It is noted that as prevailing winds could deposit dust from the site and surrounding roads onto the vegetation of this SAC, a stringent dust management regime should be in place on site, in particular this stretch of road to the east of the site. Adherence to these best practice construction methods, which are considered to be an intrinsic part of the work to be carried out could be dealt with by means of condition, if the Bord is disposed towards a grant of permission.

11.10.6. Therefore to summarise, I note the Conservation Objectives for the subject site and that site synopsis and conservation objectives for each of the Natura 2000 sites are available on www.npws.ie website. From the information before me, the subject site does not support the habitats of interest listed, namely sea cliffs and European dry heath. I note the distance of the seacliffs from the subject site,

together with the fact that there are existing dwellings located between the site and the cliffs. I note the fact that the designated European dry heaths grow on the slopes of these cliffs and that no such heath has been identified outside of the stringent SAC boundaries. There are no sea cliffs on the development site. As there are no sea cliffs, it is reasonable to conclude that there is no dry heath within the development site boundary. The proposal will not result in any habitat loss or loss of species. I did not note any sea cliffs or European dry heath on site during my visits. There is no information on file to suggest that there are sea cliffs or dry heath on the development site. I note that all gullies flow away from the SAC to the main drainage network in Howth village. I note the nature and extent of the development proposed, on a site that is largely brownfield in nature. I note that the area of the development site which lies within the SAC boundary is already developed as a public road- Balscadden Road. I note the relatively limited duration of the proposed construction works and I consider that the best practice construction methods, which are considered to be an intrinsic part of the work to be carried out, could be dealt with by means of condition, if the Bord is disposed towards a grant of permission. I note the report of the Department of Culture, Heritage and the Gaeltacht which, as has been stated above, does not raise concerns in relation to the Special Area of Conservation except to say that ABP should ensure that there will be no adverse impacts on the integrity of the SAC, in particular ABP should ensure they have enough details of construction methodology as proposed in any construction management plans supplied. I also note that the planning authority have not raised concerns in relation to this matter. I note that Strategic Environmental Assessment would have been undertaken on this site as part of the Development Plan process and that, the development site has largely a town centre zoning objective.

- 11.10.7. Having regard to all of the above, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 000202, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment and submission of an NIS is not therefore required.

11.10.8. The subject site is also proximate to the Howth Head SPA, located approximately 475m from the development site. The Qualifying Interest for this SPA is the Kittiwake (Bird Code A188) and the Conservation Objectives are again generic in nature aiming to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA. Potential impacts on the Qualifying Interest, the Kittiwake, have been screened out in the Stage 1-Screening Assessment Report. It is stated that disturbance and impacts caused by the works will be localised to the immediate environs of the development. Noise from demolition and construction may reach the SPA during calm weather. However, the development is within an urban environment, within a working fishing harbour and marina with elevated noise levels. Kittiwakes, who regularly nest in active and noisy environments, for example the harbour area of Dunmore East, would not be expected to be disturbed by the short term noise from the proposal. On-site drainage will comply with SuDS, foul water drainage will discharge to the public sewer and best practice construction methods will be in place. No impacts on this designated site or its features of interests is foreseen- the proposal would not be expected to impact on the population dynamics of the Kittiwake; the natural range of the species or the habitat to maintain its population on a long-term basis. The applicant concludes by stating that no significant effects are likely.

11.10.9. To summarise, I have examined the information contained in the submitted Stage 1 Screening Assessment. I note the Conservation Objectives for the subject site and that site synopsis and conservation objectives for each of the Natura 2000 sites are available on www.npws.ie website. From the information before me, the subject site does not support the species of interest listed. I also note information contained on www.birdwatchireland.ie in relation to the Kittiwake. I note that they are summer visitors to steep coastal cliffs along all Irish coasts and they disperse to the open ocean in winter. They breed on the steep sea cliffs where they build a nesting platform on the most vertical and sometimes improbable steep areas. I note that they occasionally use man-made structures such as old buildings. There are no steep sea cliffs or nesting platforms on this development site for them to nest or breed. No evidence of kittiwake was found in the surveys undertaken by the applicants. I did not note any kittiwakes on site during my site visit. Their diet is

primarily fish, waste from commercial fishing and invertebrates. There are no fish or fish waste from commercial fishing on the development site.

- 11.10.10. I note that the Department of Culture, Heritage and the Gaeltacht have not raised concerns in this regard. Concerns raised in relation to breeding bird surveys do not relate to Qualifying Interests of designated sites. The planning authority have not raised concern in relation to this issue, I note that Strategic Environmental Assessment would have been undertaken on this site as part of the Development Plan process and that, the development site has largely a town centre zoning objective.
- 11.10.11. Having regard to all of the information before me, including the location and nature of the development site, I consider that it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 004113, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment and submission of an NIS is not therefore required.
- 11.10.12. I note the herring gull was observed on site during bird surveys. This species is a Qualifying Interest of Ireland's Eye SPA, which is located approximately 900m from the development site. No other Qualifying Interests of Ireland's Eye SPA were observed on site. The Stage 1- Screening Assessment states that it would not be expected that noise from the demolition and construction would reach this SPA as it is located on the far side of a working fishing harbour and marina, with already elevated noise levels. All soil removals and discharges from the site will have to comply with planning authority conditions. On site drainage will comply with SuDS and foul water will discharge to the public sewer. Standard construction phase controls including dust, noise and drainage management will be on site to reduce the potential impact of the development. The development is not likely to significantly impact on the conservation interests of this SPA and no significant effects are likely. The submitted EclA states that the impact of the proposal on the herring gull was not deemed to be significant. There are stated to be two large colonies on nearby

islands and along the cliffs of Howth Head. The roof of the Baily Court Hotel was not occupied by juveniles. The site is not a food source and did not appear to be a nesting location for herring gulls. It is expected that once development has been completed herring gulls will utilise the new buildings in a similar fashion to the existing onsite structures. This is considered reasonable.

11.10.13. To summarise, there will be no loss of species or habitat as a result of the proposal. I note the information detailed above. The herring gull was the only Qualifying Interest of Ireland's Eye SPA noted on this development site. In relation to the herring gull, the site was not occupied by juveniles at the time of the surveys undertaken. I did not note juvenile herring gulls on site at the time of my site visits. The site is not a food source and does not appear to be a nesting location for this species. The birds will use the roofs of the new proposed buildings, in much the same way as they do with the current structures. I note that the Department of Culture, Heritage and the Gaeltacht have not raised concerns in this regard. Concerns raised in relation to breeding bird surveys do not relate to Qualifying Interests of designated sites. The planning authority have not raised concern in relation to this issue, I note that Strategic Environmental Assessment would have been undertaken on this site as part of the Development Plan process and that, the development site has largely a town centre zoning objective.

11.10.14. Having regard to all of the information before me, including the location and nature of the development site relative to Ireland's Eye SPA, I consider that it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 004117, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment and submission of an NIS is not therefore required.

11.11 Other matters

- 11.10.15. I would concur with the opinion of the applicant that the proposed development is below the thresholds of a mandatory EIAR. It is also considered that a sub threshold EIAR is not required in this instance.
- 11.10.16. In terms of the proposed retail provision, I note the contents of some of the submission received, some of which are contradictory in nature stating that there is too little/too much retail in the village centre and raising the point that no Retail Impact Assessment was submitted with the application. I have had regard to the Retail Planning Guidelines (2012) issued from the Department, which require a plan led approach and secondly a sequential development approach. I consider that the proposed development complies with this guidance. The main street of a designated Level 4 village, with a town centre zoning is an appropriate location for new retail development. I note that the operative County Development Plan does not require a retail impact assessment for developments under 1,000sq.m. The proposed retail offering is stated as being 757 square metres and is considered to be of an appropriate scale to aid the vitality and vibrancy of the village centre without detracting from it.
- 11.10.17. Some of the submissions received consider that the proposal is in contravention of Objective DMS174 of the operative County Development Plan, which seeks to prohibit new development outside urban areas, within areas indicated on Green Infrastructure Maps, which are within 100m of coastline at risk from coastal erosion. As the subject site is located within an urban area, within an area zoned for town centre uses, I consider this objective not to be applicable in this instance.
- 11.10.18. Concerns have been raised regarding the existing right of way, in particular ensuring that this right of way is maintained. An upgraded street is proposed along the base of the mound through to Balscadden Road. I have dealt with the matter of ensuring that this path is available 24/7 above, that it is not gated or access obstructed in any way. Any legal matters outside of this are outside the remit of this planning application.
- 11.10.19. I note the community gain being provided by the proposed community space. I recommend that details relating to the operation, availability and management of this

proposed community facility be dealt with by condition, if the Bord is disposed towards a grant of permissions and agreed in writing with the planning authority prior to the occupation of any residential units on site.

11.10.20. I have no information before me to believe that existing services and utilities in the vicinity do not have capacity to accommodate the development proposed.

11.10.21. I note there are some minor discrepancies in the drawings submitted. For example, the submitted contiguous elevation along Balscadden Road (Dwg. 1642 P 501) is partially incorrect. These discrepancies do not affect the outcome of the recommendation nor do they prevent me making a comprehensive assessment of the proposal before me.

11.10.22. Based on the information before me, I am satisfied that the issue of waste management may be adequately dealt with by means of condition, if the Bord is disposed towards a grant of permission.

11.10.23. Procedural issues raised in relation to the SHD process, ABP website and pre-planning consultations are noted. The application was lodged in accordance with the provisions of the Planning and Development (Housing) and Residential Tenancies Act 2016 and associated Regulations of 2017. I am satisfied that the entire application process has been undertaken strictly in accordance with the Planning and Development (Housing) and Residential Tenancies Act 2016 and associated Regulations of 2017. In relation to section 5 consultations and the forming of the Opinion, it is noted that this is a delegated function to the Director of Planning/Assistant Director of Planning, with the Bord not having any involvement at the pre-application stage of the process. To clarify, there is a link from the An Bord Pleanála website to the developer's website for this application. Issues have also been raised with regards the visibility of the site notice. Article 293 of the Planning and Development (Strategic Housing Development) Regulations 2017 deals with time limits for site notice. This has not been raised as an issue by the planning authority. The volume of submissions received by the Board in relation to this application would support the conclusion that the public have been made aware of the proposed development.

11.10.24. There appears to be some conflict within the submissions in relation to public consultation. In some submission, the lack of public consultation was raised as an issue; other submissions referred to a public consultation meeting. Irrespective, while it may be beneficial to all parties involved, there is no obligation on the applicant to undertake public consultation in relation to the proposed development. Again, the volume of submissions received by the Board in relation to this application would support the conclusion that the public have been made aware of the proposed development.

12.0 Conclusion and Recommendation

12.1. In conclusion, I consider the principle of residential development to be acceptable on this site. I am of the opinion that this is a zoned, serviceable site within an established area where a wide range of services and facilities exist. I have no information before me to believe that the proposal, if permitted, would put undue strain on services and facilities in the area. In my opinion, the proposal will provide a high quality development, with an appropriate mix of units and an acceptable density of development catering to a range of people at varying stages of the lifecycle. The provision of retail units and community space is considered appropriate at this location. The opening up of the linear plaza, creating a link from Abbey Street through to Balscadden Bay will greatly enhance the amenity of the area for both existing and future occupiers. Importantly, the proposed pedestrian connections should be welcomed as a positive for the wider area.

12.2. I am satisfied that the proposal will not impact on the visual or residential amenities of the area, in particular the properties along Balscadden Road, to such an extent as to warrant a refusal of permission. Concerns raised in relation to excavation works and best practice measures can be appropriately dealt with by means of condition, if the Bord is so minded. The proposal, if permitted would not detract from the character or setting of the Martello Tower, its Motte or any other designated structures/sites in the vicinity. I am satisfied that the proposed development would not impact on protected views or prospects to any significant degree.

12.3. I consider the proposal to be generally in compliance with both national and local policy, together with relevant section 28 ministerial guidelines. I also consider it to be in compliance with the proper planning and sustainable development of the area and having regard to all of the above, I recommend that permission is granted, subject to conditions.

13.0 Reasons and Considerations

Having regard to the following:

- (a) the site's location within the established settlement of Howth village
- (b) the policies and objectives set out in the Fingal County Development Plan 2017,
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016
- (d) the Design Manual for Urban Roads and Streets (DMURS), 2013
- (e) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (f) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2018
- (g) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (h) Architectural Heritage Protection- Guidelines for Planning Authorities
- (i) the nature, scale and design of the proposed development,
- (j) the availability in the area of a wide range of social, community and transport infrastructure,
- (k) the pattern of existing and permitted development in the area,

- (l) the planning history within the area,
- (m) the submissions and observations received, and
- (n) the report of the Inspector

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

Decision Quashed

14.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to commencement of any works on site, revised details shall be submitted to and agreed in writing with the planning authority with regard to the following:
 - (I) Internal floor to ceiling height at ground floor apartments fronting onto the pedestrian street shall be a minimum of 3m. All other ground floor apartments shall have floor to ceiling heights of a minimum 2.7m
 - (II) The private amenity spaces to the ground floor apartments within Blocks B and C fronting onto the linear plaza shall be winter gardens
 - (III) The roof ridge level to the corner section of Block A shall be reduced by 1.5 metres. Roofs to the adjoining sections of this building shall be stepped down by between 300mm to 500mm to maintain grain. Eaves levels shall remain as applied for in order to ensure a shallower roof profile

Reason: In the interests of proper planning and sustainable development, to safeguard the amenities of the area and to enhance visual amenity within the ACA

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services. In particular, prior to construction of any development on site,

the applicant shall for the written agreement of the planning authority,

- a. submit full details of SuDS proposals
- b. examine the feasibility of disposing of all surface water on site and submit a report relating to same, in light of the sand and gravels which underlie the site beneath a layer of boulder clay
- c. justify the figure of 5.2l/sec/ha used as the greenfield run-off rate

Reason: In the interest of public health and to ensure a satisfactory standard of development.

4. The period during which the development hereby permitted may be carried out shall be 5 years from the date of this Order.

Reason: In the interests of proper planning and sustainable development

5. Pedestrian access to the western and eastern plazas, the pedestrian street and the northern pathway around Block C shall be permanent, open 24 hours a day, with no gates, security barrier or security hut shall be permitted at the entrances to this development from Balscadden Road, Main Street or the pathway access to the Martello Tower or within the development in a manner which would prevent pedestrian access between the areas identified above

Reason: In the interests of social inclusion

6. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:

(a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the Planning Authority for such works and shall be carried out at the developer's expense.

(b) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii. Turning radii from Main Street shall be no greater than 3m.

(c) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the Planning Authority for such road works,

(d) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site

(e) A minimum of three car parking spaces shall be reserved for car sharing, which is managed by the management company

(f) One car parking space per ten residential units shall have a functional Electric Vehicle Charging Point

(g) Car parking spaces shall be sold off in conjunction with the units and shall not be sold or let separately

(h) A Mobility Management Plan shall be submitted to the planning authority for their written agreement, within one year of the occupation of the first apartment. It shall be updated annually thereafter for a period of five years and submitted to the planning authority for their written agreement

(i) A suitable location for the marshalling of bins other than Main Street shall be agreed in writing with the planning authority

Reason: In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

7. The developer shall implement and comply with all recommendations set out in the GDG Geotechnical Survey, with specific reference to those identified in Section 4-7 inclusive. All works shall be carried out to the relevant Eurocode. This shall include temporary works which are required to be carried out in accordance with the requirements of the relevant Eurocode. Prior to the commencement of any works on site, a construction programme of works shall be provided by the developer for the written agreement of the planning authority detailing

- (a) Details of any further site investigation which shall be undertaken on site
- (b) Locations of monitoring which shall be undertaken, prior to the commencement of construction until a period of six months after construction is completed

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

8. The community room in Block B shall be made available for use by the residents of the development and the wider community. Within three months of the first occupation of the development by residents, the management arrangements for this community use shall be agreed with the planning authority. Any proposed change of use from community space shall be subject of a separate application for planning permission.

Reason: in the interests of clarity and ensuring adequate provision of community space

9. All works to ensure the stability of the mound to the Martello Tower and slopes to the western, southern and eastern boundaries of the site shall be designed and supervised by a qualified Engineer with professional indemnity insurance. A copy of

the professional indemnity certificate and associated design drawings for the proposed works shall be submitted to the planning authority for their written agreement, prior to the commencement of any works on site.

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

10. The site shall be landscaped in accordance with the submitted scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within 3 years of planting shall be replaced in the first planting season thereafter.

Reason: In the interest of residential and visual amenity.

11. The developer shall comply with the following in relation to biodiversity:

- (a) Vegetation clearance and tree removal shall take place outside the bird breeding season (March 1st- August 31st)
- (b) All buildings proposed for demolition and all mature trees proposed for felling shall be examined for evidence of bats, prior to any works by a bat specialist, including an examination of internal roof features. If required, an NPWS derogation licence shall be obtained
- (c) Prior to commencement of development, the developer shall submit a letter from their bat consultants, stating that they are satisfied that the final design of the external illumination proposed will be to the required specification and that important bat corridors are not illuminated

(d) After installation of the external lighting, a report shall be submitted, prepared by the bat specialist, for the written satisfaction of the planning authority, confirming that it is operating according to specification

Reason: In the interest of protecting the environment; providing adequate protection to Natura 2000 in the vicinity and to address any potential impacts on biodiversity

12. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. In this regard, the proposed dark brick to Block A shall be omitted and replaced with a lighter coloured brick, to the satisfaction of the planning authority

Reason: In the interest of visual amenity.

13. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenity of property in the vicinity and the visual amenity of the area.

14. Site development and building works shall be carried only out 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 amenities of property in the vicinity.

15. Prior to commencement of development, proposals for an apartment numbering scheme and associated signage shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development

16. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a properly constituted Owners' Management Company. This shall include a layout map of the permitted development showing the areas to be taken in charge and those areas to be maintained by the Owner's Management Company. Membership of this company shall be compulsory for all purchasers of property in the development. Confirmation that this company has been set up shall be submitted to the planning authority prior to the occupation of the first residential unit. For the purposes of clarity, the planning authority shall take in charge the western open space only, as indicated on Murray and Associates Drawing No.1710 PL P04

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

17. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

18. 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 carry out site testing and monitor all site investigations and other excavation works, following demolition, 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

(d) the Ministry of War boundary markers associated with the Martello Tower shall be protected in full

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 (in situ or by record) of any remains that may exist within the site

19. 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 (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 of the area.

20. A plan containing details for the management of waste 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: To provide for the appropriate management of waste, and in particular recyclable materials, in the interest of protecting the environment.

21. Details of all external shopfronts and signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the amenities of the area/visual amenity.

22. Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

23. 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 a demolition management plan, together with details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

24. 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 planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning 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 the Board for determination.

Reason: To ensure the satisfactory completion of the development.

25. The developer shall pay to the Planning Authority a financial contribution under section 48 of the Planning and Development Act 2000 (as amended) and the Fingal County Development Plan 2017, in lieu of the provision of public open space. This contribution shall be paid prior to commencement of development or in such phase payments as the Planning Authority may facilitate

Reason: For the provision of improvements or enhancement of existing amenities in the local area given the shortfall of 6850 square metres of public open space provision

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 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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

Lorraine Dockery

Senior Planning Inspector

24th August 2018

Decision Quashed

APPENDIX 1

Sub - Aimee Murphy

Sub - Aisling O'Rourke

Sub - Aisling Wright

Sub - Al Ryan

Sub - Alan Lloyd

Sub - Alexander Connolly

Sub - Andrew and Catherine Burke

Sub - Andrew and Jayne Mollard

Sub - Angela Fullam

Sub - Ann Dunne

Sub - Ann Egan

Sub - Annalisa Cawley

Sub - Annette Angier

Sub - Aodhán Ó Riordain

Sub - Asgard Apartments Residents

Sub - Balcadden Road SAA Residents Association

Sub - Barry Crowley

Sub - Barry O'Connor

Sub - Billy and Brenda Morgan

Sub - Breda Fagan

Sub - Breda Mullally

Sub - Brenda Dixon

Sub - Brendan and Siobhan Clifford

Sub - Brendan Hynes

Sub - Brian and Maria O'Driscoll

Sub - Brian McDonald

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Sub - Brian Tyrrell
Sub - Brid Kelleher
Sub - Brid Verdon
Sub - Bronwyn Reilly
Sub - Bryan F. Lynch
Sub - Caoimhin and Marie O'Laoi
Sub - Carmel Brennan
Sub - Cathy Fitzgerald
Sub - Chamber of Commerce Howth Sutton Baldoyle
Sub - Charles Sargent
Sub - Christian Morris
Sub - Cian O'Callaghan
Sub - Ciara Kellett
Sub - Ciaran O'Laoi
Sub - Colette and Pat Connolly
Sub - Colm Moriarty
Sub - Conor Mullen
Sub - Cormac Kavanagh
Sub - Corrie Gallagher
Sub - Daire Jameson
Sub - Damian and Bernadine Jennings
Sub - Darina Moore
Sub - Dave Lawson
Sub - David and Catherine Yeomans
Sub - David and Leona Kane
Sub - David Healy
Sub - Deborah Hewson and Gerry Rothwell

ried

Sub - Dept of Agriculture, Food and the Marine
Sub - Dermot Shekan
Sub - Development Applications Unit
Sub - Dolores McCormack
Sub - Donna Harkin
Sub - Dougal Cousins
Sub - Dungriffin Villas Residents Association
Sub - Eamon Reid
Sub - Eamonn O'Fearchain
Sub - Edmond F. Lally
Sub - Elaine Hassett and Joshua Hilliard
Sub - Emmet Hiney
Sub - Erica Brennan
Sub - Evan Schmidt Bleek
Sub - Finian McGrath T.D
Sub - Fiona Lawless
Sub - Friends of Balscadden Bay
Sub - Geoff Bray
Sub - Gerald Moloney
Sub - Gerald van de Poll
Sub - Geraldine Carty
Sub - Geraldine Mahony
Sub - Gerard Reidy
Sub - Gertrude Behan
Sub - Grainne McCarron and Others
Sub - Harriet Kennedy
Sub - Harry and Patricia Mines

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Sub - Helen and Syvain Borel
Sub - Hennewood Limited Builders and Contractors
Sub - Hillwatch
Sub - Howth Sutton Community Council
Sub - Hugh Byrne
Sub - Imelda Doyle
Sub - Irish Water
Sub - J Carton
Sub - James and Helen Kilroy
Sub - James and Kathleen Owens
Sub - James and Maria Moore
Sub - Jamie McConky
Sub - Janet Banville
Sub - Jay and Kay Whyte
Sub - JD McCrohan
Sub - Jeannette Byrne
Sub - Jessy Babin
Sub - Jimmy Guerin
Sub - Jo Leonard
Sub - Joan McKenna
Sub - John and Catherine Beckett
Sub - John and Cathy Brennan
Sub - John and Pam Towers
Sub - John Deegan
Sub - Joseph and Breda Buckley
Sub - Joseph Murphy
Sub - Josephine Harkin

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Sub - Josh Gobney Nicoll
Sub - Judy Scott
Sub - Karen Ni Mhanannan
Sub - Katerine McCormack
Sub - Kerstin Ruxton
Sub - Kevin and Grainne Mallon
Sub - Kevin Kellett
Sub - Lara Marlowe
Sub - Laura Hourihan
Sub - Leo Rickard
Sub - Leonard Cawley
Sub - Liam and Phil Cahill
Sub - Liam Giles
Sub - Lisa Lacy
Sub - Lorcan Blake
Sub - Loretta Cummins
Sub - Lori Cotter
Sub - Louise Lynch
Sub - Luke Finn
Sub - Lynna Henderson
Sub - M. Malocca
Sub - Marcus Lynch
Sub - Margaret Ruxton
Sub - Margery Kellett
Sub - Maria Quigley
Sub - Marjorie McHenry
Sub - Mark and Deirdre McSwiney

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Sub - Mark Lynch
Sub - Marlene McCormick
Sub - Mary Clavin
Sub - Mary Kelly
Sub - Mary O'Neill
Sub - Mary Sargley
Sub - Maureen Phelan
Sub - Melanie and Patrick McCaughey
Sub - Melvyn Dooley
Sub - Michael and Pamela Hilliard
Sub - Muiris and Gillian Shanahan
Sub - Nathalie Hourihan
Sub - Niam Gibney
Sub - Norbert Reilly
Sub - Norman Newcombe
Sub - O'Neill Town Planning
Sub - Orla Horan
Sub - Owen Corrigan
Sub - Patricia Dillion
Sub - Patricia Lovegrove
Sub - Patricia Nixon
Sub - Patrick and Helen Hobbs
Sub - Patrick Brazel
Sub - Patrick Hennessy
Sub - Paul Byrne
Sub - Paul Lambert
Sub - Paul Murphy

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Sub - Paula Connolly
Sub - Paula Lynskey
Sub - Paula McEvoy
Sub - Pauline and Jim Walsh
Sub - Pauline Gibney Nicoll
Sub - Peter Courtney
Sub - Peter Webster
Sub - Phil Droye
Sub - Phillip and Susan Watson
Sub - Phillip O' Connor
Sub - Rachel Finucane
Sub - Renee Howarth
Sub - Richard Sheils
Sub - Richard Wilson
Sub - Rita O'Carroll
Sub - Robert Orr
Sub - Roddy Comyn
Sub - Roisin Cranley
Sub - Rupert Jeffares
Sub - Ruth Sweeney
Sub - Sally O'Donovan
Sub - Sam G
Sub - Sarah McDonnell
Sub - Sarah Roberston
Sub - Sean Haughey
Sub - Shane O'Doherty
Sub - Sheila and Ian Beckett

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Sub - Sile Mongey
Sub - Simon O'Neill
Sub - Sinead McCormack
Sub - Siobhan and Tom Kelly
Sub - Sorcha Moran
Sub - Susan Maher
Sub - Tara Mullen and Alan Kelly
Sub - Terry Barry
Sub - Terry McMonagle
Sub - The King Sitric Limited
Sub - Thomas P. Broughan
Sub - Tom Fitzpatrick
Sub - Una Sealy
Sub - William and Georgina Nixon

Decision

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