



An
Bord
Pleanála

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

Inspector's Report ABP-360102-19

Strategic Housing Development

512 apartments, 2 shops, a crèche, a
café and a restaurant

Location

Howth Road, Howth, Dublin 13

Planning Authority

Fingal County Council

Applicant

Atlas GP Ltd

Prescribed Bodies

Department of Culture, Heritage and
the Gaeltacht

Iarnród Éireann

Irish Aviation Authority

Transport Infrastructure Ireland

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Date of Site Inspection

18th March 2020

Inspector

Stephen J. O'Sullivan

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1.0 Introduction

- 1.1. 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 site is on the northern side of the Howth peninsula c 13km north-east of Dublin's city centre. It occupies part of the flat coastal strip between the Howth Road and the sea below the Hill of Howth to the south. The site has a stated area of 2.68ha and is elongated on the east-west axis. Its eastern end is within 100m of the railway station and the town centre of Howth facing the harbour. The site is comprised of the former premises of the Techrete factory, a car dealership and a garden centre. It is largely brownfield land with a series of disused structures upon it. Its northern boundary is with the railway, on the far side of which runs a promenade linking Clarendon strand with the town centre. The western end of the site adjoins vacant land beside the public open space at Baltray Park and a pumping station on the foul sewer. Two detached houses stand immediately to the east of the site between it and the railway station. One of the houses is the former station master's house. The southern boundary of the site has c450 frontage along the Howth Road. The eastern end of this frontage faces an apartment block and four detached houses. The western end faces the northern boundary of the land occupied by Howth Castle and St. Mary's Church.

3.0 Proposed Strategic Housing Development

- 3.1. The proposed development would provide 512 apartments, 2 shops, a creche, a restaurant and a café.

The proposed housing mix would be as follows-

	Studio	1-bedroom	2-bedroom	3-bedroom	Total
Apartments	4	222	276	10	512

The gross floor area of the residential development would be 45,379m² including 708m² of shared amenity space. The floor area of the creche would be 236m². One shop would be 1,705m², the other 603m². The restaurant would be 243m², the café 86m².

- 3.2. The development would include the demolition and removal of the industrial and commercial structures on the site and the excavation of a basement. Four buildings would be erected up to 8 storeys high. Blocks A and B at the western end of the site would be U-shaped with the open end towards the sea. They would have parking and plant rooms at the ground floor level with communal open space at a podium level equivalent to the lowest floor of apartments. That level would accommodate shared amenities including a gym in Block A and the creche in Block B. Public open space would be provided to the west of Block A up to the site boundary. An open space would be provided between Blocks A and B through which the Bloody Stream would be diverted into a new open channel. Blocks C and D at the eastern end of the site would have the shops, restaurant and café at ground floor level facing the Howth Road and a plaza between them. A pedestrian path would be provided along the northern side of the site at the podium level with access from the street at both ends. The parking areas at ground and basement level would be served by 2 vehicular accesses from the Howth Road. 439 car parking spaces would be provided, 80 of which are designated to serve the commercial premises. 1,335 bike spaces are proposed, 49 of which would serve the commercial premises and the creche.

4.0 Planning History

- 4.1. PL06F. 246151, Reg. Ref. 15A/0362 –On 20th June 2016 the board granted permission for 145 apartments, 55 houses, 6 commercial units and 487 car parking spaces on the site.
- 4.2. PL06F. 240171, Reg. Ref. F11A/0028 – On 13th March 2013 the board granted permission for 281 apartments, 5 houses, 3 commercial units and 462 car parking spaces on the site. The period of this permission has been extended to 13th March 2023.
- 4.3. PL06F. 235083, Reg. Ref F08A/1172, - On 25th March 2010 the board refused permission for a mixed use development on the site including 386 homes, as well as

offices, shops and a hotel. The reasons for refusal referred to visual impact and overdevelopment, poor levels of amenity for the proposed apartments and inadequate information about the excavation of the site.

5.0 Section 5 Pre Application Consultation

5.1. A pre-application consultation with the applicants and the planning authority took place at the offices of An Bord Pleanála on the 17th July 2019 in respect of a proposed development on the site. The main topics raised for discussion at the tripartite meeting were as follows:

1. Development strategy- density, height, elevational treatments, open space/public realm and connectivity
2. Visual and residential amenity
3. Drainage and flood risk
4. Appropriate assessment
5. Parking and transportation
6. Any other matters

Copies of the record of the meeting and the inspector's report are on this file.

5.2. The board issued an opinion on which stated that the submitted documents would constitute a reasonable basis for an application for strategic housing development.

5.3. The opinion also stated that the following specific information should be submitted with any application for permission –

1. A statement of consistency that adequately addressed local objective 108 and the core strategy in the county development plan
2. A visual impact assessment
3. A report on residential amenity
4. A landscaping plan that would distinguish public, communal and private open space
5. A phasing plan
6. A school demand and concentration report
7. Details of surface water management

8. Details of traffic access and circulation
9. Details of waste management
10. A building life cycle report
11. A schedule of floor areas
12. A construction and demolition waste management plan

5.4. Applicant's Statement

- 5.4.1. The statement says that the specific information requested by the board has been submitted, In particular the statements of consistency and contravention address local objective 108 and the core strategy of the development plan; CGIs and cross sections area are provided, as are a daylight and sunlight analysis, landscaping proposals, a construction management plan that addresses phasing and a report about schools.

6.0 Relevant Planning Policy

6.1. National Policy

- 6.1.1. The government's housing policy is set out Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016. The overarching aim of this Action Plan is to ramp up delivery of housing from its current under-supply across all tenures to help individuals and families meet their housing needs.
- 6.1.2. The government published the National Planning Framework in February 2018. Objective 3a is that 40% of new homes would be within the existing built up areas of settlements, while objective 3b is that 50% of new homes in cities would be within their existing footprints as defined in the census. Objective 10a and table 4.1 set a minimum population target for Dublin of 1,408,000 in 2040 compared to the figure of 1,173,000 recorded in 2016. Objective 11 is to favour development that can encourage more people to live or work in existing settlements. Objective 13 is that in urban areas, planning and related standards including those on building height and car parking will be based on performance criteria. Objective 35 is to increase residential density in settlements by various means including infill development.
- 6.1.3. The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas were issued by the minister under section 28 in May 2009. Section 1.9

recites general principles of sustainable development and residential design, including the need to prioritise walking, cycling and public transport over the use of cars, and to provide residents with quality of life in terms of amenity, safety and convenience. Section 5.6 states that there is no upper limit on the number of dwellings that could be provided in town centres subject to other normal planning criteria. Section 5.8 states that densities of less than 50 dph on public transport corridors should be discouraged. A design manual accompanies the guidelines which lays out 12 principles for urban residential design.

- 6.1.4. The Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments were issued in March 2018. Section 2.4 states that central and accessible urban locations, including those within walking distance of a railway station, are generally suitable for development at higher densities which is wholly composed of apartments. The minimum floor area for one-bedroom apartments is 45m², for two-bedroom apartments it is 73m² and for three-bedrooms it is 90m². Most of proposed apartments in schemes of more than 10 must exceed the minimum by at least 10%. Requirements for individual rooms, for storage and for private amenities space are set out in the appendix to the plan. In accessible locations a minimum of 33% of apartments should be dual aspect. Ground level apartments should have floor to ceiling heights of 2.7m. Section 4.19 states that the default policy is for car parking to be minimised for apartment schemes in central accessible areas.
- 6.1.5. The minister issued Guidelines for Planning Authorities on Urban Development and Building Heights in December 2018. SPPR 1 restates public policy in favour of increased building height and density in locations with good public transport accessibility. Section 2.3 states that higher density does not necessarily require taller buildings, but increased height is a significant component in making optimal use of the capacity of sites in urban locations. Section 3.2 sets out development management criteria at the scale of the city/town, district/neighbourhood/street and the site/building. Where a proposal does not meet the requirements for daylight set out in BS 8206-2 2008 or the BRE guidelines, then compensatory design solutions must be set out. SPPR 3 is that a planning authority may grant permission for higher buildings where compliance with the criteria in section 3.2 has been demonstrated even if a development plan would indicate otherwise.

- 6.1.6. The minister and the minister for transport issued the Design Manual for Urban Roads and Streets (DMURS) in 2013. Section 1.2 sets out a policy that street layouts should be interconnected to encourage walking and cycling and offer easy access to public transport. Section 4.3.1 states that the design of vehicle crossovers should clearly indicate the pedestrians have priority over vehicles.
- 6.1.7. Section 3.3.1 of the Guidelines for Planning Authorities on Childcare Facilities issued in June 2001 recommends that new housing areas be provided with childcare facilities at a standard of one facility with 20 spaces for every 75 homes.
- 6.1.8. The Guidelines for Planning Authorities on Retail Planning issued in 2012 are based on 5 key policy objectives to ensure that retail development is - plan led; promotes the vitality of city and town centres; secures competitiveness by actively enabling proposals in suitable locations; facilitates a shift to public transport; and delivers good urban design.

6.2. **Regional Policy**

- 6.2.1. Objective RPO 4.3 of the Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Regions 2019-31 supports the consolidation and re-intensification of brownfield sites in Dublin. Outcome RSO 1 would be to better manage the sustainable and compact growth of Dublin as a city of international scale.

6.3. **Local Policy**

- 6.3.1. The Fingal County Development Plan 2017-2023 applies. The site is zoned TC – Town and District Centre. It is subject to local objective 108 which states that “Development shall be between three and five storeys. The three storey aspect of the development shall be on the western side of the site and a maximum of 30% of the overall development shall be five storeys.” Indicative cycle/pedestrian routes are shown along the Howth Road and to the north of the site.
- 6.3.2. The core strategy and settlement strategy in section 2 of the plan identifies Howth as a ‘Consolidation Area within a Gateway’. The core strategy is based on target populations for Dublin and Fingal set by the regional planning guidelines in force when the plan was made. The targets are that the population of the Dublin region in 2022 would be 1,464,000 while that of Fingal would be 309,285. This would require a housing stock of 142,144 in Fingal compared to the 105,392 that existed in 2015.

Allowing for headroom in accordance with the method stipulated in guidelines from the minister, the current development plan zones enough land, 1,737ha, for the development of 49,541 homes in the county. 16ha of this land is in Howth including the current site. The strategy envisages that this 16ha could accommodate 498 homes. A proposed variation to the plan to comply with the RSES would change the remaining zoned area in Howth to 14ha which could accommodate 436 homes.

- 6.3.3. General objectives regarding the settlement strategy are set out in the plan including SS01 to “ Consolidate the vast majority of the County’s future growth into the strong and dynamic urban centres of the Metropolitan Area while directing development in the hinterland to towns and villages, as advocated by national and regional planning guidance”, SS02 is to “Ensure that all proposals for residential development accord with the County’s Settlement Strategy and are consistent with Fingal’s identified hierarchy of settlement centres” and SS15 to “ Strengthen and consolidate existing urban areas adjoining Dublin City through infill and appropriate brownfield redevelopment in order to maximise the efficient use of existing infrastructure and services”.
- 6.3.4. Chapter 4 of the plan refers to urban Fingal. It includes a section about Howth. It lays out a strategy to develop village in a manner that will protect its character, and strengthen and promote the provision and range of facilities with future development will be strictly related to the indicated use zones including the infilling of existing developed areas rather than further extension of these areas. Objective HOWTH 1 is to “Ensure that development respects the special historic and architectural character of the area”. Objective HOWTH 2 is to prepare a public realm strategy, HOWTH 3 is to retain ground floor commercial uses in the village core, HOWTH 4 is to protect and manage the special amenity area and HOWTH 6 is to encourage a community centre in the village.
- 6.3.5. The railway station, station master’s house, Howth Castle and St. Mary’s Church are protected structures. The castle and the church are included in an Architectural Conservation Area and the buffer zone for the Special Amenity Area which extends to the Howth Road opposite the site. Those lands are zoned HA -Amenity. Another ACA is designated for the town centre c300m east of the site.
- 6.3.6. Other objectives of the plan are –

NH60 – “Strictly control the nature and pattern of development within coastal areas and ensure that it is designed and landscaped to the highest standards, and sited appropriately so as not to detract from the visual amenity of the area. Development shall be prohibited where the development poses a significant or potential threat to coastal habitats or features, and/or where the development is likely to result in altered patterns of erosion or deposition elsewhere along the coast.”

PM33 “Enhance and develop the fabric of existing and developing rural and urban centres in accordance with the principles of good urban design, including the promotion of high quality well-designed visually attractive main entries into our towns and villages”

ED85 “Ensure that settlements and locations within the Metropolitan Area pursue development policies of consolidation, and maximise their economic strengths and competitive advantages such as tourism and marine sectoral activities in Malahide and Howth, while the lands within the southern part of the County maximise their economic potential through the strong functional linkages to the M50”

6.4. Statement of Consistency

- 6.4.1. The proposed development would have a density equivalent to 191 dph with a plot ratio of 1:1.78 and site coverage of 29%. 33% of the site would be public open space. Parking would be provided at a rate of 0.7 per apartment. The site is close to a town centre and public transport facilities and meets the criteria for increased density and building height. The scheme would be permeable for pedestrians. A childcare facility would be provided.
- 6.4.2. The proposed residential development at a suitable density in a town centre beside a railway station would meet various objectives of the National Planning Framework including 11, 32 and 35. The proposed height would be in keeping with the 2018 guidelines on building height including SPPR1 and the development management criteria set out in section 3 of those guidelines in relation to the city/town, the district/neighbourhood/street and the site/building. The submitted analysis shows that the open spaces will perform well in terms of daylight and sunlight and 80% of habitable rooms will achieve the average daylight factor set out in the BRE guidance. The site is central and accessible under the terms set out in section 2.4 of the 2018 guidelines on apartment design and so is suitable for apartment schemes at higher

densities. The floor areas of the apartments meet the standard set out in those guidelines, as do the individual rooms and private amenity spaces. 51% of them would exceed the minimum by at least 10%. 36% of units are dual aspect and there are no single aspect units facing north. 3,259m² of communal open space would be provided compared to the 3,148m² that is required under the guidelines. The density of the development is in keeping with the advice at section 5.8 of the 2009 guidelines on sustainable urban residential development for public transport corridors. The design would meet the 12 criteria set out in the manual issued with those guidelines. As set out in the submitted flood risk assessment, the site is in zone C where residential development is acceptable under the 2009 guidelines on flood risk management. A childcare facility would be provided in line with the 2001 guidelines on the subject. "A Natura Impact Assessment ... is submitted with this request for to enter into pre-application consultations with the Board" *sic*.

6.4.3. The site is in Dublin city and its suburbs. The RSES supports the consolidation of Dublin and aims to provide 50% of population growth within its built up area. The strategy notes that there may not be an ideal fit between some development plans and the NPF and that the zoning of land and granting of permission may not always lead to housing delivery.

6.4.4. The housing target for Howth set out in table 4.2 of the Fingal County Development Plan 2017-2023 envisages that the 16ha of zoned land there could accommodate 498 homes. This is equivalent to 31dph. It would be unsustainable and contrary to national policy to develop the current site in a town centre beside a railway station at such a low density. The current proposal complies with the development strategy for Howth set out in the plan by protecting the character of the town, increasing its population and range of services, and by promoting a vibrant town core with pedestrian permeability. The proposed development would have a negligible, neutral or positive impact on most of the views protected under the development plan. Residential development is permitted under the TC zoning of the site. There is a protected view through the Castle gates. The proposed residential development is of high quality and complies with the various policies and objectives of the plan in favour of good quality housing and the provision of childcare. Although the implementation of the Howth Urban Centre Strategy 2008 is not an objective of the current development plan, the development would provide a mix of uses and

improvements to the public realm. Iarnród Éireann indicated to the applicant that it would only agree to a proposal for pedestrian bridge over the railway that had been fully designed and which would be taken in charge by the council. The applicant is not proposing to build the bridge over the railway as part of this application but would be agreeable to a special financial contribution towards one.

6.5. Material Contravention Statement

- 6.5.1. The statement says that the board might consider the proposed development to be a material contravention of the core settlement strategy set out in the development plan because it would provide more housing than target of 498 units for Howth in that strategy, especially if the Bascadden development is included. The height of the proposed development, as 8 storeys, would materially contravene local objective 108 which states that development on this site should be between 3 and 5 storeys.
- 6.5.2. Any material contravention of the settlement strategy is justified by RPO4.3 of the RSES which supports high density development on brownfield sites in Dublin. The material contravention of local objective 108 by objectives 13 and 35 of the NPF and SPPR 3 of the 2018 guidelines on building height. The circumstances section 3 of the guidelines apply in this case. The site is served by the railway and bus services. The site is outside the ACA at Howth Castle and its current appearance is poor. Visual and conservation reports are submitted which demonstrate that the impact of the development on the character of the area and protected structures would be acceptable. The proposed design is high quality and will improve the vibrancy of the town centre and the public realm. The street frontage will be broken up to provide views towards the sea and Ireland's Eye. The scheme will be permeable and will provide access to new public spaces. Appropriate daylight and sunlight will be available with reference to BRE and BS standards

7.0 Third Party Submissions

- 7.1. Eight-five submissions on the application have been received. Several submissions stated that the redevelopment of the former factory was necessary to improve the visual amenity of the area. However all the submissions objected to the proposed development on grounds that can be summarised as follows-

- The proposed height and density are excessive. The development would injure the established character of Howth as a historic fishing village and tourist centre with relatively low buildings and extensive undeveloped areas. Development of this scale, form and design is not appropriate for a sensitive location at the entrance to Howth village beside the protected structure at St. Mary's Church and the castle. It would damage the setting and integrity of the protected structure at Ben Eadair Lodge. It would fail to open views from the street towards Ireland's Eye. The LVIA indicates the negative impact that the development would have on views. It would be more appropriate to an urban area near the city centre.
- The scale and form of the proposal would materially contravene the county development plan including its core strategy which places a limit of 498 on the number of homes to be provided in Howth. It would also materially contravene the plan's policies to protect the character of adjacent Architectural Conservation Areas, the objectives SS02, NH60, PM33, ED85 and HOWTH 1-4, local objective 108 and the requirement under section 11.4 to protect the adjoining land to the south that is zoned for High Amenity. The neighbouring land is also subject to the special amenity area order for Howth and the impact of the proposed development upon its amenity renders it contrary to the provisions of that order including objective 1.1.
- The area does not have adequate facilities to support development at the scale proposed. Schools and doctors do not have spare capacity and the assessment submitted with the application underestimates the demand for places in them from the residents of the proposed development. Bus services are infrequent and subject to delay at Sutton Cross and the train services are congested with no spare capacity. The public transport services that are available in the area would not justify the proposed contravention of the local plans which have been prepared with suitable professional expertise and input from the local community and democratically adopted. The plans have due regard to local circumstances including the character of Howth and its capacity to absorb development and so the implementation of their restrictions on development would be compatible with national policy including the NPF and the guidelines on building height issued in 2018, and with the RSES. The

proposed density of c200dph is four times the level of 50dph recommended in the 2009 guidelines on sustainable residential urban development. The development should be considered in the context of the proposed apartments at Balscadden and Santa Sabina as their cumulative impact would exacerbate the burden placed on the area's capacity to accommodate development, as would further housing on the zoned land by the castle. It is unfair that concurrent applications have been made in respect of the same area.

- The proposed development would give rise to traffic congestion and hazard. The road network in the area, especially Sutton Cross, is already congested and cannot cater for the additional traffic that the proposed development would generate. There are significant traffic jams in the area at peak hours and at weekends when many visitors come to Howth. The submitted traffic assessment is not adequate as the survey information did not reflect congestion at weekends and holidays. It could also have used real time information on bus movements. The development would obstruct access by emergency vehicles and thus pose a threat to the lives of neighbouring residents. The proposed level of car parking is insufficient and below that required under development plan standards. The area has limited public transport links to higher order services and centres of employment at the airport and around the M50. Residents of the proposed development will therefore depend on the ownership and use of cars. Insufficient parking would be provided to reflect this fact. Visibility at the proposed accesses to the car park is inadequate.
- The proposed development would require extensive demolition and excavation and the removal of a large amount of material from the site including contaminated soil and asbestos. This would damage air quality and threaten public health. This work is not properly described in the submitted construction and environmental management plan. It would require c17,000 truckloads to be removed over at least 103 weeks which would cause significant disturbance and traffic congestion in the area and give rise to substantial emissions of greenhouse gases. This potential impact and measures to mitigate this have not been properly described. Information has not been provided of the disposal sites. An independent assessment of these environmental impacts has not

been carried out. It is a concern that the board does not have the expertise or the time to scientifically assess the immediate and long term consequences of such a catastrophic operation. The construction of the proposed development would cause significant injury to the amenities of neighbouring houses. It would also deter visitors and thus damage the local economy.

- The proposed development would be at risk of flooding due to its coastal location and rising sea levels. It would exacerbate the risk of flooding elsewhere. The submitted flood risk assessment does not properly address overland flood flow routes or the velocity of the Bloody Stream. The railway and associated structure cannot be regarded as flood defences. The diversion of flood flows to the public road is not acceptable. Grates within the development could be blocked by debris and their maintenance may be beyond the capacity of a management company.
- The proposed development should provide the cycle facilities along the Howth Road planned under the Cycle Network Strategy for the GDA and the objectives of the development plan. The entrances to the car park are too wide and would hinder pedestrian movement along the footpath.
- The proposed apartments would not meet the demand for housing for families and downsizers in the local community. Many young people have had to leave the area to start families. The apartments and associates spaces would be arranged in north facing U-shapes. They would not have sufficient natural light and would be dark and unattractive. An excessive proportion would be single aspect only and inadequate communal open space would be provided to comply with the 2018 apartment design guidelines. The proposed small dark apartments with inadequate parking would not attract downsizers. A bridge to the beach should be provided, as was previously authorised. The development would overbear and overshadow neighbouring houses. The amenities provided in Baltray Park would also be injured by the development, which would also preclude the use of any part of the site to provide open space or other amenities to local residents.
- The proposed development has too much commercial development for a level 4 centre according to the development plan. In particular the proposed

supermarket poses a threat the vitality and viability of the existing town centre. The application was not accompanied by an adequate retail impact assessment. Local business already suffer due to the difficulties in accessing Howth.

- The proposed development would prejudice the reopening of the tram at Howth.
- The proposed development is a threat to SACs and SPAs in the area.
- The placename 'Claremont' does not apply to the site and the proposal to use it is misleading and pretentious.
- The SHD procedure excludes the public from pre-application consultations and so is contrary to the Aarhus convention and the directive implementing it. It excludes local authorities from the decision making process and does not allow the public to appeal decisions. It is unconstitutional.

8.0 Planning Authority Submission

- 8.1. The submission recorded the views of the elected members expressed in the area committee. It was stated that the proposed development would materially contravene local objective 108 due to its height. Its density was also excessive and it would not be in keeping with the character of the area. It would have a negative visual impact. It would lack sufficient car parking. It should be considered in conjunction with other proposed housing in the area including that at Balscadden. It would have a significant negative effect on the quality of life in Howth. It would exacerbate traffic congestion at Sutton Cross. The redevelopment of a derelict site would be positive, as is the retention of Baltray Park. The proposed apartments would be too small and would not have sufficient natural light. The design of the permitted scheme on the site was better.
- 8.2. The report from the Chief Executive stated that the proposed development would materially contravene the provisions of the development plan regarding its core strategy and local objective 108. It did not recommend whether permission should be granted but set out 26 conditions that should be attached to any permission. They would not significantly amend the proposed development. A financial

contribution of €1,004,579 is sought for public open space in addition to the standard contribution under the adopted scheme, and another unspecified contribution is sought in respect of a community centre.

- 8.3. The assessment of the proposed development states that the uses were acceptable under the town centre zoning of the site. The number of homes would be greater than the target of 498 for Howth set out in the core strategy of the development plan for 2017 to 2023, and further homes are proposed on other sites including Balscadden. Although the site adjoins land zoned for high amenity and the buffer zone for the special amenity area, it is brownfield land within the village near the railway station and so has the potential to strengthen and consolidate the urban area maximising efficient use of infrastructure and services. The board should consider the cumulative impact of SHD developments in Howth on the core strategy and the capacity of Sutton Cross when there may be a backlog in the improvement of public transport.
- 8.4. The proposed development would be up to 8 storeys high. This would materially contravene local objective 108 which states that development on this site would be 3 to 5 storeys high. The objective restricts the amount of housing that could be provided near a railway station where national policy says there should be more housing. The site has a coastal landscape which the development plan categorises as having an exceptional landscape value with a high sensitivity. Objective NH38 is to protect skylines, ridgelines and horizons from development. The board should be cognizant of this when considered a proposed for a development of 191 dph that is 8 storeys high. The proposed development generally accords with the non—statutory Howth Urban Centre Strategy in relation to uses, design, layout and landscaping by providing active frontage, permeability, a high quality public realm, views towards Ireland Eye's and reduced height to the eastern side of the site. The provision of a bridge over the railway to the beach was discussed with the applicant but has not been included in the proposed development. It is recommended that a contribution towards the installation of such a public bridge should be required by condition.
- 8.5. The layout of the scheme maximises views to the sea. The civic plaza at the eastern end would extend the town centre offering, while the western end would have publicly accessible space beside Balray Park. A public pedestrian route would be created along the northern boundary of the site and along the uncovered Bloody

Stream. This route should be overseen by active frontages. The architectural expression is acceptable. The separation distances between buildings are acceptable. The board should satisfy itself that there are no issues regarding overshadowing. The proposed apartments appear compliant with national guidelines in respect of size, layout, open space and aspect. Full regard needs to be had to the standards in the development plan. The permeability and open nature of the development will help its integration with the village. Consideration should be given to increasing the proportion of three-bedroom units and reducing that on one-bedroom units. The apartments and open spaces would have sufficient natural light to meet the BRE guidance. Inward noise from the railway and outward noise from the proposed commercial premises should be considered. The Conservation Officer has concerns regarding the change in scale between the proposed development, St. Mary's Church, the castle and the village and would prefer the stepping down of Block A onto the Howth Road.

- 8.6. The car parking would be significantly below development plan standards. Sightlines at the entrances should be provided from 2.4m from the road because this is a substantial residential scheme. Sutton Cross is the main constraint on access and is beyond the scope of this application. Previous permissions provided for a community centre. A financial contribution should be sought towards one in this case. It is unacceptable that vehicles visiting creches would reverse. Any outstanding drainage issues can be addressed by condition. A taking in charge drawing should be submitted and agreed with the council, as should a more detailed construction and environment management plan. Archaeology should be addressed in the manner set out in the EIAR. Only the western park meets the council's criteria for open space so a financial contribution should be sought for the shortfall. The board is the competent authority for AA and EIA.
- 8.7. The submission from the council includes copies of minutes of s247 consultations with the applicant and reports from sections of the council. The report from the Water Services Section states that the submitted flood risk assessment and surface water drainage proposals are acceptable in principle. The report from the Housing Department states that agreement in principle had been reached in respect of Part V housing.

9.0 Prescribed Bodies

- 9.1. The Department of Culture, Heritage and the Gaeltacht stated that the archaeological mitigation measures set out in the EIAR should be implemented under the supervision of an archaeologist.
- 9.2. Iarnród Éireann referred to the statutory obligations not to interfere with railways. A 2.4m solid wall should be erected along the boundary between the development and the railway. No buildings should be constructed within 4m of this boundary. A minimum clearance of 2.75m shall be kept from overhead wires and associated equipment and structures. It is not clear that the culvert under the railway line to which the Bloody Stream would be diverted can cater for the discharge of surface water. If any works to the culvert or any additional culverts are proposed then a wayleave agreement would be required. Other standard requirements are recited.
- 9.3. The Irish Aviation Authority stated that the developer should contact it at least 30 days before the erection of any crane.
- 9.4. Transport Infrastructure Ireland stated that it had no observations.

10.0 Screening for Appropriate Assessment

- 10.1.1. The proposed development would not be in a Natura 2000 site.
- 10.1.2. The Special Area of Conservation at Baldoyle Bay sitecode 000199 includes Claremont Strand which is separated from the application site by the railway and a concrete promenade. The conservation objectives for the SAC are to maintain the favourable conservation condition of the following habitats –
 - 1140 Mudflats and sandflats not covered by seawater at low tide
 - 1340 Silicornia and other annuals colonizing mud and sand
 - 1330 Atlantic salt meadows
 - 1410 Mediterranean salt meadowsClaremont Strand has mudflats and sandflats not covered by seawater at low tide. The conservation objective for that habitat is defined by the attributes that its area would be stable or increasing, and that the community type of fine sand dominated by *Anguilla tenuis* (the community type at Claremont Beach) would be conserved in a

natural condition. The other habitats which are the subject of the conservation objectives of the SAC are not located in the vicinity of the application site.

10.1.3. The proposed development would be physically separated from the SAC. It would not have a direct effect upon the SAC or the achievement of its conservation objectives, including those relating to mudflats and sandflats not covered by seawater at low tide. The use of the proposed development would be predominantly residential with some ancillary retail and commercial accommodation. The proposed uses would not give rise to emissions or disturbance that would be likely to have a significant effect on the habitats or species in the vicinity of the application site including those which are the subject of the conservation objectives of the SAC. The foul effluent from the development would drain to Dublin's sewerage system upon which its impact would be negligible. The ground on the site is currently mostly impermeable with surface water runoff draining to the sea via a culvert that contains the Bloody Stream. Therefore the proposed development would not have the potential to have an adverse effect on the quality of surface water runoff that could have a significant effect on the SAC. The runoff from the proposed development that would flow to the SAC would be from rainfall landing on green roofs. A petrol interceptor would be installed at the infall on the stream onto the site at the Howth Road. These are standard features for residential development and are not intended or required to mitigate any potential effect on the SAC, but their effect would be to reduce the variations in flow and volume of pollutants entering the sea from the site. The basement of the proposed development would be bounded by a secant piled wall and would not be linked to the SAC. It is therefore evident that the occupation of the proposed development would not be likely to have a significant effect on the SAC.

10.1.4. The construction of the proposed development would commence with the diversion of the Bloody Stream into a new pipe and the piling of the secant wall around the site prior to the excavation of the soil to form the basement. During construction the site would be drained to the foul sewer under licence from Irish Water. As neither surface nor ground water from the site would drain to the sea during construction, the works would not have the potential to affect the SAC through the release of sediment, hydrocarbons or other pollutants. A dust suppression plan has been submitted which describes standard ways of controlling dust that should be

implemented in any scheme requiring the excavation of a site in order to protect the amenities of the neighbouring properties and the urban area. It would prevent any potential for a significant effect on the SAC during construction via emissions to air. It is therefore concluded that the construction of the proposed development would not be likely to have a significant effect on the SAC with.

10.1.5. The proposed development would not be likely to have an effect on the SAC that would be rendered significant in combination with any other plan or project, including the residential development between Main Street and Balscadden Road to which ABP-305828-19 refers or the schemes at the harbour authorised under Reg. Ref. Nos. F18A/0074 and F18A/0267.

10.1.6. The Special Protection Area (SPA) for Baldoyle Bay sitecode 004016 lies c1.8km to the west of the application site. The conservation objectives of the SPA are to maintain the favourable conservation condition of the following species - A046 Brent Goose *Branta bernicla hrota*, A048 Shelduck *Tadorna tadorna*, A137 Ringed Plover *Charadrius hiaticula*, A140 Golden Plover *Pluvialis apricaria*, A141 Grey Plover *Pluvialis squatarola* and A157 Bar-tailed Godwit *Limosa lapponica*, - and that of the habitat A999 Wetlands. The separation distance and relative position of the application site from the SPA means that the proposed development would not have the potential to have a direct effect on the SPA or an indirect effect on the habitats there. The information submitted with the application includes the results of surveys which demonstrate that the application site and adjoining areas, including the coastal area at and beyond Claremont Strand, do not support significant populations of the species to which the conservation objectives of the SPA or any other Natura 2000 site refer. Therefore the activity generated by the occupation or construction of the proposed development on the site would not be likely to have a significant indirect effect on the species to which the conservation objectives of the SPA refer or any *ex situ* habitat that supports them. There is no other effect on the SPA that could arise from the proposed development that would be rendered significant or likely in combination with any other plan or project. It is therefore concluded that the proposed development would not be likely to have significant effects of the SPA.

10.1.7. The site has previously been subject to urban development for industrial and commercial purposes. It does not contain Annex I habitats. It does not support *ex situ* populations of species that are the subject to the conservation objectives of

other Natura 2000 sites that are further from the application site. The results of bird surveys submitted with the NIS demonstrate that the neighbouring lands at Deer Park and Claremont Beach do not support significant *ex situ* populations of such species either, nor do they overfly the site at the level of the proposed buildings. The proposed development would increase the resident population of Howth. However it would not significantly increase the number of people using the recreational amenities at Claremont Beach and Howth Head as these are used by the residents of the city as a whole. The proposed development would not have the potential to have an effect on any other Natura 2000 site, therefore.

10.1.8. It is therefore reasonable to conclude that on the basis of the information on the file, which is adequate in order to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects would not be likely to have a significant effect the Special Area of Conservation at Baldoyle Bay sitecode 000199 or the Special Protection Area at Baldoyle Bay sitecode 004016 or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment is not required.

10.1.9. The conclusion of this screening is consistent with the condition of the site as brownfield land in a serviced urban area that has been zoned for town centre development in a plan that was itself subject to appropriate assessment. It differs from the conclusion of the screening carried out by the board and the inspector prior to the previous grant of permission on the site under PL06F. 246151, Reg. Ref. F15A/0362. The previous screening identified a possibility of significant effects on the SAC at Baldoyle Bay from the re-opening of the Bloody Stream and the possible release of sediments to the sea and on the SPA at Baldoyle Bay from disturbance to birds on the beach during construction and from more people using the beach. The appropriate assessment of the authorised development concluded that the occupation of the development would not have the potential impact on the SAC because the surface runoff would pass through oil interceptors and catchment systems. These are described as mitigation measures in that appropriate assessment. However they are standard drainage features that would be required on the surface water drainage system for any residential scheme with its own outfall regardless of whether that outfall was linked to any Natura 2000 site. The installation of similar features in the currently proposed development would be

required whatever its relationship with the SAC or any other Natura 2000 site. Those features are not proposed or intended to mitigate a potential effect on the SAC. Reference to them merely indicates that a competently designed and constructed residential development on this site would not be likely to have a significant effect on the adjacent SAC during its operation. The appropriate assessment of the authorised development also referred to reports of numerous measures to prevent spillages to the Bloody Stream during construction. In the current proposal the stream would flow through a pipe during construction, so whatever potential for an effect during construction that the previous assessment addressed would not arise in this case. In relation to the SPA, the NIS submitted with this application provides objective information that shows that the adjacent strand does not support significant populations of the species to which the conservation objectives of the SPA or any other Natura 2000 refer. So there is no likelihood of significant effects upon SPA from the construction that would occur on the site if the proposed development were carried out, or from any increase in the use of the beach by people. The submitted information is consistent with the fact that the strand was not included within the boundaries of the SPA. The circumstances and considerations that apply to the current application in relation to screening for appropriate assessment are therefore different from those that applied in the previous case. The inspectors' report on PL06F. 240171 and 235083 did not screen the previously proposed developments but considered the sections of the respective EISs entitled "Appropriate Assessment" and concluded that the SAC and SPA at Baldoye Bay would not be adversely affected.

- 10.1.10. If the board does not adopt the screening recommendation set out in this report, then the submitted NIS provides sufficient information about the SAC and the SPA and about the proposed development and what are described as "mitigation measures" to allow a stage 2 appropriate assessment to be completed into any conceivable effect on any Natura 2000 site not matter how unlikely or insignificant. Having regard to the appropriate assessment of the previous development that was authorised on the site, it may well have been circumspect for the applicant to submit an NIS with this application as well as a screening report. However an appropriate assessment of a project only arises if the project is likely to have significant effect on a Natura 2000 site. The assessment needs to have an objective scientific basis.

The precautionary principle allows the state to prevent action by private persons in order to achieve the environmental objectives of European law, including those of the habitats directive, even where scientific doubt remains about whether the constrained action would actually damage the environment. However the precautionary principle does not justify setting aside the actual terms of article 6 of the habitats to include demonstrably insignificant or unlikely effects in the appropriate assessment of projects. Nor does it justify setting aside the empirical and rational basis for appropriate assessment by making it a routine and repetitive practice for housing schemes in urban areas that does not contribute to the achievement of environmental objectives.

11.0 Environmental Impact Assessment

11.1. Statutory Provisions

11.1.1. The proposed development consists of an urban development on a site of 2.68ha containing 512 dwellings. It is therefore above the threshold of more than 500 dwelling units set down at Section 10.2(b)(i) of Part 2 of Schedule 5 to the Planning and Development Regulations 2001-2015, above which the submission of an Environmental Impact Assessment Report (EIAR) is mandatory. The submitted EIAR comprises a non-technical summary, a main volume and supporting appendices. Chapter 14 of the main volume provides a summary of the mitigation measures described throughout the EIAR. Section 1.10 describes the expertise of those involved in the preparation of the EIAR. I am satisfied that the information contained in the EIAR has been prepared by competent experts and complies with article 94 of the Planning and Development Regulations 2000, as amended. The EIAR would also comply with the provisions of Article 5 of the EIA Directive 2014. This EIA has had regard to the information submitted with the application, including the EIAR, and to the submissions received from the council, the prescribed bodies and members of the public which are summarised in sections 7, 8 and 9 of this report above.

11.2. Alternatives

11.2.1. Chapter 2.5 of volume 2 of the EIAR provides a description of the main alternatives studied by the developer and the reasons for his choice. It states that the do-nothing

alternative would not be desirable due to the underutilised condition and town centre location of the site. It compares the proposed development to that previously authorised on the site and that refused under F08A/1172, PL06F. 204367. The reasons for choosing the current proposal is that it provides a denser more sustainable use of urban land than the authorised schemes, while the greater residential content means that it would generate less traffic than the refused proposal and would be less likely to be vacant. The description of alternatives provided in this section of the EIAR is rational. The requirements of the directive in this regard have been properly addressed.

11.3. Likely Significant Direct and Indirect Effects

11.3.1. The likely significant indirect effects of the development are considered under the headings below which follow the order of the factors set out in Article 3 of the EIA Directive 2014/52/EU:

- population and human health;
- biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;
- land, soil, water, air and climate;
- material assets, cultural heritage and the landscape; and
- the interaction between those factors

11.4. Population and human health

11.4.1. The proposed development would allow an increase in the population of this part of the city which is served by streets, public transport, drainage facilities and water supply. The increase in the population of the city would be in keeping with national and regional planning policy, as well as the county development plan plans that has been subject to Strategic Environmental Assessment. The accommodation of the increased population within the existing footprint of the city, rather than elsewhere, would tend to reduce the demands on the environment arising from the provision of access and services for that population. The effect of the proposed development on the environment in relation to population would therefore be positive. The proposed development consists of accommodation for residential and some services. These uses would not be likely to generate significant amounts of noise or to have an effect

on human health. The increased population would lead to an increased demand for travel. However the extent to which this demand would result in an actual increase in traffic is constrained by the capacity of the street network, which is likely to be saturated whether or not the proposed development proceeds. It is unlikely that the occupation of the proposed development would have a significant indirect effect on the environment due to noise and other emissions from traffic, therefore.

11.4.2. There is a potential that vibration and noise during construction, including that from piling and heavy vehicles, could have a significant effect on people due to the proximity of the site to existing housing and recreational areas. This impact would be mitigated by the implementation of the standard measures set out in 7.7.1 of the EIAR and section 4.7 of outline construction management plan. The residual effects in this regard would be temporary and would not justify refusing permission or substantially modifying the proposed development. There would also be a potential for effects on human beings if demolition waste and soil were not properly managed during construction as the site contains asbestos and contaminated soil. Extensive descriptions of the measures to avoid such effects are set out in section 4 and the appendices of the EIAR. They would be sufficient to avoid any likely effect on human health during construction.

11.5. **Biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC**

11.5.1. I refer to section 10 of this report above and advise that the proposed development would not be likely to have significant effects on sites designated for the protection of species and habitats under Directive 92/43/EEC and Directive 2009/147/EC.

11.5.2. The site largely consists of buildings and artificial surfaces with marginal areas of scrub, grass, hedges, trees and banks. It does not accommodate habitats or species of ecological value. The structures on the site might provide a roost for bats but they do not according to surveys reported in section 8 of the EIAR. A low level of bat activity across the site was recorded during surveys. The recorded bird population on the site was extremely small and no terrestrial mammals were found there. The proposed building on the site would not have a significant direct effect on biodiversity. As the proposed development would be served by adequate foul and surface water drainage systems, it would not be likely to have significant indirect

effects either. The proposed development would not be likely to have a significant effect on biodiversity, therefore.

11.6. Land and soil

- 11.6.1. Section 4 of the EIAR addresses issues relating to land and soil. The existing condition of the site is that it is largely surfaced in bitumen or concrete over made soil. The previous use of the site for heavy industry has created a moderate risk of contamination of soils on the site. Of 97 borehole tests, 9 indicated that the soil to be removed from the site could constitute hazardous waste. Hotspots for contamination across the site relate to hydrocarbons, metals, sulphates, ammoniacal nitrogen and asbestos. The provision of basements in the development involves the excavation to a depth of 2.2m below ground level (1.8mOD) over of 6,308m² of the site, and to 5.2m below ground level (-1.2mOD) over 9,933m². The excavation would occur in a dry environment after the insertion of a secant piled wall and dewatering of the site to the foul sewer with a discharge licence from Irish Water to avoid emissions to ground or surface water during works. It is calculated that 65,101m³ of earth would be excavated of which c7,000m³ would be used in the landscaping of the development along with 1,500m³ of imported topsoil. 12,450m³ of rock would also be excavated. The material balance would involve the removal 70,551m³ from the site, of which c2,600m² would be contaminated soil that could be classified as hazardous waste. The material would be transferred and disposed of in accordance with waste management legislation. This means that the hazardous waste would be exported as no licenced facility is available in this country. All excavation would be monitored to ensure that any contaminated soil not yet identified would be properly removed. Hotspots of contaminated soil in the western part of the site that would not be excavated will be capped with a suitable layer of clean soil or impermeable material. Standard measures are set out for the handling of soil on the site and its removal by truck to ensure that it is not released to air as dust or deposited on the public road. The appendices in volume 3 of the EIAR contain reports on ground investigations on the site and detailed proposals for materials management and remediation, as well as the dewatering of the site.
- 11.6.2. The land is currently underutilised. The proposed development would provide a more sustainable used of zoned and serviced urban land which would reduce the

pressure for a less sustainable expansion of the city onto greenfield. It would therefore have a positive impact with respect to land.

11.6.3. The soil on the site is made ground mostly under hard surfaces. Its loss from the site would not have a negative effect on the environment. The presence of the soil and its contaminants poses a risk of pollution to groundwater. The removal of the contaminated soil from the site would reduce this risk and thus would have a positive effect on the environment. The EIAR and its appendices include extensive information about the existing conditions on the site and the means by which soil would be handled and removed from the site. These would be sufficient to mitigate the risk that the removal of soil from the site could allow emissions to air or water that would have a negative impact on the environment.

11.7. **Water, including flood risk**

11.7.1. Section 5 of the EIAR refers to water. Relevant information on groundwater is also set out in section 4 of the EIAR and information pertinent to flood risk is set out in the site specific assessment submitted with the application.

11.7.2. The current condition of the site is comprised of derelict industrial and commercial premises with moderately contaminated soil most of which is under hard surfaces that drain to a culverted stream that is obstructed by sediment.

11.7.3. During its occupation foul effluent from the proposed development, including the parking areas, would drain to the city's sewerage system. Its impact on that system and its outfall would be negligible given the size of the proposed development relative to the city. The basements would be sealed and would not be connected to groundwater. The fractured nature of the surrounding rock means that the basements would not significantly impede groundwater flow around them. The Bloody Stream would flow along a concrete channel through the site before joining the existing surface water sewer on the northern part of the site that runs to a culvert underneath the railway and thence to the sea. A petrol interceptor would be installed at its infall to the site. The greater part of the surface water runoff from the site would be from green roofs and similar facilities at podium level. These would reduce the variation in flow and the concentrations of any pollutants at the outfall from the surface water drainage system to the sea. The proposed development would therefore be likely to have a positive impact on water quality.

- 11.7.4. During construction the site would be surrounded by a secant piled wall and dewatered to the foul sewer under licence from Irish Water. The Bloody Stream would flow in a concrete pipe across the site to the sea. This would avoid emissions to groundwater or surface water during construction that could have a negative effect on water quality.
- 11.7.5. The fluvial and coastal flood risk mapping issued by the county council and the OPW respectively indicate that the probability of flooding of the site from those sources is less than the less than the 0.1% annual event probability. It is therefore in flood zone flood zone C under the guidelines on flood risk management issued in November 2009. Residential development in this zone is acceptable in principle. Recorded flood events on the site are attributed to blockages in the culverted stream which the proposed development would remove. The floor level of the proposed habitable accommodation would at least 1.86m above the 1 in 1000 year coastal flood level of 3.34m OD estimated by the OPW. The proposed development would not at an undue risk of flooding, therefore. The site in its current condition does not allow for the retention of flood water runoff. It does convey surface water runoff from other lands to the sea through the covered Bloody Stream . The site would continue to fulfil this function after the proposed development. The open channel is an appropriate means to achieve this. The maintenance of the channel and its infall and outfall would not be beyond the resources of a management company for 512 apartments. Assertions to the contrary in several of the submissions on the application are not well founded. It is therefore concluded that the proposed development would not give rise to an undue risk of flooding on other land.

11.8. **Air and climate**

- 11.8.1. The occupation of the proposed housing and other commercial accommodation would not have significant direct effects on the air. The buildings would be heated by a system using natural gas as the fuel. Its operation would not have a significant effect on air quality. The proposed development and planned development in the area would increase the demand for traffic movements in the area, although the increase in the demand would be marginal compared to the demand created by existing homes and businesses in Howth and visitors to its amenities. The actual level of traffic on urban street networks is a function of the capacity of the network rather than the potential demand upon them as traffic in cities tends to grow until the

streets are congested. The provision of housing at this location served by a railway and bus routes would facilitate travel by alternative modes of travel other than the private car. In these circumstances the proposed development would not cause an increase in vehicular traffic on streets that would have the potential to have a significant effect on air quality. The works required to carry out the proposed development would have the potential to emit dust. There would also be exhaust fumes from machinery. Measures to mitigate effects from these sources are set out at section 6.1.7.1 of the EIA and section 4.7 of the outline construction management plan. They include the screening of areas near sensitive receptors while works are ongoing, wheel wash facilities, wetting of exposed soil during dry windy weather, closed storage of fine aggregates and similar materials, maintenance of plant and machinery, and no idling of engines when not in use. The proposed measures represent good construction practice and are likely to avoid any significant effects on air quality during construction.

11.8.2. The proposed development would not have the potential to have a significant effect on the climate in general. Section 6.2 refers to the potential for impact on micro climate in relation to wind, which would be mitigated by landscaping. Section 6.3 refers to the impact on daylight and sunlight, which is shown not to be significant as the layout of the buildings reduces the extent of the facades of buildings along the northern boundary of the site which would cast a shadow towards the strand.

11.9. **Material assets**

11.9.1. The industrial and commercial premises on the site are obsolete and their removal would not have a negative impact on the material assets of the city. The proposed development would increase the stock of housing and service facilities in this part of the city. It would do so on lands that are zoned and serviced for such urban expansion. The proposed development would increase the population at this location which would generate additional demand on the railway, bus services and streets in the area. However this area has better access to public transport and other services than other places in and around the city where significant amounts of new housing could be provided to meet the latent demand for it. Allowing housing to be built on this site would therefore allow a more efficient and sustainable use of the city's transport infrastructure than would be likely to occur if housing was not allowed on the site thereby displacing population growth to less accessible and poorly served

locations. The proposed development would therefore have a significant positive effect in relation to material assets.

11.10. Cultural Heritage

11.10.1. The site does not contain recorded monuments or known archaeological remains. The land is made ground that was lain down after the railway to Howth was built. The proposed development is therefore unlikely to have a significant effect on archaeological heritage.

11.10.2. The removal of the existing structures on the site would not have a significant effect on architectural heritage. The site is outside the curtilage of any protected structure or any Architectural Conservation Area. Several of the submissions on the application stated that it would have a negative impact on the setting of the protected structures in the vicinity at St. Mary's Church and Howth Castle, at the railway station and station master's house, as well as the ACAs at Howth Caste and that in the centre of Howth. The proposed development would be separated from the protected structure at Howth Castle and the ACA at the town centre by an appreciable distance and would not a direct visual relationship with them. It would not be likely to significantly alter their setting or character therefore. However it would profoundly change the appearance and character of the application site and so would certainly alter the setting of the protected structures at St. Mary's Church, the railway station and the station master's house. It would also alter the setting of the ACA at Howth Castle. This impact would be significant in terms of cultural heritage. The issue is whether it would be an adverse impact, as was stated by several of the observers. It would not be. The site in its current condition is unsightly and detracts from the setting of the adjacent protected structures and ACA. The proposed development would remedy this damage. It would also achieve an acceptable standard of urban design in itself and would make a positive contribution to the appearance and character of the area. The application site is physically distinct from the castle grounds and the church. Its established and historical use are also clearly distinct from them. There would be no benefit to cultural heritage for the character of new development on the site to mimic that of the castle grounds. The historical use of the site would have been associated with the railway when it played a significant role in the movement of freight, but that role has since been overtaken by the movement of passengers. The proposal for a substantial residential development with a retail and

service element is compatible with the current function of the railway. It would not, therefore, be a discordant feature in the setting of the protected structures associated with the railway even though it would be much larger than the existing structures on the site.

11.10.3. The site is adjacent to Claremont Road and strand. The vernacular languages in Howth over recorded history have included Celtic, Nordic and Anglo-Saxon tongues. Romance languages have never been widely spoken in Howth, although it is possible that an element of the ruling class in the late medieval period spoke Norman French. The use of the placename 'Claremont' to refer to a low lying coastal area beside the sea on the northern side of the Howth peninsula therefore reflects a set of aspirations that would have been prevalent in the historical period when it was adopted rather than the lived experience of most of the area's residents at the time. Any pretence that might attach to the use of the placename Claremont for the proposed development would therefore be in keeping with the cultural heritage of the area.

11.10.4. It is therefore concluded that the site would not have a significant adverse effect on cultural heritage.

11.11. Landscape

11.11.1. The site is adjacent to a scenic coastal area and strand on one side, and a scenic hill and historic castle demesne on the other. The proposed development would introduce large buildings onto the site and profoundly alter its character and appearance. It will be visible from a wide area. It will therefore have a significant effect on the landscape. The issue is whether this would be an adverse impact, as was stated by several of the observers. It is not considered that it would be. The current condition of the site is that of a disused factory beside the town centre. The proposed development would remove the visual disamenity caused by this condition. The site is distinct from the coastal area to the north, being separated from it by the railway. It is also distinct from the open lands to the south, being separated from it by the main Howth Road. These distinctions relate to visual character as well as land use. They are of long standing. Because of them, the protection of the landscape does not require the site to resemble the strand to its north or the golf courses to its south, even if there were feasible. It is reasonable that the site would

be developed as part of the adjoining town centre to the east. This what the site is zoned for under the county development plan. The actual development that is currently proposed on the site achieves an acceptable standard of urban design. It would not look like a bad or unsightly thing that needs to be hidden, but would form an attractive and coherent extension of Howth's town centre. This is how it would appear in views from the surrounding area including the hills to the south and coast and islands to the north. The proposed development also would open up certain views from the Howth Road towards the sea and Ireland's Eye. In these circumstances proposed development would not damage the character of the adjoining coastal area or the lands to the south zoned for High Amenity

11.11.2. The proposed development would be outside the Special Amenity Area designated for Howth. It would be c850m from the closest point of the special amenity area designated by the order to the south at Muck Rock and c900m from the part of the area to the west at Howth Harbour. The proposed development would also be outside the buffer zone around the special amenity area where the order states that development would be controlled by the provisions of the development plan. That buffer zone extends to the opposite side of the Howth Road from the site. As the proposed development would be set back from the special amenity area and outside the buffer zone around it, and because it would be built on brownfield industrial land, it would have a significant adverse effect on the character or landscape of the special amenity area either directly or indirectly. Most of the city is visible from some parts of the special amenity area, so the mere fact that the apartment buildings would be visible from the area does not imply that it would have an adverse effect on its landscape. Therefore the proposed development would not contravene the special amenity area order for Howth or the provisions of the development plan which protect it.

11.11.3. The effect of the proposed development on the landscape is therefore likely to be positive.

11.12. The interaction of the foregoing

11.12.1. The potential impact of the development on population and material assets are related as the former relies on the latter. There is interaction between the potential effects on human health, soil, and air as the mitigation of impacts on those

environmental factors depends upon the same measures being implemented during construction to ensure the soil and demolition waste from the site, some of which may constitute hazardous waste, would be properly handled and disposed of. Otherwise, as the site is brownfield land that was previously subject to works in an area that is zoned and serviced for urban development, the proposed development is unlikely to have significant effects on any of the other factors on the environment set out in the EIA Directive and so there is little potential for interaction between them.

11.13. Cumulative Impacts

11.13.1. The proposed development may occur in tandem with the development of other sites in Howth for apartments, including that at Balscadden and at Santa Sabina. The authorised developments on those sites are significantly smaller than the threshold for EIA. They are physically separate from the current site by 670m and 1.4km respectively. All three developments would occur on zoned and serviced urban land. In these circumstances they are not likely to give rise to significant cumulative effects on the environment other than those that have been described and assessed in this EIA. Neither would the authorised works at Howth Harbour, some of which were ongoing at the time of inspection.

11.14. Reasoned Conclusion on the Significant Effects

11.14.1. Having regard to the examination of environmental information set out above, to the EIAR and other information provided by the developer, and to the submissions from the planning authority, prescribed bodies and members of the public in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- Significant direct positive effects with regard to population and material assets arising from the additional housing that would be provided on the site;
- Significant indirect positive effects on the landscape arising from the removal of obsolete industrial and commercial structures which are visible from nearby scenic coastal and upland areas and their replacement with residential and commercial buildings whose form and design would provide an appropriate extension to the town centre of Howth

- Potential effects on human health, soil, air quality and from noise and vibration during construction which would be mitigated by appropriate measures as set out in the EIAR submitted with the application.

The proposed development is not likely to have significant effects on biodiversity, water, climate or cultural heritage.

The likely significant environmental effects arising as a consequence of the proposed development have therefore been satisfactorily identified, described and assessed. They would not require or justify refusing permission for the proposed development or the making of substantial alterations to it..

12.0 Assessment of other issues

12.1. The planning issues arising from the proposed development can be addressed under the following headings-

- Policy
- Design, height and layout
- Residential amenity
- Access and parking

12.2. Policy

12.2.1. The proposed development would be in keeping with government policy to increase the supply of housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016.

12.2.2. The site is part of the continuous built-up area of Dublin city. This is a matter of fact . It is reflected in the definition of Dublin city and suburbs in the census. Several of the submissions stated that the site should not be regarded as urban and that Howth was a distinct fishing village. Such an approach would not be consistent with the physical circumstances of the site or with the occupation of the people who live in Howth. Of the 3,22 residents of Howth electoral division who were recorded as working in the 2016 census, 22 were engaged in agriculture forestry or fishing. Because the site is part of Dublin the proposed development would contribute to the achievement of objectives 3a, 3b, 11 and 35 of the National Planning Framework, as

well as to the achievement of the target population of 1,408,000 for the city in 2040 set out in table 4.1 of the framework under objective 10.

- 12.2.3. The proposed development would contribute towards the achievement of objective RPO4.3 of the RSES to support the consolidation and re-intensification of brownfield sites in Dublin.
- 12.2.4. The proposed residential, retail, café, restaurant and childcare uses are in keeping with the zoning of the site for town centre uses under the development plan. The provision of a childcare facility would be in keeping with the guidelines on that topic issued in 2001. The site is within walking distance of a railway station and town centre and so is suitable for higher density development that consists wholly of apartments in line with the advice at section 2.4 of the guidelines on apartment design issues in 2018. The density of 191dph would exceed the minimum of 50dph for public transport corridors set out in section 5.8 of the 2009 guidelines on sustainable urban residential development. Section 5.6 of those guidelines specify that there is no general upper limit on the density that can be provided in town centres. SPPR 1 of the 2018 guidelines on building height states that it is government policy that building height and density should be increased on sites with good public transport accessibility, which the current site has.
- 12.2.5. The uses that the proposed development would accommodate and its location are therefore in keeping with national, regional and local policy. The quantity of accommodation and the density of the proposed residential development is also in keeping with national and regional policy. In particular the density of 191dph is in keeping with the 2009 guidelines, contrary to the assertions in some of the submissions on the application.
- 12.2.6. The proposed development would consolidate development on a brownfield site in the metropolitan area and so would be in keeping with objectives SS01 and SS15 of the development plan. The applicant, council and several of the observers consider that the quantity of the proposed residential development, at 512 homes, would materially contravene the core strategy for the county set out in the development plan which states that the 16ha zoned for development in Howth could accommodate 498 new homes. The exceedance of the target would be greater if the proposed and permitted apartments at Santa Sabina at Balscadden are built.

This approach to the interpretation of core strategies is similar to that set out in the judgment of the High Court in *Heather Hill Management Co. vs An Bord Pleanála* 2019 JR 20 which implies that the number specified in an allocation operates as a cap rather than merely as a target that provides a rational basis for the to determine how much land should be zoned in an area. A draft variation to the development plan to comply the recent RSES has been proposed that would amend the core strategy to say that 13ha of zoned land was available in Howth that could accommodate 436 homes. No change in the extent of zoned land in Howth is proposed, so the variation would seem to reflect a continuation of the current previous strategy while acknowledging that permission has been granted on some of the zoned land in Howth. However draft variations are not material considerations for applications under section 34(2) of the planning act. So the currently proposed variation would not justify any particular approach in the present case unless and until it was adopted.

12.2.7. The proposed material contravention of the county development plan is justified by objectives 3a, 3b, 10, 11 and 35 of the national planning framework, section 5.6 and 5.8 of the 2009 guidelines on sustainable residential density, section 2.4 of the 2018 guidelines on apartment design and SPPR1 of the 2018 guidelines on building height all of which support denser residential development of the type proposed on sites like the current one. It would also be justified by objective RPO4.3 of the RSES for the same reason. It would also be justified by the government's policy to provide more housing set out in *Rebuilding Ireland – Action Plan for Housing and Homelessness* issued in July 2016. As such a grant of permission can be made under section 37(2)(b)(iii) of the planning act. The proposed development falls within the definition of strategic housing set out in *Planning and Development (Housing) and Residential Tenancies Act 2016* and is supported by objectives SS01 and SS15 of the development plan, so it would also be justified by reference to section 37(2)(b)(i) and (ii) of the act.

12.2.8. Howth was transferred from the administrative area of Dublin Corporation to the county in 1985, a year after the railway between it and the city centre was electrified. Census returns show that the area's population fell by 11% over the following thirty years from 9,327 in 1986 to 8,294 in 2016. It is not accepted, therefore, that population growth has been or is a threat to the character of the area or that it has

placed undue pressure on its physical and social infrastructure. Rather the limited renewal of the area's housing that has occurred in recent decades in conjunction with smaller household sizes has resulted in a dispersal of population away from the traditional centre of Howth. This pattern is frequently associated with a worsening of traffic congestion even when a population is falling as a larger share of the remaining population lives further away from local services and public transport facilities resulting in longer journeys and a greater reliance on travel by car. This is why the national, regional and local policies set out in the preceding encourage the replenishment of the population of urban centres on public transport corridors with higher density development including apartments. The principle of the proposed development is clearly supported by these policies. Conversely unreasonable restrictions on the provision of the housing on the site would contravene national, regional and local planning policies and would not be in keeping with the proper planning and sustainable development of the area.

12.2.9. The site is part of the town centre and is zoned as such. It is therefore a suitable place to provide commercial services of the type proposed, including the shop of 1,703m² (which would be equivalent to a supermarket) following the key policy objectives of the 2012 retail planning guidelines that such development should be plan-led, promote town centre vitality and facilitate better access to shops by public transport. In this circumstance a retail impact assessment is not required to justify the proposed development. The proposed development would also increase the number of people who could access the shops and businesses in the town centre on foot and so would improve the vitality of the centre as a whole. It is not an objective of planning policy to protect particular shops in town centres from competition from other shops in the same town centre.

12.2.10. Having regard to the foregoing it is concluded that the nature and scale of the proposed development would be in keeping with the applicable national, regional and local planning policy, notwithstanding its exceedance of the housing target for Howth set out in the county development plan. It is therefore acceptable in principle.

12.3. Design, height and layout

12.3.1. The proposed development would materially contravene specific local objective 108 which restricts the height of buildings on the site to between 5 and 3 storeys. This

objective is a material consideration for the current application under section 34(2) of the planning act. However so is objective 13 of the NPF which states that building height standards need to be based on performance criteria, SPPR 1 of the building height guidelines which favours more height and density in central accessible locations, and SPPR 3 of those guidelines which allows for the approval of buildings that would be higher than would otherwise be allowed by the specific objectives of development plans where they comply with criteria at various scales. The current site is formerly industrial and commercial land beside a railway station and town centre. The detached houses in its vicinity do not form a sustainable pattern of development that should be replicated on the site. The site is near the open expanse of the sea. Its ground level is below that of the scenic hill on its other side. The detailed design of the buildings achieves a high standard. The layout of the development would provide a strong frontage to a major street into the town centre. It would also provide visual and physical links between that street and the sea through a proposed civic plaza, along the diverted Bloody Stream and through new public open space at the western end of the site near an existing park. The frontage onto the Howth Road would include apartments with their own door onto the street. This would avoid the frontage onto the street being monolithic or oppressive, despite the fact that the southern elevation of Block B to the street would be the side of the larger shop. The layout of the development would also avoid it being overbearing or unduly overshadowing on the northern side facing the railway and coast.

12.3.2. The design, height and layout of the proposed development are therefore acceptable. While it would change the character of the area, this change would be positive and would be in keeping with national and regional planning policy. This conclusion would not be altered by the references to height in the non-statutory documents issued by the council in relation to the town centre at Howth. In these circumstances, the proposed development would meet the criteria set out at section 3.2 of the building height guidelines and a grant of permission that materially contravened objective 108 of the development plan would be justified under section 37(2)(b)(iii) of the planning act by reference to objective 13 of the NPF and SPPRs 1 and 3 of the building height guidelines. Section 37(2)(b)(i) would also apply due to the status of the proposal as a strategic housing development.

12.3.3. As the proposed development would make a positive contribution to the character of the centre of Howth, including to its public realm and commercial function, it would be in keeping with objectives HOWTH1, 2, 3 and 4 of the development plan, as well as objectives NH60, PM33 and ED85.

12.4. Residential amenity

12.4.1. The proposed apartments would meet the requirements of the 2018 guidelines on apartment design including its SPPRs. Less than half of them would be studios or one-bedroom units, in line with SPPR1. The guidelines restrict the imposition further controls on the housing mix of apartment scheme unless they have been implemented in a development plan following a formal assessment of housing need and demand. The floor areas of the apartments would comply with the standards in SPPR3, with slightly more than half of them exceeding the minimum by at least 10%. The requirements for individual rooms and balconies set out in the appendix to the guidelines would also be met. 3,259m² of communal open space would be provided, slightly more than the 3,148m² required under the guidelines. The extent and location of communal open space is clearly set out in the submitted landscape proposals. The site is central and accessible, so under SPPR4 33% of the apartments should have dual aspect. The proposed development slightly exceeds this minimum with 36% having dual aspect, although this is achieved by providing deck access for some of the apartments on the southern elements of the blocks. Ceiling heights would be 2.75m which is more than required under SPPR5. Each lift and stair core would serve no more than 12 apartments in line with SPPR6.

12.4.2. The scheme would provide 3,259m² of communal open space. Its location and extent is clearly set out in the landscaping proposals. The provision would be somewhat above the minimum of 3,148m² required under the guidelines. The scheme would also provide of public open space at the western end of the site near Baltray Park, along the opened Bloody Stream, at the plaza beside the shops and in the looped path to the north of the apartments. The landscape plans indicate that public space would amount to 11,695m². The size, design and location of the proposed public open space mean that it would provide a substantial benefit to the public to an extent that would be unusual for a residential scheme, particularly one comprised of apartments. In this circumstance it would not be reasonable to conclude that specific exceptional costs would arise in the provision of open space that would

justify the imposition of a special contribution under section 48(2)(c) of the planning act as sought by the planning authority. There are no specific proposals from the council to build a community centre that would justify a special contribution to that end either. The proposed development would not prevent the implementation of objective HOWTH 6 of the development plan that relates to a community centre. However the relationship between the application, the railway and the promenade to Claremont Strand is a specific and exceptional circumstance of the site. So a special contribution towards the provision of pedestrian bridge would be justifiable.

- 12.4.3. Table 6.3.1 of volume 2 of the EIAR indicates that the amount of daylight available to most (80.7%) of the rooms in the proposed apartments would meet the Average Daylight Factor recommended in the BRE guidance. Given the aspect and outlook that many of the apartments would have towards scenic areas and open spaces, this level is reasonable and in keeping with the advice at section 3.2 of the guidelines on building height.
- 12.4.4. It therefore concluded that the proposed development would provide an acceptable standard of amenity for its occupants.
- 12.4.5. The proposed development would change the outlook from the houses and apartments on the other side of the Howth Road. However it would not cast a shadow towards them. The higher apartment blocks would have a separation distance of at least 30m from the existing homes. The extent of overbearing or overlooking would not seriously injure the residential amenities of the latter, therefore.
- 12.4.6. The proposed development would also alter the context of the house at Ashbury on the adjoining land to east of the site, with a façade equivalent to 5 storeys in height 12.9m from the side of the existing house. The design of the eastern elevation of proposed Block D includes screens to avoid overlooking of the adjoining property. The relative orientation of the existing house and proposed apartment block, with both facing the Howth Road to the south, reduces the extent of overbearing and overshadowing from the proposed development to the neighbouring house and the station master's house beyond it. In these circumstances it is not considered that the impact of the proposed development on the residential amenities of the houses

to its east would justify refusing permission or making significant amendments to the proposed development.

- 12.4.7. The western part of the proposed development would provide an appropriate elevation towards Baltray Park and would be an improvement on its existing outlook toward the disused factory.

12.5. Access and parking

- 12.5.1. The proposed development would provide residential development beside a railway station and town centre on a site that is better served by public transport than most land in the city. Given the latent demand for housing in the city, preventing or constraining residential development on the site would displace the demand for housing to other sites that would not be so well served and would thus tend to increase the demand for travel by private car and worsen congestion on the city's road network. The development would increase the population that can walk to the town centre in Howth and the accommodation for commercial services there. This would further reinforce a sustainable pattern of development whereby people could live closer to the services that they use. As stated in section 12.2.8 above, the population of Howth has fallen and then stagnated in recent decades. The traffic congestion that occurs in the town centre and at Sutton Cross is not a result of a growing population in Howth because no such growth has occurred. Rather it is a result of a more dispersed pattern of settlement in and around Howth and the city that depends more on the use private car to access services, employment and, especially in the case of Howth, places of recreation. The proposed development would counteract this pattern of dispersal and its general impact on traffic would therefore be positive. Refusing permission for the proposed development or significantly reducing its scale would do nothing to alleviate traffic congestion in Howth or at Sutton Cross.
- 12.5.2. There is a contradiction in the submitted drawings regarding the treatment of the entrances to the lower ground level car parking on the site. The landscape drawings show the footpath continuing across the front of the site. This is an appropriate treatment for access to a private property in a town centre and follows the advice at section 4.3.1 of DMURS. The engineers' drawings show two road junctions in these positions. One of these would introduce a gap of 10m in the footpath and the other

14m. Both would have corner radii of 6.5m. These widths and radii are substantially greater than the applicable standards set out DMURS for junctions between actual streets. They are not appropriate for the proposed accesses to private car parks in a town centre. The arrangements shown on the engineers' would give rise to a threatening environment for pedestrians which would damage the character of the area as well as the safety of road users. The arrangements do not refer to the existing cycle lane or the objective in the development plan for such facilities along the Howth Road. Nevertheless it is considered that these defects can be properly addressed by condition and that safe access to the proposed development that is suitable for its town centre location can be provided within the terms of the current application.

- 12.5.3. The proposed shared pedestrian and cycle route along the northern side of the site would provide a useful amenity. It would comply with the indicative objective shown on that side of the site on the development plan map. However this type of shared facility does not comply with the applicable standards for functional cycle links in the National Cycle Manual and could not replace the facilities required along the public road.
- 12.5.4. There are no proposals to re-open the tram at Howth set out in any plan or policy that would be material to the current application. The possibility that such proposals might be made is remote and would not justify refusing permission or significantly altering the proposed development.
- 12.5.5. A significant amount of bicycle parking would be provided in the proposed development, with 1,335 bike spaces shown. Car parking spaces would be provided at a rate of 0.7 spaces per apartment with another 80 spaces to serve the commercial floorspace. This is less than the norm of 1 to 2 spaces per apartment, with another 20% for visitors, set out in the county development plan. Nevertheless the amount of parking proposed is rather high considering the situation of the site beside a railway station and town centre having regard to the advice at section 4.19 of the guidelines on apartment design that parking for apartments in such areas should be minimised.
- 12.5.6. The construction of the proposed development would give rise to a significant amount of movement by heavy vehicles. The established industrial use of the site

involved similar vehicles moving to and from it. The existing accesses to the site and the road infrastructure is capable of accommodating the movement of such vehicles without causing traffic hazard. The greater frequency of movement by heavy goods vehicles would place additional demands on the capacity of the road network. It is noted that the conditions of the permission for 177 apartments at Balscadden that was granted under ABP-305828-19 stipulated that construction traffic from that site would not travel through the town centre or along the Howth Road in front of the current site. Nevertheless there is a potential for a cumulative impact on the use of the junction at Sutton Cross if both developments proceeded at the same time. However the impact from construction traffic would be temporary and would not justify refusing permission or significantly amending the proposed development.

12.5.7. Having regard to the foregoing, the proposed development would be acceptable with regard to access and parking.

13.0 Recommendation

13.1. I recommend that permission be granted subject to the conditions set out below.

14.0 Reasons and Considerations

Having regard to the following -

- (a) the site's location within the built-up urban area in Howth on lands zoned for town centre development under the Fingal Development Plan 2017-2023;
- (b) the policies and objectives in the Fingal Development Plan 2017-2023;
- (c) the National Planning Framework 2040,
- (d) the Regional Social and Economic Strategy for the Eastern and Midlands Region 2019-2031,
- (e) the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009,

- (f) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in March 2018,
- (g) the Guidelines for Planning Authorities on Urban Development and Building Height issued by the Department of Housing, Planning and Local Government in December 2018,
- (h) the Guidelines for Planning Authorities in Retail Planning issued by the Department of the Environment, Community and Local Government in April 2012
- (i) the Guidelines for Planning Authorities on The Planning System and Flood Risk Management (including the associated technical appendices) issued by the Department of the Environment, Heritage and Local Government in November 2009,
- (j) the nature, scale and design of the proposed development;
- (k) the availability in the area of a wide range of social and transport infrastructure including a railway station;
- (l) the pattern of existing and permitted development in 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 respect and enhance the historic and architectural character of the area, would be acceptable in terms of urban design, height and quantum of development, would not seriously injure the amenities of the area or of property in the vicinity, would not damage the natural heritage of the area, would not give rise to flooding in the area, would support the commercial role of Howth's town centre and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The board considered that a grant of permission that could materially contravene the allocation of 498 homes to Howth under the core strategy and settlement strategy set out in section 2 of the Fingal County Development Plan 2017-2023 and the

restriction on height set out in local objective 108 of the plan would be justified in accordance with sections 37(2)(b)(i),(ii) and (iii) of the Planning and Development Act 2000, as amended, having regard to -

- the government's policy to ramp up delivery of housing from its current under-supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016,
- objectives 3a, 3b, 10, 11 and 35 of the National Planning Framework,
- section 5.8 of the 2009 Guidelines for Sustainable Residential Developments in Urban Areas issued in 2009
- section 2.4 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued in March 2018
- SPPR1 of the Guidelines for Planning Authorities on Urban Development and Building Height issued in December 2018,
- objective RPO 4.3 of the Regional Social and Economic Strategy for the Eastern and Midlands Region 2019-2031, and
- objectives SS01 and SS15 of the county development plan,

all of which support denser residential development consisting of apartments on public transport corridors within the built up area of Dublin city and its suburbs, as is proposed in this case.

The board considered that a grant of permission that would materially contravene the specific local objective 108 of the Fingal County Development Plan 2017-2023 which applies to the site would be justified in accordance with sections 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended, having regard to -

- objective 13 of the National Planning Framework 2018-2040
- SPPR 1, SPPR 3 and section 3.2 of the Guidelines for Planning Authorities on Urban Development and Building Height issued in December 2018

which state policy in favour of greater density and height at central accessible locations such as the current application site, subject to performance and

development management criteria with which the proposed development would comply.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on the Special Area of Conservation for the Baldoyle Bay sitecode 000199 and the Special Protection Areas for the Baldoyle Bay sitecode 004016, taking into account the nature, scale and location of the proposed development, the information submitted with the application, the Inspector's report and the submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that the development that is authorised by this permission would not be likely to have a significant effect on the above European Sites or on any other European Site in view of the sites' conservation objectives, either individually or in combination with any other plan or project, and that a Stage 2 Appropriate Assessment is not required.

Environmental Impact Assessment

The Board completed in compliance with Section 172 of the Planning and Development Act 2000, an environmental impact assessment of the proposed development, taking into account:

- (a) the nature, scale, location and extent of the proposed development,
- (b) the environmental impact assessment report and associated documentation submitted with the application,
- (c) the submissions from the planning authority, the prescribed bodies and the public in the course of the application, and
- (d) the Inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, identifies and describes adequately the direct, indirect and cumulative effects of the proposed development on the environment.

The Board agreed with the summary and examination, set out in the Inspector's report, of the information contained in the environmental impact assessment report and associated documentation submitted by the applicant made in the course of the application.

The board considers that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- Significant direct positive effects with regard to population and material assets arising from the additional housing that would be provided on the site;
- Significant indirect positive effects on the landscape arising from the removal of obsolete industrial and commercial structures which are visible from nearby scenic coastal and upland areas and their replacement with residential and commercial buildings whose form and design would provide an appropriate extension to the town centre of Howth
- Potential effects on human health, soil, air quality and from noise and vibration during construction which would be mitigated by appropriate measures as set out in the EIAR submitted with the application.

The proposed development is not likely to have significant effects on biodiversity, water, climate or cultural heritage.

The likely significant environmental effects arising as a consequence of the proposed development have therefore been satisfactorily identified, described and assessed.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed, as set out in Chapter 14 of the environmental impact assessment report, and, subject to compliance with the conditions set out herein, the effects on the environment of the proposed development by itself and cumulatively with other development in the vicinity would be acceptable. In doing so, the Board adopted the report and conclusions of the reporting inspector.

15.0 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. In default of agreement, such issues may be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity

2. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report submitted with this application as set out in Chapter 14 of the EIAR 'Summary of Mitigation Measures', shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health

3. The proposed development shall be amended as follows:
 - (a) The public footpath shall be maintained across the full extent of the site along the Howth Road. Access to the permitted car parks shall be provided in the form of crossovers whose surface treatment and level indicate the maintenance of pedestrian priority in accordance with the guidance set out 4.3.1 of the DMURS.
 - (b) A continuous cycle lane or track shall be maintained along the Howth Road in front of the site which shall conform to the one of the models set out in section 4.3 of the National Cycle Manual and which shall segregate cyclists from pedestrians and vehicular traffic and provide cyclists with priority over

vehicles exiting or turning right into the permitted car parks. The design of the bus stop shall comply with one of the options set out in section 5.1.5 of the manual

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development .

Reason: In the interests of road safety and to ensure that the development complies with the applicable policies and standards for road design.

4. The materials, colours and finishes of the authorised buildings, the treatment of boundaries within the development and the landscaping of the site shall generally be in accordance with the details submitted with the application unless the prior written consent of the planning authority has been obtained for variations to them.

Reason: In the interests of visual amenity

5. Details of the proposed shopfronts for the permitted commercial units shall be submitted for the written agreement of the planning authority prior to the occupation of those units, along with proposals for the management of waste and the control of odours. Thereafter any signs, screens, shutters or other such features and any ducts or air handling equipment on the exterior of the permitted buildings shall comply with the requirements of the planning authority.

Reason: In the interests of visual and residential amenity

6. The construction of the development shall be managed in accordance with a final Construction Management Plan which shall provide for the implementation of the relevant mitigation measures set out in the EIAR and generally conform with the Outline Construction Management Plan, the Outline Construction and Demolition Waste Management Plan and the Outline Construction Environmental Plan submitted with the application. The final Construction Management Plan shall be submitted to, and agreed in writing with, the

planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

(a) Location of the site and materials compounds including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and on-site car parking facilities for site workers during the course of construction and the prohibition of parking on neighbouring residential streets;

(b) The timing of construction traffic to and from the construction site and its routing to Sutton Cross along the Howth Rad and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

(c) Details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

(d) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority. The developer shall provide contact details for the public to make complaints during construction and provide a record of any such complaints and its response to them, which may also be inspected by the planning authority.

Reason: In the interest of amenities, public health and safety

7. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

8. Proposals for street and block names, numbering schemes and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and numbers shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority.

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

10. 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.

Reason: In the interests of public health

10. The applicant or developer shall enter into water and waste water connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health

11. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities within each

block shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of air handling and extraction for the permitted restaurant and café and of any ducting or other equipment required in this regard. 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

12. The proposed development shall make provision for the charging of electrical vehicles. All car parking spaces serving the development shall be provided with electrical connections, to allow for the provision of future charging points and in the case of 10% of each of these spaces, shall be provided with electrical charging points by the developer. Details of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points and the provision for the operation and maintenance of the charging points (where they are not in the areas to be taken in charge) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: in the interests of sustainable transportation

13. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -
 - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

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

14. 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

15. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

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

16. Prior to the commencement of development the developer shall consult with Iarnród Éireann and shall comply with its requirements regarding the carrying out of works in the vicinity of the railway.

Reason: In the interests of public safety

17. Prior the commencement of development the developer shall consult with the Irish Aviation Authority and shall comply with its requirements regarding the erection of any tower cranes on the site.

Reason; In the interests of public safety

18. 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 of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development

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 housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála 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. 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

21. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of the construction of a pedestrian bridge over the railway from the site towards Claremont Strand. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the ***Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

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

Stephen J. O'Sullivan
Planning Inspector

20th March 2020