

An
Bord
Pleanála

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

Inspector's Report ABP-309668-21

Strategic Housing Development

275 no. apartments (retail use
(291.6sqm), a creche (299.5sqm) and
associated site works.

Location

Land adjacent to Scotch Hall
Shopping Centre, Marsh Road,
Drogheda, Co. Louth.
(www.scotchhallshd.com)

Planning Authority

Louth County Council

Applicant

Hallscotch Venture Limited

Prescribed Bodies

- Irish Water
- Transport Infrastructure Ireland

Observer(s)

- Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media
- Protect East Meath Limited
- Orna Andrews
- John Conway and Louth Environmental Group
- Drogheda Port Company

Date of Site Inspection

20th May 2021

Inspector

Elaine Power

DECISION QUASHED

1.0 Introduction

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

2.0 Site Location and Description

- 2.1. The subject site is located on a prominent site in the docklands area of Drogheda Town Centre. The site has a stated area of 1.34ha. The majority of the subject site is operating as a commercial surface car park associated with the Scotch Hall shopping centre and the D-Hotel to the west of the site. The site also contains 3 no. disused structures at its southern boundary.
- 2.2. The site is bound to the north by the southern quay wall of the River Boyne, to the south it is primarily bound by the rear of properties of dwellings that front onto Marsh Road, with a limited (c.8m) frontage onto Marsh Road, to the west it is bound by the D Hotel, Scotch Hall Shopping Centre and partially developed lands, which are surrounded by hoarding. There has been no construction activity on site for some years. To the east the site is bound by former industrial lands (including an existing stonemason's workshop).
- 2.3. The subject site also includes a section of Poorhouse Lane, which is a public road. It is located to the south-east of the site, on the opposite side of Marsh Road, and provides a link to the Train Station. Poorhouse Lane is a 2-way street that varies in width from c. 3.5m (under the bridge) to c. 8m. There are two protected structures at this location, a limestone marker (RPS DB-366) and the arched stone bridge (RPS DB-367). A small section of Marsh Road is also included in the application site to facilitate upgrade works.
- 2.4. Vehicular access to the site is via an existing (unnamed) access road to the Scotch Hall Shopping Centre and D Hotel from Marsh Road which currently provides access to the car park on site.

2.5. There are 3 no. Protected Structures directly adjacent to the main site (RPS ref DB-144, DB145 and DB 146) on Marsh Road, which are early nineteenth century houses.

3.0 Proposed Strategic Housing Development

3.1. The development proposed comprises 275 no. apartments, in 4 no. blocks ranging in height from 5 -12 storeys. The development also includes a creche (c.299.5sqm), retail units (c.291.6 sqm) and public open space areas (1998.2sqm). The 4 no. blocks comprise.

- Block A is 8 storeys in height and accommodates 59 no. apartments and 2 no. ground floor retail units
- Block B is 8 storeys in height and accommodates 63 no. apartments
- Block C ranges in height from 8 -12 storeys and accommodates 98no. apartments and
- Block D is 5 storeys in height and accommodates 55no. apartments and a ground floor creche unit.

3.2. Blocks A and B are located along the site's northern boundary, with the waterfront. Block C is located at the site's north eastern corner and Block D is located along the site's southern boundary, to the rear of properties on Marsh Road. The scheme includes a central plaza of public open space (1,319sqm), a waterfront promenade (532.2sqm) and a pocket park (147sqm). Communal open space (2,154.4sqm) is provided in the form of roof terraces and outdoor spaces to the south of Block D and to the east of Block C. Internal residential amenity area (355sqm) is also provided at ground floor level within Block C.

3.3. The main vehicular access to the site is proposed via an existing access road, to the west which serves the Scotch Hall shopping centre. An additional vehicular access, to serve the existing warehouse units to the south of the proposed development, will be provided from Marsh Road. The scheme includes an internal network of streets and pedestrian routes connecting the development to the Scotch Hall complex, Marsh Road and the future development lands to the east.

- 3.4. A total of 94 no. car parking spaces are provided to serve the proposed development. 84 no. car parking spaces are provided at ground level throughout the proposed development. The 84 no. surface spaces will be for the use exclusively by the future residents of the proposed development. An additional 10 no. car parking spaces are provided at third floor level of Scotch Hall shopping centre.
- 3.5. All ancillary site development and landscape works are also provided for, including improvements to pedestrian facilities along Poorhouse Lane.
- 3.6. The information submitted includes the following: -
- Planning Report including – Statements of Consistency, a response to An Bord Pleanála Opinion, Description of Possible Effects on the Environment and EIAR Screening;
 - Material Contravention Statement
 - Architectural Design Statement
 - Architectural Drawings, Schedule of Accommodation
 - DMURS Compliance Statement
 - Mobility Management Plan
 - Outline Construction Management Plan
 - Preliminary Construction and Demolition Waste Management Plan
 - Flood Risk Assessment
 - Traffic and Transport Assessment
 - Stage 1 Quality Audit
 - Car Park Management Proposal
 - Landscape and Management Plans
 - Landscape Design and Access Statement
 - Townscape Visual Impact Assessment
 - Daylight and Sunlight Analysis
 - Screening Statement for Appropriate Assessment and Natura Impact Statement including - an Outline Construction Management Plan, a construction and Demolition Waste Management Plan, a Preliminary

Contamination Risk Assessment, a Site Synopsis report and an Ecological Report.

- Ecological Assessment
- Archaeological Impact Assessment and Summary Excavation Report (2008)
- Architectural Heritage Assessment
- Contamination Risk Assessment
- Technical Note – Classification of the soil in terms of Waste Acceptance Criteria
- Operational Waste Management Plan
- Public Lighting Report
- Energy Statement
- Wind Analysis and Pedestrian Comfort Report and
- Building Life Cycle Report.
- Engineering Planning Report
- Photomontages

4.0 Planning History

Subject site

- *ABP. PL51.21.2442, Reg. Ref. 04/321*: Permission was granted in 2007 for an extension to an existing shopping centre to provide retail (12,890sqm), an 8 no. screen cinema, office use and an extension to hotel (67 no. bedrooms). Works included a new street between Marsh Road and South Quay and the provision of a new bridge from Dublin road to Marsh Road on a larger landholding encompassing the subject site. An extension of duration of permission was granted under *Reg. Ref. 12/33*. To date this development has only been partially completed and the remaining lands to the south west of the subject site form Phase 2.

- *Reg. Ref. 08/207*: Permission and retention permission were granted in 2009 for a temporary surface car park comprising 100 no. spaces to serve a hotel at the Scotch Hall complex.
- *Reg. Ref. 08/22*: Permission and retention permission was granted in 2009 for a temporary surface car park comprising 175 no. spaces to serve the Scotch Hall Shopping Centre.
- *ABP PL54.241581, Reg. Ref. 12/53*: Retention permission was refused in 2013 for a surface car park comprising 223 no. spaces.
- *ABP PL.242986, Reg. Ref. 13/46*: Retention permission was granted in 2014 for a limited, three and a half year, period for a surface car park comprising 299 no. spaces.
- *Reg. Ref. 19/265*: Retention permission was sought in 2019 for a surface car park with 263 no. spaces including a riverside walkway and all attendant site works on the development site. Further information was sought but not submitted. Therefore, this application was deemed withdrawn.

Lands to the East

- *Reg. Ref. 09/510109*: A 10 year permission was granted in 2010 for the demolition of existing structures and the construction of 7 no. blocks ranging in height from 1 – 2nd storeys containing 457 no. apartments, retail (10,527sqm), professional / financial / other services office type (24,055sqm), change of use from office to a maritime museum within the Chemical Manure Building (150 sqm) (Protected Structure), 2 no. childcare facilities, a hotel (13,924sqm), public open space areas, new road infrastructure, vehicular bridge across the River Boyne connecting south & north quays, under-podium parking (1,114 spaces) with vehicular and pedestrian access from Marsh Road, works included the removal of contaminated soils & reclamation of land from the River. The development had a gross floor area of 60,259sqm. An Extension of Duration of

Permission (reg. Ref. 20/802) was refused in 2020. This site is located to the east of the subject site.

Surrounding Sites

- *ABP TA15.305110 - Strategic Housing Development Application:* Permission was granted in 2019 for the construction of 450 no. residential units (81 no. houses and 369 no. apartments), creche and associated site works at Newtown, Marsh Road and McGraths Lane Railway Terrace, c. 900m east of the subject site.

5.0 Section 5 Pre Application Consultation

5.1. A Section 5 pre-application consultation took place on the 23rd August 2019 in respect of development of 270 no. residential units, 2 no. commercial units and a creche. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. The main topics discussed at the meeting were –

- Development Strategy for the site to include local policy provisions, height, density and urban design response having particular regard to adjoining lands.
- Visual Impact.
- Future Residential Amenity to include micro-climate and public realm / open space.
- Traffic and Transportation to include parking management and layout.
- Surface water management and flood risk to include AA considerations.
- Any other matters.

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

5.2. In the Notice of Pre-Application Consultation Opinion dated 4th September 2019 (ABP-304902-20) An Bord Pleanála stated that it was of the opinion that the documents submitted required further consideration and amendment in order to constitute a reasonable basis for an application for strategic housing development with regard to the following: -

1. **Movement and transportation including car-parking:** Further consideration of movement (pedestrian, cyclist and vehicular) within and through the development site including the configuration and quantum of parking spaces. A Parking Demand and Transportation Management scheme should be submitted. Further consideration should also be given to the need for the extent of service access routes through the development lands, traffic management flows to and within the site and how the development lands will connect into the extant permission on adjoining lands to the east and how such arrangements are consistent with the principles of Design Manual for Urban Roads and Streets.
2. **Layout, height and unit mix including visual impact:** Consideration of integration with existing permitted developments in particular the Phase II lands which are partially constructed, adjoining lands to the east of the site and developments on the waterfront. Further elaboration of the proposed visual impact on the existing built environment should also be submitted.
3. **Future Residential Amenity:** Consideration should be given to the specific planning policy requirements contained in the Apartment Guidelines and how the proposed residential units comply with such policies. Further consideration of the daylight and sunlight analysis and proposed layout/design so as to demonstrate reasonable levels of light in the proposed residential units. Regard should also be given to the aspect from residential units. Consideration should also be given to the qualitative nature of balconies particularly having regard to micro-climate along the waterfront.

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

1. A contextual layout plan which indicates the layout of adjoining developments (existing and proposed), photomontages and cross section at appropriate intervals for the proposed development including details of how the proposed development interfaces with contiguous lands and adjoining roads (existing and proposed).
2. All existing utilities that may traverse the site.

3. A site layout plan indicating pedestrian and cycle connections through the development lands including the waterfront.
4. A construction and demolition waste management plan.
5. Details clarifying that the waste from the development lands meet the Waste Acceptance Criteria as set out in the Contamination Risk Assessment and/or alternative proposals to deal with such waste as appropriate.
6. A Building Life Cycle Report.
7. A phasing plan.
8. A site layout plan indicating all areas to be taken in charge.
9. Information referred to in article 299B(1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018 (if an Environmental Impact Assessment report is not being submitted).

5.3. A list of authorities that should be notified in the event of making an application were also advised to the applicant and included:

1. Irish Water
2. The Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs
3. The Heritage Council
4. An Taisce – the National Trust for Ireland
5. Transport Infrastructure Ireland
6. National Transport Authority
7. Louth County Childcare Committee.

5.4. ***Applicant's Statement***

5.4.1. A statement of response to the Pre-Application Consultation Opinion was provided in Section 9 of the Planning Report and Statement of Consistency submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016. The applicant addressed the items that required consideration and specific information to be submitted with the application.

5.4.2. The Items that required further consideration are summarised below: -

1. Movement and transportation including car-parking:

Movement within and through the site (Pedestrian, Cyclist and Vehicular): The site layout plan has been significantly amended since the pre-application submission with a view to enhancing the pedestrian and cyclist experience. Vehicular access is limited to 1 no. entrance only and shared surfaces are provided within the scheme. The quantum of car parking has been reduced and public open space provision increased to support enhanced pedestrian and cyclist movement across the site. The location of bicycle parking has also been revised to reduce clutter and obstructions from key pedestrian routes.

Quantum of Car Parking: Car parking has been reduced. It is considered that this reduction would contribute to the quality of the public realm and would facilitate a greater degree of permeability for pedestrians. A Car Parking-Management Proposal document and a Traffic and Transport Assessment have also been submitted in support of the car parking provision.

Rationale for Car Parking: The car parking ratio is 0.34 no. space per residential unit. The reduced quantum of car parking proposed in this instance is in accordance with national planning policy. The scheme also includes the provision of 2 no. GoCar spaces, which are proven to significantly reduce the demand for car parking spaces.

Access Routes / Site Permeability: Vehicular access is limited to 1 no. entrance only. The secondary vehicular access from Marsh Road, proposed during pre-planning stage, is now provided as a pedestrian / cyclist access only with occasional vehicular access for adjacent warehouse units. Bollards are proposed to ensure it would not be used for general vehicular access. The proposed development facilitates future access to development lands to the east. This access has been designed to integrate with the previously permitted development at the adjoining site (Reg. Ref. 09/109, which has expired). This route is in accordance with the Docklands Area Plan, 2007, to provide an east – west spinal street.

2. Layout, height and unit mix including visual impact:

Integration with Surrounding Developments: The proposed development has been designed to integrate with permitted and planned developments on adjacent sites. It is

noted that the lands to the west are within the applicant's ownership. The public realm proposals have been revised and feature a designated cycle track and pedestrian promenade along the entire waterfront. It is considered that the active frontages, distinctive material finishes and landscaping works along the eastern boundary provide a distinguished and high quality edge to the previously permitted scheme (which has expired).

The scheme has been subject to a noise assessment, which had regard to the inward noise impacts, it concluded that there would be no significant increase in noise risk to the proposed development.

Building Height: The development ranges from 5 – 12 storeys in height. The heights referred to in the Docklands Area Plan are not prescriptive but rather intended to help guide the overall preferred design and layout of developments. It is noted that greater heights have been permitted within the Docklands in the past. The Building Height Guidelines recognise that increased building heights at appropriate locations can contribute to more compact and sustainable settlements. The proposed building heights are in accordance with national policy.

Unit Mix: The proposed unit mix complies with SPPR1 of the Apartment Guidelines. The Development Plan does not specify a breakdown or minimum mix to be achieved. However, the development is considered to be in accordance with Policy RES 12 and RES 13 to provide a mixture of housing types and sizes.

Townscape and Visual Impact Assessment: A Townscape and Visual Impact Assessment has been submitted which assesses the potential impact of the proposed development. An Architectural Heritage Assessment has also been submitted which concludes that the proposed development would not have any adverse impact on the character or setting of any protected structure.

Material Contravention: A Material Contravention Statement has been submitted as part of the Planning Report to address issues relating to material contravention.

External Finishes and Street Furniture: The surrounding context consists of a variety of materials from traditional, brick, stone and rendered finishes, as well as more modern steel, curtain walling and cladding materials on the Scotch Hall shopping

centre. The proposed materiality responds to this in comprising two high quality bricks, red and buff. Block C, provides a landmark, not only in its scale but its materials which comprise powder coated metal fins on the top level with a contrasting panel.

A selection of street furniture, as well as hard and soft landscaping are proposed. The landscaping would greatly improve the public realm and deliver a cohesive response to the waterfront.

3. Future Residential Amenity

The proposed development is in compliance with the Apartment Guidelines. All units exceed the minimum floor area requirements. Additionally, all internal rooms and areas of private outdoor amenity spaces meet or exceed the relevant standards. The proposed scheme includes 59% dual aspect (162 no.) units, which substantially exceeds the requirement for this central urban location of 'at least 33%'. All single aspect units have a direct outlook to either the River Boyne (17 no.) or the public open space provided in the centre of the scheme (9 no.). In addition, the size of these units exceed the minimum floorspace standards.

The Sunlight / Daylight Assessment confirms that all of the required standards regarding sunlight / daylight access to the development are met or exceeded. In this regard, 96% of habitable rooms exceed the minimum BRE requirements. The sunlight analysis demonstrates that the proposed amenity spaces at ground and roof level achieve 79% sunlight access for more than 2 hours on the 21st March, which also exceeds BRE recommendations.

The final design was also informed by a Wind Analysis, which includes an analysis of the micro climatic conditions of the balconies. The balconies on the tower element of Block C have been redesigned having regard to the findings of the wind analysis. While some balconies on the corners of the blocks are predicted to experience some windy conditions, the dual aspect nature of these balconies allow in all cases that a particular area of each balcony can expect a satisfactory degree of sheltering and are usable amenity space.

- 5.4.3. The following specific information was also submitted with regard to items 1 – 9 outlined above: -

1. A variety of architectural drawings and photomontages have been submitted which show the proposed development in context with adjacent existing and proposed developments.
2. The Engineering Planning Report and associated drawings provide details with regard to water and drainage infrastructure.
3. Landscape drawings and Landscape Design Access Statement provides a site layout plan indicating pedestrian and cycle connections through the development lands, including the waterfront.
4. A Construction and Demolition Waste Management Plan has been submitted.
5. A Contamination Risk Assessment and an accompanying Technical Note entitled 'Classification of the Soil in terms of Waste Acceptance Criteria' has been submitted.
6. A Building Life Cycle Report has been submitted.
7. A Phasing Plan has been submitted.
8. It is confirmed that no areas are to be taken in charge. The areas of open space would be in charge of a management company, to be appointed by the applicant.
9. Sections 14 and 15 of the Planning Report comprise the Environmental Impact Assessment Screening Report in accordance with article 299B(1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018 (if an Environmental Impact Assessment report is not being submitted).

6.0 Relevant Planning Policy

6.1. *Drogheda Docklands Area Plan (DDAP), 2007*

The subject site is located within the boundary of the Drogheda Docklands Area Plan. The vision of the plan is to regenerate the Drogheda Docklands area and to provide a range of new commercial, civic and recreational uses focused on the waterfront and water based activity, while building on a unique setting, character and heritage of the Docklands. Figure 13 identifies the site as being suitable for residential and commercial development. Section 3.3.1 states that residential development should be focused on the proposed new internal streets. It should also form an important part of

mixed use development on the waterfronts. Section 3.3 refers to Land Use and notes that there is an overall objective for the area of 50% residential and 50% commercial.

With regard to the urban structure the plan states that *'on the south side, the main elements of the urban structure will be the new and continuous waterfront; this will mean a new quay wall line; a new spine street running parallel and between the waterfront and Marsh Road and a network of north-south link streets giving access from Marsh Road to the waterfront...It is envisaged the two sides of the river will be linked by two, new pedestrian priority bridges west of the Railway Viaduct'*.

With regard to density the plan states that development should be measured on the basis of net plot ratio. *'The development plan provides for indicative plot ratios between 1:1 and 2.5:1, gross floor space : site area. The higher figure would be expected to give rise to medium/high density development typical of Dockland areas in larger cities. In exceptional circumstances, where there is a clear benefit to the character of the area or where a significant cultural, civic or social facility is included as part of the development, an increase in plot ratio might be permitted, subject to a maximum of 3:1'*.

The plan also states *'that in general terms, a maximum height of six storeys residential (plus set-back storey) or five storeys commercial (plus set-back storey) is proposed on the waterfronts, stepping down to a maximum of four storeys residential (plus set-back storey) or three storeys commercial (plus set-back storey) adjacent to Marsh Road, North Strand and the Viaduct'*. The plan favours a form of massing characterised by the perimeter block model.

6.2. **Drogheda Borough Development Plan 2011 – 2017 (as extended)**

The application site is zoned TCd - Docklands with the associated land use objective to provide for a mix of new town centre activities in accordance with Docklands Area Plan. Section 4.4 of the Plan notes that all proposals for development in this area must be in accordance with the Drogheda Docklands Area Plan.

Table 6.2 of the Drogheda Borough Development Plan requires a minimum density of 50 units per ha in town centre sites.

Table 5.3 of the Drogheda Borough Council Development Plan also sets out a car parking standard of requires 1 no. car parking space per apartment and 1 no. space per 3 employees and 1 no. space per 6 children in a creche. It is unclear how many staff would be employed in the creche.

Chapter 5 also addresses transportation objectives. Of particular relevance is RT9: Marsh Road: Reconstruction of Marsh Road and RT38: Facilitate Scotch Hall (Phase 3) North and South of the Quays Bridge Crossing. Policy TR16 also seeks to develop an integrated pedestrian footpath and cycle path network through the plan area.

6.3. ***Louth County Development Plan 2015-2021***

Chapter 2, Core Strategy and Settlement Hierarchy – The development lands are located within Drogheda, which is a Primary Development Centre and designated Large Growth Town 1. Table 2.4 indicates that Drogheda and Environs is expected to have a population growth of 2571 persons by 2021, which equates to 952 residential units.

Policy CS1 :To promote the household and population growth in the County in accordance with Table 2.5 and 2.6 of the Core Strategy.

Policy SS1: To maintain the settlement hierarchy within the County and to encourage residential development within each settlement that is commensurate with its position in the hierarchy and the availability of public services and facilities.

Policy RES 18: To apply density standards in respect of the County's towns and villages as set out in Table 4.3 and to carry out further refinement where necessary as part of the review of the local area plans.

Policy RES 19: To require that residential buildings shall not exceed 3 storeys in height, including roof space development except in exceptional circumstances where the planning authority considers that the site can adequately accommodate 4 storeys (including roof space development) and where provision for higher buildings is provided for in any local area plan.

Policy RES 24: To encourage planning applications for residential schemes in excess of seventy five dwelling units to incorporate works of public art.

Policy RES 48: To ensure that adequate provision is made for community buildings, sports and recreational facilities, including playing fields and children's play areas in master plans and residential proposals, having regard to the *Louth Local Authorities Sports and Recreation Strategy 2006-2012* and for any revised Strategy prepared during the lifetime of the Development Plan.

Section 2.16.4 of the development plan refers to Policy SS4, to review the Drogheda Borough Council Development Plan 2011-2017 and to prepare a Local Area Plan for Drogheda and Environs, which will be consistent with the County Plan. The development plan states that the Louth County Development Plan 2015 – 2021 will be an over-arching Development Plan for the entire county including Drogheda.

The following policies are also considered relevant, RES 6, RES 10, RES 12, RES 13, RES 14, RES 15, RES 16, RES 20, RES 21, RES 22, RES 23, RES 24, RES 26, RES 28, RES 29, RES 34, RES 35, RES 37, RES 38, RES 43, RES 44.

6.4. ***Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 – 2031***

Drogheda is identified as a Regional Growth Centre within the Core Region of the Eastern and Midland Region and was the fastest growing town in the most recent inter-census period. An element of the growth strategy for the Eastern and Midland Region is to target growth of the regional growth centres, including Drogheda, as regional drivers and to facilitate the collaboration and growth of the Dublin-Belfast Economic Corridor, which connects the large towns of Drogheda, Dundalk and Newry. 6.2.2. The RSES aims to enable Drogheda to realise its potential to grow to city scale, with a population of 50,000 by 2031 through the regeneration of the town centre, the compact and planned growth of its hinterland and through enhancement of its role as a self-sustaining strategic employment centre on the Dublin-Belfast Economic Corridor. It is anticipated Drogheda will accommodate significant new investment in housing, transport and employment generating activity. The RSES also identifies key transport infrastructure investment, including the provision of electrified lines to Drogheda as

part of the DART expansion programme. A Joint Urban Area Plan is to be jointly prepared by Louth and Meath County Councils (given the town lies within the functional area of these two local authorities), in collaboration with EMRA, as a priority.

6.5. **National Planning Framework (2018)**

The National Planning Framework addresses the issue of 'making stronger urban places' and sets out a range of objectives which it considers would support the creation of high quality urban places and increased residential densities in appropriate locations while improving quality of life and place. The NPF further emphasises the importance of Dundalk and Drogheda within Chapter 3 where it states that *"it will be necessary to prepare co-ordinated strategies for Dundalk and Drogheda at both regional and town level to ensure that they have the capacity to grow sustainably and secure investment as key centres on the Drogheda- Dundalk-Newry cross border network."*

Relevant Policy Objectives include

- National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- National Policy Objective 11: ... Strengthening Irelands overall urban structure, particularly... cross border networks focused on... Drogheda – Dundalk – Newry on the Dublin – Belfast Corridor.
Encouraging population growth in strong employment and service centres of all sizes, supported by employment growth
- National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.
- National Policy Objective 57: Enhance water quality and resource management by ... ensuring flood risk management informs place making by avoiding inappropriate development in areas at risk of flooding in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities...

6.6. **Section 28 Ministerial Guidelines**

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

- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2020
- Urban Development and Building Heights Guidelines, 2018
- Urban Design Manual, A Best Practice, 2009
- Design Manual for Urban Roads and Streets, 2013
- The Planning System and Flood Risk Management Guidelines, 2008

6.7. **Applicants Statement of Consistency**

The applicant has submitted a Statement of Consistency (as part of the Planning Report) as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of section 28 guidelines and the relevant Development Plan.

6.8. **Material Contravention Statement**

- 6.8.1. The applicant submitted a Material Contravention Statement. The statement provides a justification for the material contravention of the Louth County Development Plan 2015 - 2021 in relation to (i) Core Strategy, (ii) Building Height, (iii) Car Parking and

(iv) Apartment Floor Areas and of the Drogheda Docklands Area Plan, 2007 in relation to Building Height. The statement is summarised below: -

Core Strategy (Density): Table 2.5 sets out an average density of 40 units per ha for the land supply in Drogheda and Environs during the plan period. The proposed development has a density of c. 226 units per ha. The proposed density is above the average density as set out in the core strategy. It could be argued that the proposed density would not result in an average density across the wider Drogheda and Environs area to go above 40 units per ha. The proposed provides a sustainable solution for Drogheda's growing population, by providing a high density development on an underutilised town centre site, which is in proximity to high capacity, high frequency public transport services and in a location that provides a logical and sequential extension of the existing town centre and which would support an increased use of more sustainable modes of travel as a result.

The proposed scheme is in accordance with the National Planning Framework, the Eastern and Midland Regional Economic Spatial Strategy, Sustainable Residential Development in Urban Areas, 2009, Urban Development and Building Height Guidelines, 2018.

Building Height: The proposed development ranges in height from 5 – 9 storeys. Blocks A and B are 8 storeys, Block C is predominately 8 storeys with a 12 storey element and Block D is 5 storeys.

Policy RES19 states that residential buildings shall not exceed 3 storeys in height, (including roof space development), except in exceptional circumstances where the planning authority considers that the site can adequately accommodate 4 storeys (including roof space development) and where provision for higher buildings is provided for in any local area plan.

The Drogheda Docklands Area Plan, 2007 states *'that in general terms, a maximum height of six storeys residential (plus set-back storey) or five storeys commercial (plus set-back storey) is proposed on the waterfronts, stepping down to a maximum of four storeys residential (plus set-back storey) or three storeys commercial (plus set-back storey) adjacent to Marsh Road, North Strand and the Viaduct'*. Therefore, a greater

range of heights is envisioned as part of the regeneration of the subject site, in excess of the heights defined by RES 19.

A robust and comprehensive assessment of the criteria set out under SPPR3 of the Building Height Guidelines has been submitted with the application and the proposed scheme is considered acceptable.

Car Parking: The proposed development provides 94 no. car parking spaces. Table 7.6 of the development plan set out a requirement of 1 no. car parking space per apartment at this location.

The Apartment Guidelines allows for a substantial reduction in car parking provision in central and / or accessible location.

Apartment Floor Areas: Table 4.5 of the development plan specifies a target floor area of 73sqm and an aggregate living / dining / kitchen floor area of 30sqm for a 2 bedroom, 3 person apartment. The Apartment Guidelines set out a minimum floor area of 63sqm for a 2 bedroom, 3 person apartment. The proposed development is in accordance with the Apartment Guidelines.

Justification for Material Contravention

Section 37(2)(b)(i) It is considered that the proposed development falls within the definition of Strategic and National Importance and is, therefore, justified by Section 37(2)(b)(i) of the act.

Section 37(2)(b)(ii): There are conflicting standards of density provided in the Louth County Development Plan and the Drogheda Borough Development Plan. The Core Strategy of the development plan sets out an average density of 40 units per ha and Policy HC 17 of the Drogheda Borough Development Plan requires a minimum density of 50 units per ha with not upper limit. Both plans also reference the Sustainable Residential Development in Urban Areas Guidelines, 2009 which state that in order to maximise the inner city and town centre population growth, there should, in principle, be no upper limit on the number of dwellings that may be provided within any town or city centre site. The density guidelines for this site are not, therefore, clearly stated.

Section 37(2)(b)(iii): Having regard to the regional spatial and economic strategy for the area, guidelines under Section 28, policy directives under Section 29, the statutory obligations of any local authority in the area, and any relevant policy of Government, the Minister of any Minister of the Government it is considered that the proposed material contraventions (density, height, car parking and floor areas) are justified by reference to section 37(2)(b)(iii) of the act.

7.0 Third Party Submissions

Drogheda Port Company

- Premature and inappropriate in the absence of any clarity of sight on the delivery of Port Northern Access Route. In order to be viable, the port must be able to adapt, grow and expand. This includes being able to fully utilise all sites to their full potential. This development could severely reduce the ability of the port.
- The application is out of context with transport and motorway link roads proposed for the Marsh Road, Greater Drogheda Area and does not appear to reflect the strategy of the proposed Mill Road Interchange and link to existing M1 Motorway.
- The proposed development does not offer any solution to the traffic congestion problems which would result from this development. It would not alleviate any issues currently facing HGV drivers that navigate this congested area.
- The Traffic and Transport Assessment report concedes that the Bullring junction is currently approaching capacity. This has impacted development in the area and where possible traffic generation has been avoided.
- The port relies on competitive turnaround times for trucks, any delays would result in possible loss of business.
- The creche would place an additional strain on the capacity of the road network. Traffic management would need to address the safety of children and parents dropping and collecting at this facility.

- The impact of the construction phase has not been addressed. This could result in irreparable damage to our client base and ability to recover from lost business.
- There are several undeveloped sites within 1km of the subject site. An inappropriately timed and over ambitious residential development could potentially negate any possible future development of these sites.
- A Seveso Site is located very near to this location and consideration must be given to the overall management of the area in terms of emergency response to a major incident at the facility itself or on a vessel.

John Conway and Louth Environmental Group

- Permission cannot be granted permission for the proposed development in circumstances, where it would be justified by the Building Height Guidelines. These Guidelines are not authorised by Section 28(1C) of the Planning and Development Act, 2000 (as amended). The Guidelines are also contrary to SEA Directive as they purport to authorise contraventions of Development Plans / Local Area Plans without and SEA being conducted, or a screening for SEA being conducted on the variations being brought about to the Development Plan / Local Area Plans as a result of same.
- The proposed development does not comply with the requirements of the Urban Height Guidelines.
- The proposed development does not comply with the requirements of the Development Plan in relation to justifying the proposed density. The material contravention of the plan cannot be justified by the Building Height Guidelines.
- The applicant has failed to demonstrate that the proposed development is of 'strategic or national importance'. The applicant relies on generic statements in this regard and appears to assert that due to the nature of the development (SHD) that it accords with the criteria.
- Insufficient information has been submitted regarding the impacts on birds and bat flight lines / collision risks or the purposes of the EIA Screening Report, AA Screening Report, NIS and the Building Height Guidelines, and the relevant assessments required to be carried out by the Board in respect of same cannot, therefore, be completed in the absence of same.

- The information submitted does not comply with the requirements of the Planning and Development Act 2000, and the Planning and Development Regulations, 2001.
- Due to the nature, location and characteristics of the proposed development it should be subject to a full EIA. Furthermore, the Screening for EIA, including the Ecological Report is inadequate and deficient and does not permit an assessment of the potential environmental impacts of the proposed development.
- The information submitted is insufficient to enable proper and complete assessment of pollution and nuisance arising from the proposed development. There is insufficient information to assess the impact on risk to human health and biodiversity.
- No regard and / or inadequate regard has been given to the potential impact of the pre-existing contamination on the development site.
- It is envisioned that certain matters would be agreed with the planning authority, such an approach is contrary to the requirements, including public participation, of the EIA directive, in circumstances where there is no mechanism for the public to participate in the process leading to the agreement with the planning authority under the 2016 Act and in circumstances where there is a distinct lack of detail in the information provided that would provide a clear criteria for matters to be so agreed. If the Board was minded to impose such a condition, in light of the foregoing it would effectively be abdicating its responsibilities under the EIA directive.
- The Board lacks ecological and scientific expertise and / or does not appear to have access to such expertise in order to examine the EIA Screening Report as required under Article 5(3)(b) of the EIA Directive.
- The information submitted is insufficient and contrary to the requirements of the EIA Directive and the provisions of national law.
- The Screening for Appropriate Assessment fails to provide reasoned conclusions, in light of the best scientific knowledge available, for screening out the impact of the proposed development on bats and birds.

Protect East Meath Limited

- The extension of the Drogheda Borough Council Development Plan 2011 – 2017 is invalid as the legislation extending the plan period is in breach of the SEA Directive. Therefore, the application does not qualify as Strategic Housing Development as the location does not satisfy the zoning criteria.
- The proposed development represents a material contravention of the development plan, which is a breach of the SEA Directive.
- The applicant has failed to identify and justify material contraventions relating to Policy TR9, Policy HC 17 and Section 6.7.4, Policy HC 19.
- There are also material contraventions of the Drogheda Docklands Area Plan, 2007 which are neither identified or justified for example, focus on commercial uses on the waterfront and nearer the town, lack of urban structure, civic spaces, set back, unit mix, East West spine street, environmental sustainability, building lines, phasing and so on.
- To qualify for a material contravention under section 37(b)(i) the applicant must point to something more than the fact that the proposal is for a strategic housing development.
- There is no clear conflict within the development plan with regard to density. The applicant's statement that density objectives for this site are not clear is incorrect. There is a maximum density of 50 units per ha. Therefore, the material contravention cannot be justified under Section 37(b)(ii)
- The proposed development is not in accordance with SPPR3 of the Building Height Guidelines, therefore, the proposed height can not be materially contravened with regard to Section 37(b)(iii)
- The applicant has not justified the car parking provision. There is no cycling infrastructure in this area. People cannot use bicycles without cycling connections.
- The application is contrary to the RESE which requires a joint urban area plan for Drogheda and also for infrastructure to be delivered in tandem with housing.
- This project requires Stage 2 AA, by definition there is a likelihood of significant effects on the environment and an EIAR is required.

- The applicant has failed to provide the statement required under Regulation 299B(1)(b)(ii)(II)(C) of the Planning and Development regulations.

Orna Andrews

- This submission provides background information to the area covered by the Drogheda Docklands Area Plan and the planning history of the area. It is stated that there is no objection in principle to the proposed use or density proposed. However, there are concerns that the proposed development would prejudice the development of the remaining Docklands area.
- Access to the site is not in accordance with the Drogheda Docklands Area Plan, which envisioned access from the Dublin Road. This is likely due to the topography of the site and the cost of connecting to the Dublin Road. Should this development proceed as per the proposed layout the opportunity to provide the envisioned connection between the Docklands Area and the Dublin Road would be lost. This lost opportunity would also negatively impact on the future development potential of adjacent Town Centre zoned lands.
- The application includes a footpath along Poorhouse Lane. This is the only infrastructure proposed for a substantial development. Concerns raised that the proposed 1m wide footpath would reduce the carriageway width of Poorhouse Lane to only 2.5m beneath the arched tunnel. There are other options to provide pedestrian links, in particular along the envisioned new spine street that would link to the Dublin Road or via the old disused steps connecting the Marsh Road to the Dublin Road, which are located opposite the existing vehicular access to Scotch Hall (off Marsh Road). The steps are within the ownership of the council and would provide a more favourable pedestrian route to the Dublin Road.
- This application does not address the previous reasons for refusal for the site and does not provide any infrastructure to facilitate the future development of the remainder of the Docklands area.

8.0 Planning Authority Submission

8.1. The Chief Executive's Report, in accordance with the requirements of Section 8(5)(a) of the Act 2016, was received by An Bord Pleanála on the 5th May 2021. The report includes, a summary of the pre-application Opinion of An Bord Pleanála, the site location and description, relevant planning history, a description of the proposed development, internal reports, third party submissions, policy context, the views of the Drogheda Municipal Members at a meeting held on the 12th April 2021. The elected members do not support the development for the following reasons: - traffic grounds; lack of social infrastructure; negative impact on adjacent D-Hotel; Impact on quality of life; excessive height. The report also provides details pre-planning discussions. An infrastructure report was attached as an appendix.

8.2. The response to the third party submissions are summarised below: -

- The recommendations of the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media should be included as a planning condition should permission be granted.
- It is not considered that the development of this site is dependent on the Port Northern Access Route. This site is within 10 minutes walking distance of both the train station and the bus station and is located in close proximity to bus routes and all the shopping, community, and recreational facilities of Drogheda town. Having regard to national, regional, and local policy it is strategically located to promote a modal shift from cars to more sustainable modes of transport. On this basis the planning authority is satisfied that the development will not have an undue impact on the adjoining road network.
- Drogheda Borough Council Development Plan 2011-2017 and the Drogheda Docklands Local Area Plans are the operative development plan and local area plan pertaining to this land. The Louth County Development Plan 2021-2027 will supersede the development plan on adoption (c. 3rd quarter 2021). Within the draft plan it is noted that these lands are also zoned for town centre uses.
- It is recommended that a traffic management plan during construction phase be agreed with the planning authority prior to the commencement of development.

- The upgrade of Poorhouse Lane is welcome. In addition, the provision of a pedestrian link directly to the Dublin Road via existing step opposite the shopping centre should be provided, if feasible. This can be addressed by way of a condition.
- The authority considers that the proposed development has satisfactorily demonstrated compliance with the Section 28 Guidelines for Planning Authorities.
- The authority acknowledges that An Bord Pleanála is ultimately the competent authority in regard to the Appropriate Assessment and Environmental Impact Assessment of this scheme.

8.3. The key planning considerations of the Chief Executive's report are summarised below.

Policy Context:

National Policy: The proposed development at Marsh Road adheres to the policies and objectives of the National Planning Framework through providing compact urban growth, enabling people to live closer to employment and amenity/recreational opportunities, and providing higher densities.

The proposed site for development is located within the urban footprint of Drogheda and the subject lands are in close proximity to employment, commercial and education land and within easy walking distance of public transport hubs.

Regional Policy: The proposed development adheres to the principles enshrined in the RSES. The lands to be developed are serviced and zoned lands. The development meets with the principles of compact urban growth, enabling people to live closer to employment and amenity/recreational opportunities and supporting Drogheda as a regional growth centre. The development will provide co-ordinated development of zoned adjoining within the existing built footprint of Drogheda.

Louth County Development Plan 2015-2021: The development of this land will support the designation of Drogheda as a large growth town. The development is consistent with the Zoning Objective (Town Centre) by reason of providing new

residential and commercial development on lands zoned accordingly. The scheme provides for compact growth and consolidation of the urban fabric of the town through the development of the lands at appropriate density and ensuring continuity in connections to the town centre.

Drogheda Borough Development Plan 2011 – 2017: The scheme is consistent with the zoning objectives. The subject site is a brownfield site and as such is where development is prioritised in the core phasing strategy as set out in Variation No. 1 Drogheda Borough Council Development Plan. Effectively this area is unimpeded by the core strategy phasing. Furthermore, Policy CS1 of the Core Strategy encourages development within the existing urban fabric in the interests of sustainable land use.

Drogheda Docklands Area Plan (DDAP), 2007: The development design, urban structure, indicative 3d massing blocks and the street layout has been designed in line with the requirements of the DDAP. The proposed development proposes a mixture of residential and commercial development as envisioned in the plan.

Density and Height: The proposed density is considered appropriate for this urban waterside location and is in compliance with relevant Section 28 ministerial guidelines.

The area in which this development is located is characterised by taller structures. Scotch Hall Complex to which adjoins this site ranges from 7- 8 storeys in height. It has previously been considered that this area can accommodate substantially taller buildings due to its waterside setting. For these reasons and having regard to the urban design statement and photomontages submitted the planning authority has no concerns in this regard.

Layout and Design: The PA assessed the development against the 12 no. criteria outlined in the Urban Design Manual (2009) and concluded that development is consistent with the Urban Design Manual and is of considerable quality architectural scheme.

A rationale for the quantum of parking spaces (94 spaces) has been submitted having regard to the Design Standards for New Apartments - Guidelines for Planning Authorities. The car parking provision is considered acceptable.

An occasional service access routes is provided on Marsh Road which will have bollards at the entrance to restrict its usage to ensure priority for pedestrians and cyclists within site. The planning permission on adjoining lands to the east has expired. Outdoor bicycle stands along key access routes have been provided.

A Townscape and Visual Impact Assessment and an Architectural Heritage appraisal demonstrate how the proposed layout will integrate with existing future development proposals on Phase II lands and lands to the west. The PA is satisfied that the scheme will provide for a landmark development, will facilitate the integration of future developments on adjoining lands and will enhance this entrance to Drogheda.

A material contravention statement has been prepared which outlines consistency with the Louth County Development Plan 2015-2021, Drogheda Borough Council Development Plan (DBCDP) and Docklands Area Plan is noted.

Detailed proposals in relation to urban design, public realm, external finishes and street furniture have been provided which provide an optimal, cohesive and qualitative design response along the waterfront.

Future Residential Amenity: The PA is satisfied that the scheme provides for good quality urban development and will provide for a quality residential environment for future occupants. The lack of provision for external storage provision for all apartments should be addressed and alternative layout plans submitted to comply with the Guidelines submitted. This can be addressed by way of a planning condition.

The PA is satisfied on the basis of the analysis submitted that the development is not expected to have undue microclimate wind effects.

Other Considerations:

Photomontages: The planning authority considers that the scale, design and material proposed are appropriate to this location.

Existing Utilities on the Site: No concern in this regard.

Construction and Demolition Waste Management Plan: The Environment Section recommended that a condition be attached requiring that formal Project Construction

and Demolition Waste Management Plan to the local authority for written agreement prior to Commencement Notice stage. This approach is acceptable.

Contamination Risk Assessment: The Contamination Risk Assessment notes that in 2008 a significant volume of material (some of which was hazardous) was removed from this site and excavated areas were backfilled with clean engineering material. Samples undertaken for this assessment indicates that there are no exceedances on site for the applicable standard pertaining to commercial land use hence any soil to be removed off site could mostly be disposed of in a non-hazardous landfill. Further sampling of any stockpiles for disposal and when the existing hard standing and tarmacadam is removed, it is proposed to test the site for acceptance criteria and asbestos threshold. This approach is considered acceptable to the PA to ensure that there is no risk to the Boyne water quality from the residual material.

Building Life Cycle Report: Consideration has been had to energy and carbon emissions, low energy technologies, materials, landscaping, waste management, health and wellbeing and transport. The PA is satisfied with the approach taken and conclusions of same.

Phasing Plan: The PA has no concerns regarding the phasing of the development.

Taking in Charge: It is noted that the development would be operated and maintained by an Owners Management Company and would not be taken in charge by Louth County Council.

Part V – Social and Affordable Housing: The PA is not satisfied with the provision of 28 no. apartments (of a mix of sizes) in Block D. It is considered that the provision of social and affordable housing should be more evenly distributed within the four blocks of accommodation proposed and a proportionate number within the two phases proposed. This may be addressed by condition.

Development Contributions: The Louth County Council Development Contribution Scheme 2016-2021 is applicable and should be applied.

Archaeological Impact Assessment: A pre-development archaeologist testing programme of the entire site is recommended by the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media. A condition is recommended in this regard.

Appropriate Assessment: The NIS is considered to be sufficiently robust and taking into consideration the mitigation measures proposed, it is considered that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Boyne Coast and Estuary SAC or any other European Site, in view of the sites' Conservation Objective.

Environmental Impact Assessment: The planning authority concurs with the conclusions of the EIA examination. The development is of a class and is considered sub-threshold. The planning authority considers that the proposal is not such that would give rise to significant effects on the environment and as such does not require an EIAR.

The authority acknowledges that An Bord Pleanála is the competent authority in regard to AA and EIA.

Conclusion

The planning authority recommends that permission be granted and recommended 31 no. conditions. The most relevant of which is condition no. 2(b): -

2. (b) The pedestrian access to the Dublin Road shall be reinstated via the existing disused steps prior to the sale of any of the residential units hereby granted planning permission unless otherwise agreed in writing with the planning authority.

Reason: *To ensure the quality of the future residential amenity and compliance with the requirements of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, March 2020 (as amended) and to facilitate ease of movements for pedestrians and a shift to sustainable modes of transport.*

9.0 Prescribed Bodies

9.1. The list of prescribed bodies, which the applicant was required to notify prior to making the SHD application was issued with the Section 6(7) Opinion and included the following: -

- Irish Water
- The Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs
- The Heritage Council
- An Taisce – the National Trust for Ireland
- Transport Infrastructure Ireland
- National Transport Authority
- Louth County Childcare Committee

The applicant notified the relevant prescribed bodies listed in the Board's Section 6(7) opinion. The letters were sent on the 11th March 2021. A summary of the comments received are summarised below:

Development Applications Unit – Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media

Archaeology

The archaeological recommendations set out in the Archaeological Impact Assessment Report, should be implemented in full.

Underwater Archaeology

Although no works are proposed in the river, it is noted that an existing outfall in the quay wall is to be enlarged to allow discharge of surface water, the possibility of impact on underwater cultural heritage and archaeological features cannot be excluded.

Having reviewed the proposals in conjunction with the Moore Marine archaeological reports (09D067 & 09R0173) and given the archaeological potential of the area, it is recommended that the mitigation measures are carried out in full and should be a

condition of any grant of permission with all costs relating to or arising to be borne by the developer.

Nature Conservation

The site is located on the south bank of the Boyne in Drogheda and the River Boyne and River Blackwater Special Area of Conservation (SAC) (Site Code 002299). The site is also 2.6 km upstream of the Boyne Coast and Estuary SAC (Site Code 001957) and 1.4 km upstream of the Boyne Estuary Special Protection Area (SPA) (Site Code 004080). The Natura Impact Statement (NIS) supporting the present application considers that during the course of construction of the proposed development the transport of sediments off the development site by surface water run-off, or the accidental discharge of oils, fuel or cement materials into the Boyne, could potentially have detrimental impacts on several of the Qualifying Interests (QI), namely River Lamprey *Lampetra fluviatilis*, Atlantic Salmon *Salmo salar* and otter *Lutra lutra*, for which the River Boyne and River Blackwater SAC is designated. Similarly, the NIS states the transport of such polluting materials from the site downstream into the Boyne Coast and Estuary SAC could detrimentally affect two of the QI habitats, estuary, and mudflats and sandflats not covered by the sea at low tide, for which this SAC is designated. Though not identified by the NIS, the Department also considers that pollutants from the development site could potentially also have detrimental impacts on the Special Conservation Interests, wetland and waterbirds, and various bird species, for which the Boyne Estuary SPA is designated.

The Department accepts that if the mitigation measures outlined in the NIS are implemented the proposed development should have no significant effect on the QIs of the adjacent River Boyne and River Blackwater SAC or on the integrity of the associated downstream European sites.

The Department also notes that the supporting Ecological Assessment has identified records of the occurrence of various bat species within a kilometre of the development site and that in order to reduce the impact of the proposed development street lighting within the site should be designed to minimise light spill.

If permission is being contemplated 6 no. recommended conditions are attached.

Irish Water

It is noted that the applicant has been issued with a confirmation of feasibility for the proposed development for connection(s) to the Irish Water network(s) subject to local upgrades to the sewer network to be agreed at connection application stage to ensure adequate sewer sizing to service this development.

The applicant has engaged with Irish Water in respect of design proposal and has been issued a Statement of Design Acceptance for the development. If permission is being contemplated standard conditions are recommended.

In respect of Water availability for future development in the area in the time that has elapsed since IW issued its confirmation of feasibility for this development, water deficiencies and constraints in the Drogheda area have occurred. Irish Water has and is receiving a large volume of Pre-Connection Enquiries for this area, each of which are / will undergo detailed Capital Needs Assessments by IW on an ongoing basis. Irish Water is currently progressing with modelling of the existing network to identify a solution to resolve these issues with a potential water project progressing in Q3 2021 (subject to change). Due to these significant constraints future demand in the Drogheda area will be assessed on a case by case basis and subject to detailed modelling assessment to assess feasibility of additional connections.

Transport Infrastructure Ireland: No observation.

No comments were received from The Heritage Council, An Taisce, the National Transport Authority or Louth County Childcare Committee.

10.0 **Assessment**

The Board has received a planning application for a housing scheme under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. My assessment focuses on the National Planning Framework, the Regional Economic and Spatial Strategy and all relevant Section 28 guidelines and policy context of the statutory development plan and local plan and has full regard to the chief executive's

report, third party observations and submission by prescribed bodies. The assessment considers and addresses the following issues: -

- Principle of Development
- Design Approach
- Quantum of Development - Density
- Height
- Residential Amenity
- Open Space / Landscaping
- Permeability
- Transportation and Car Parking
- Water Services
- Ecology
- Built Heritage / Protected Structures
- Archaeology
- Land Contamination
- Health and Safety
- Material Contradiction

10.1. ***Principle of Development***

10.1.1. The site is located within the Docklands Area of Drogheda Town Centre. The site is zoned in the Drogheda Borough Development Plan 2011 – 2017 (as extended) as TCd – Docklands: *To provide for a mix of new town centre activities in accordance with Docklands Area Plan.* The vision of the Drogheda Docklands Area Plan, 2007 (DDAP) is to regenerate the Drogheda Docklands area and to provide a range of new commercial, civic and recreational uses focused on the waterfront and water based activity, while building on a unique setting, character and heritage of the Docklands. The overall objective for the area is 50% commercial and 50% residential. Figure 13 of the DDAP provides an indicative location of commercial and residential uses and

Section 3.3.1 states that residential development should be focused on the proposed new internal streets. It should also form an important part of mixed use development on the waterfronts. Section 3.3.2 states that in general, commercial uses should be focused on the waterfront. It is noted that commercial uses are also indicated along the site's eastern boundary with a proposed new road and bridge over the River Boyne.

- 10.1.2. The subject site forms part of a larger landholding which is largely within the ownership of the applicant. These lands include the Scotch Hall mixed used development to the west of the subject site. The Scotch Hall development comprises a shopping centre, apartments, multi-storey car park and a hotel (outside of the applicant's ownership). The DDAP identifies these sites a commercial. In addition, there is a parcel of partially developed lands which is identified as Phase 2. The Phase 2 lands include a partly completed structure immediately adjacent to the south west corner of the subject site. Permission was granted (ABP PL54.218442, Reg. Ref. 04/324) on this site for a 4-storey building containing retail uses and a cinema, to be connected to the shopping centre by a pedestrian bridge. The applicant has stated that it is intended that this site would be redeveloped as part of a separate future application, providing a variety of land uses, possibly including leisure, childcare, gym, medical centre, dining, retail etc.
- 10.1.3. A 10 year permission was granted (Reg. Ref. 09/510109) in 2010, on the lands to the east of the subject site, for the demolition of existing structures and the construction of 7 no. blocks ranging in height from 1 – 20 storeys containing a mixed use development of apartments, retail, office, museum, childcare and a hotel. The development also included a new road and vehicular bridge over the River Boyne. The development had a gross floor area of 60,259sqm. While it is noted that an extension of duration was refused permission in 2020, the design and layout of the subject scheme is informed by the previous permission on this site, in particular the location of the road infrastructure.
- 10.1.4. The proposed development is primarily residential with ancillary commercial uses proposed at ground floor level in the north west corner of the site, adjacent to the shopping centre and a childcare facility at ground floor level in the south east corner of the site. Third parties have raised concerns that that the proposed development is not in accordance with the residential / commercial split outlined in the DDAP. In my

view, the location of the residential / commercial uses outlined in Figure 13 is indicative. Having regard to the existing and proposed commercial uses on lands within the ownership of the applicant and the potential future commercial developed on lands to the east of the subject site it is considered that the proposed development would not impede the provision of a 50%:50% split of commercial and residential uses within the plan area or within lands in the ownership of the applicant.

10.1.5. Concerns were also raised by third parties that the layout / urban structure of the scheme is not in accordance with the DDAP. Figure 10 of the DDAP provides a 'movement concept' for the docklands area. Within the southern docklands area, it is generally envisioned that an east – west spine street would be provided with additional north-south streets. The proposed layout provides north – south links from the waterfront to Marsh Road and allows for a future connection to the east. The applicants Design Statement includes details of the design evolution which notes that the layout responds to its surroundings and the Docklands context. I am satisfied that the urban structure broadly represents that envisioned in the plan, and is consistent with the objective of the plan in this regard.

10.1.6. In conclusion, the proposed mix/use and layout of the scheme is considered to be compliant with the vision set out in the DDAP and the zoning objective for the site. It is noted that the planning authority raised no concerns in this regard.

10.2. ***Design Approach***

10.2.1. The proposed development comprises the demolition of 3 no. structures along the southern boundary of the site and the construction of 275 no. apartments, a creche and 2 no. retail / cafe /restaurant units in 4 no. blocks. The blocks are identified by the applicant as Blocks A, B, C and D. The development ranges in height from 5 – 12 stores. The blocks are generally rectangular in shape and are located along the perimeter of the site with an area of public open space located in the centre. Areas of communal open space are provided along the sites southern and eastern boundaries and in roof terraces at Blocks C and D.

10.2.2. The proposed scheme is contemporary with a similar design approach to all blocks. The materials primarily comprise of red and buff brick with glass and steel balconies.

The buff brick is generally proposed at the ground floor level and as a feature around enclosed balconies. The proposed materials are reflective of the historic materials of the docklands area while the design, scale and massing of the development is reflective of the adjacent contemporary Scotch Hall development. It is my view that the proposed design and materiality are high quality and would result in a distinctive character for the site which is sensitive to the historic character of the area.

Block A is located in the north western portion of the site, adjacent to the vehicular entrance and the Scotch Hall development. It has a north-south orientation with frontage onto the waterfront. This block is 8-storeys in height. It accommodates 69 no. apartments and 2 no. ground floor retail units.

Block B is located to the east of Block A, and also has a north-south orientation with frontage onto the waterfront. This block is 8-storeys in height and accommodates 63no. apartments.

Block C is located to the east of Block B, in the north eastern portion of the site. It has an east – west elevation. It ranges in height from 8 – 12 storeys with the landmark 12 storey element fronting onto the waterfront. The ground floor level includes 355sqm of residential amenity space, including a gym, lounge area, media room and meeting room. A roof terrace is provided on the 8-storey element along the site's eastern boundary. The block accommodates 98no. apartments.

Block D is located at the site's southern boundary, to the rear of properties on Marsh Road. This block has a north – south orientation and runs parallel to dwellings on Marsh Road. It is 5-storeys in height and accommodates 55no. apartments and a ground floor creche unit. A communal roof terrace is proposed above Block D.

A single storey plant building is also proposed at the southern boundary of the site, on the site of the current warehouse building to be demolished.

- 10.2.3. The Design Statement sets out a phasing plan for the site. Phase 1 includes Block C, landscaping, car parking, works to Poorhouse Lane and ancillary services. Phase 2 includes Blocks A, B and D. I have no objection to the proposed phasing.

- 10.2.4. The proposed housing mix comprises 56 no. 1 bed apartments and 219 no. 2 bed apartments. The Housing Quality Assessment submitted with the application includes a Schedule of Accommodation. It is noted that 58.5% of units are dual aspect. The north facing single aspect units in Blocks A (8 no.) and Block B (9 no.) front onto the natural amenity of the River Boyne and the north facing single aspect units in Blocks D (9 no.) front onto the area of public open space. There are no north facing single aspect units in Block C. The proposed number of dual aspect units is significantly above the 33% standard set out in SPPR4 of the Apartment Guide. It is also noted that of the 26 no. north facing, single aspect units, 17 no. front onto the River Boyne which is a high value amenity area. All units are provided with private amenity space / balconies in accordance with the standards set out in the Apartment Guidelines 2020.
- 10.2.5. The scheme comprises 15 no. different apartment types. The units range in size from 52sqm to 91sqm. Table 4.5 Space Provision and Room Sizes for Typical Dwellings of the Development Plan specifies a target floor area and room sizes. It is noted that a number of the units fall below the specified targets. In particular, the gross floor area of apartment I (69.3sqm) and apartment H (70sqm) fall below the specified 73sqm gross floor area for 2-bed, 3-person apartments. It is noted that each of the proposed units exceed the minimum standards for apartment sizes as set out in the Apartment Guidelines, 2020. Table 4.5 also sets out an aggregate bedroom area of 25sqm for 2-bed apartments (both 3-person and 4-person). Apartment types B,D,G, I, K,N and O range between 21sqm and 21.6sqm which is marginally below this standard. The aggregate bedroom area set out in the apartment guidelines is 20.1sqm for a 3-person, 2-bed unit and 24.4sqm for a 4-person, 2-bed unit. It is noted that the bedroom aggregate areas are in accordance with the Apartment Guidelines. Table 4.5 and the apartment guidelines also set out aggregate room sizes for the kitchen / living / dining of 28sqm for a 3-person, 2-bed and 30sqm for a 4-person, 2-bed unit. Apartment types B,D,E, K,N and O range between 27.8sqm and 29.5sqm which is marginally below this standard. The Apartment Guidelines allow for a variation up to 5% subject to overall compliance with required minimum overall apartment floor areas. It is noted that 59% (162 no. apartments) exceed the minimum required size by 10%, which is above the 50% required in the Apartment Guidelines. Having regard to the overall high quality layout of scheme, including the provision of a 355sqm residential amenity space

in the ground floor of Block C I have no objection to the design and layout of the units and consider they would provide a satisfactory level of residential amenity for future residents. The issue of material contravention of Table 4.5 of the development plan is addressed below in Section 10.15.

- 10.2.6. The scheme includes 2 no. retail / café / restaurant units (139.6sqm and 152sqm) at the ground floor of Block A and a creche (299.5sqm) at the ground floor of Block D. The retail units are located adjacent to the Scotch Hall development and the proposed vehicular entrance to the scheme. There is a c. 2m wide area around these units, adjacent to the proposed footpath which would allow for outdoor seating areas (if required). Part of the ground floor of Block C, which fronts onto the waterfront, accommodates 355sqm of residential amenity space, including a gym, lounge area, media room and meeting room. In my view the proposed ground floor uses would provide an active frontage onto the waterfront in accordance with the vision of the DDAP.
- 10.2.7. The layout also includes a central plaza / public open space in the centre of the site. Pedestrian links are provided between Blocks A / B and Blocks B / C from the waterfront towards the area of public open space within the centre of the scheme. An indicative layout for Phase 2 lands has been provided in the Design Statement which shows how the development of the Phase 2 lands would support and enhance the current application by providing active frontages into the subject site and additional public realm improvements. The scheme has been set back from the waterfront and includes a new pedestrian / cycle route.
- 10.2.8. The applicants Design Statement includes contextual layouts of the previously permitted scheme (Reg. Ref. 09/109) on lands to the east of the subject site. It is noted that the previously approved scheme included a new road and bridge immediately east of the subject site. While these lands no longer have an active planning permission and are outside of the applicants control it is my view that the scheme has been design provide an appropriate urban edge to the adjacent lands and does not impede its future development potential. The layout also provides for future potential (vehicular and pedestrian / cycle) links to the adjacent site. The Design Statement also assessed the proposed development in accordance with the 12 no. criteria outlined in the Urban

Design Manual (2000). It is noted that the planning authority considered that the scheme is a quality architectural scheme. Third parties have not raised any concerns regarding the design or layout of the development.

10.2.9. Policy RES 24 of the development plan aims to encourage planning applications for residential schemes in excess of seventy five dwelling units to incorporate works of public art. It is my opinion that this scheme is an appropriate location to incorporate a piece of public art and that it would add to the visual interest of the scheme. Therefore, it is recommended that a condition be attached to any grant of permission that a piece of public art be provided within the scheme.

10.2.10. In conclusion, it is my opinion that the proposed design and layout provides for an appropriate scale and massing which creates a visually interesting high quality scheme on this highly visible site within Drogheda. It is also considered that the development successfully integrates with the adjacent Scotch Hall development and does not impede the development potential of the adjoining site to the east. Therefore, it is my view that the proposed scheme would provide a positive contribution to the changing context of the docklands area and is appropriate in this instance.

10.3. ***Quantum of Development - Density***

10.3.1. The subject site has a density of 225 units per ha. The DDAP states that density should be measured on the basis of net-plot ratio. An indicative plot ratio of between 1:1 and 2.5:1 is recommended. It further states that in exceptional circumstances, where there is a clear benefit to the character of the area or where a significant cultural, civic or social facility is included as part of the development, an increase in plot ratio might be permitted, subject to a maximum of 3:1. The proposed scheme has a stated plot ratio of 2:14 and is, therefore, in accordance with the standards.

10.3.2. Table 2.5: Potential Housing Allocation and Population Growth within Settlements of the Louth County Development Plan sets out an average density for Drogheda and Environs of 40 units per ha. It is noted that this is an average density for Drogheda, to achieve the population growth outlined in the core strategy. Table 4.3 sets out a density of 30 plus units per ha for centrally located sites in towns and villages. Policy RES 18 seeks to apply the density standards in respect of the County's towns and villages as

set out in Table 4.3 and to carry out further refinement where necessary as part of the review of the local area plans. In addition to the development plan standards, Table 6.2 of the Drogheda Borough Development Plan requires a minimum density of 50 units per ha in town centre sites. The applicants Material Contravention Statement stated that the Board may consider the density (225 units per ha) to be a material contravention of the development plan and / or the Drogheda Borough Development Plan and took a precautionary approach and justified the proposed density with regard to national guidance. Having regard to the flexibility in the wording of the development plan and the Drogheda Borough Development Plan, neither of which provide a maximum density standard, it is my view that the proposed development would not be a material contravention of either the development plan or the Drogheda Borough Development Plan. It is also noted that the planning authority considered the density to be appropriate for this urban location and did not raise any concerns regarding a material contravention. It is noted that third parties consider the density to be a material contravention of the development plan. While I do not consider the proposed density to be a material contravention, for completeness and responding to the precautionary approach adopted by the applicant, I have addressed the issue of material contravention in Section 11.15 below.

- 10.3.3. Objectives 4, 13, 33 and 35 of the National Planning Framework, and SPPR3 and SPPR4 of the Urban Development and Building Heights Guidelines, all support higher density developments in appropriate locations, to avoid the trend towards predominantly low-density commuter-driven developments. Section 4.5 Regional Growth Centres of the RSES states that growth of these towns (Athlone, Drogheda and Dundalk) will realise a more consolidated urban form that will optimise the use of existing and planned services by increasing population and employment density in a sustainable fashion. The Strategy sets out a strategic development framework for their future growth to allow them to reach sufficient scale to be drivers of regional growth. In addition, Chapter 2 of the Design Standards for New Apartments Guidelines, 2020 notes that it is necessary to significantly increase housing supply, and City and County Development Plans must appropriately reflect this and that apartments are most appropriately located within urban areas, and the scale and extent should increase in relation to proximity to public transport as well as shopping and employment locations.

The Apartments Guidelines identify accessible urban locations as sites within a reasonable walking distance (i.e. up to 10 minutes or 800 - 1,000m) to / from high capacity urban public transport stops. Having regard to the site's location, c. 700m from the Drogheda (MacBride) train station and its proximity to urban centres, employment locations and urban amenities it is my opinion that the proposed scale of the development complies with national guidance and, therefore, is suitable for higher density. In addition, it is my view that the redevelopment of the site is welcomed as it would consolidate the urban environment and reinforce the changing profile of this docklands area towards residential / commercial as outline in the DDAP.

10.3.4. Third parties did not raise any objection in principle to the proposed density, however, concerns were raised that it would be a material contravention of the development plan and local area plans which cannot be justified. In particular, concerns were raised by third parties that the increased density being brought about by the proposed development, which they consider a contravention of the development plan, has been done so without SEA being conducted on or a screening for SEA being conducted. I am satisfied that no variation to the Plan is proposed, and that the appropriate environmental screening has been carried out (see sections 11 and 12 below).

10.3.5. Chapter 2 of the Louth County development plan notes that the Council is required to deliver 8,402 no. persons and 3,111 no units in Louth by 2021. Table 2.4 provides an allocation of 2,571 persons and 952 no. units for Drogheda by 2021. Table 2.5 of the Plan indicates that there are approx. 355 ha of existing undeveloped land within Drogheda and Environs with 36 ha required (to reach required targets) up to 2021. The plan was subject to a strategic environmental assessment in accordance with the SEA Directive (2001/42/EEC). Having regard to the relatively limited number of units proposed it is my view that the proposed development is in accordance with the core strategy of the plan and that considered in the context of the SEA carried out at that time

10.4. **Height**

10.4.1. The height of the development ranges from 5-storeys (Block D) at the site's southern boundary, to 8 -storeys (Blocks A, B and part of Block C) in the eastern and northern

portions of the site, with a 12 storey element (part Block C) in the north east corner of the site, fronting onto the River Boyne.

10.4.2. Policy RES 19 of the development plan requires that *'residential buildings shall not exceed 3 storeys in height, including roof space development except in exceptional circumstances where the planning authority considers that the site can adequately accommodate 4 storeys (including roof space development) and where provision for higher buildings is provided for in any local area plan'*. Section 3.7 of the Docklands Area Development Plan states that *'in general terms, a maximum height of six storeys residential (plus set-back storey) or five storeys commercial (plus set-back storey) is proposed on the waterfronts, stepping down to a maximum of four storeys residential (plus set-back storey) or three storeys commercial (plus set-back storey) adjacent to Marsh Road, North Strand and the Viaduct'*. Section 4.1 further states that *'the building shoulder / parapet heights outlined should not be rigidly applied, rather, they are recommended maximum heights. Within these limits a variety in parapet heights should arise from the individual building designs and structures'*.

10.4.3. It is noted that the planning authority and the applicant consider the proposed building heights to be in accordance with the provisions of the development plan, the DDAP and the Building Height Guidelines and third parties have not raised any concerns regarding a material contravention in relation to height. Section 3.2 of the Urban Development and Building Heights Guidelines sets out criteria for assessing the scale of the development with regard to the city, street and site level including, proximity to high frequency public transport; integration / enhancement of the character and public realm of the area; response to overall natural and built environment; architectural response, urban design; improved legibility; mix of uses and building typologies. Additional specific assessment may also be required for issues including daylight and sunlight, microclimate; communication. It is my view, that the proposed development would be in compliance with SPPR3, having specific regard to the high-quality design and layout of the scheme and its contribution to the consolidation of the urban area. Therefore, I agree with the planning authority and the applicant that the proposed building height is in accordance with the provision of the Building Height Guidelines. While it is acknowledged that Section 4.1 of the Docklands Area Plan states that the building heights should not be applied rigidly and are recommended maximum heights,

having regard to the difference between the height proposed (up to 12 storeys) and to the recommended maximum heights (6 storeys) set out in the plan, it is my view that in this instance the proposed development would be a material contravention of the plan in relation to height. The issue of material contravention is addressed below in Section 10.15.

- 10.4.4. A booklet of photomontages is included with the application and provides a comparison of the existing site and the proposed development. It is my view that the submitted photomontages provide a reasonable representation of how the proposed development would appear. The applicants Townscape and Visual Impact Assessment assessed the impact of the development from 14 no. viewpoints. The report found that the magnitude of change from 11 no. viewpoints would be medium to high (and would be low to none for the remaining 3 locations) and that the significance of the effect from all viewpoints would be neutral to slightly positive. The report further notes that the site and receiving environment are suitable for tall buildings due to the proximity to the town centre, the coarse urban grain, large plots and history of large buildings with tall structures (chimneys), position on the waterfront, absence of sensitive land uses and connectivity to transport infrastructure.
- 10.4.5. The Docklands area has experienced a transition from a low density industrial / warehousing uses and housing to an area with a mix of different uses and heights including the adjacent 7-storey Scotch Hall mixed use development. It is also noted permission was previously granted (reg. Ref. 09/109) for a mixed use development on lands to the east of the subject site which included a 20-storey landmark building and that there are a number of sites within the surrounding area identified for redevelopment/regeneration in the DDAP.
- 10.4.6. The subject site is highly visible from within the town centre / waterfront. This scheme would introduce a new feature in the skyline and change the character of this underutilised brownfield site, which in my view is welcomed. Having regard to the high quality design and layout of the scheme, which includes a stepped approach to height with the highest elements located within the northern / north eastern portions the site, away from the existing housing on Marsh Road. It is my view that the proposed height would not be excessive at this location and should be considered in the changing

character of the docklands area and a transition towards higher density residential development that would contribute to the establishment of the new docklands / waterfront quarter, and to the public realm and legibility of the town centre.

10.4.7. In conclusion, having regard to high quality design and layout of the scheme and the landscaping / public realm proposals for the subject site, it is my view that the proposed development would contribute towards the regeneration of the docklands area and would improve the existing visual amenities of this area, which is currently in use as a surface car park. In addition, having regard to the Guidelines on Urban Development and Building Heights, I am satisfied that the proposed height would not negatively impact on the visual amenities or character of the area and would be a positive contribution to the urban landscape and that the proposed development represents a reasonable response to its context and is stepped down at the southern site boundary, to reduce impacts on adjacent properties.

10.5. **Residential Amenity**

Daylight and Sunlight

10.5.1. Section 3.2 of the Urban Development and Building Height Guidelines (2018) states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution. The Sustainable Urban Housing

Design Standards for New Apartments Guidelines, 2020 also state that planning authorities should have regard to these BRE or BS standards.

10.5.2. Section 4.3.10 of the development plan notes that the recommendations of the Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.E.1991) or B.S. 8206 Lighting for Buildings, Part 2 1992: Code of Practice for Day Lighting should be followed.

10.5.3. The applicant's assessment of daylight, sunlight and overshadowing relies on the standards in the following documents:

- BRE Report "Site Layout Planning for Daylight and Sunlight"; and
- British Standard BS 8206-2:2008 Lighting for Buildings - Part 2 Code of Practice for Daylighting.
- Building Research Establishment, 1992, Site Layout Planning for Daylight and Sunlight: a guide to good practice

10.5.4. I have considered the reports submitted by the applicant and have had regard to BRE 209 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011) and BS 8206-2:2008 (British Standard Light for Buildings - Code of practice for daylighting). While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 Daylight in Buildings), which replaced the 2008 BS in May 2019 (in the UK) I am satisfied that this document / updated guidance does not have a material bearing on the outcome of the assessment and that the relevant guidance documents remain those referred to in the Urban Development and Building Heights Guidelines.

10.5.5. In relation to The BRE 209 guidance, with reference to BS8206 – Part 2, sets out minimum values for ADF that should be achieved, these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Section 2.1.14 of the BRE Guidance notes that non-daylight internal kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too. If the layout means that a small internal galley-type kitchen is inevitable, it should be directly linked to a well daylight living room. This BRE 209 guidance does not given any advice on the targets to be achieved within a combined kitchen/living/dining layout. The applicants submitted report references a

1.5% target, stating that in a scheme of this nature it is significantly challenging for large open plan living / kitchen / dining rooms to achieve 2% ADF and considers that rooms that achieve in excess of 1.5% ADF is adequate for the intended room space, as it would indicate that living space would enjoy good daylight amenity. The ADF for rooms is only one measure of the residential amenity that designers should consider in the design and layout, and to this end, I am satisfied that the applicant, while proposing an alternative ADF for the kitchen/living rooms, has endeavoured to maximise sunlight/daylight to the apartments and where possible achieve 2% ADF. I would also note, that there will in such urban schemes be challenges meeting the alternate 1.5% ADF in all instances, and to do so would unduly compromise the design/streetscape and that where this alternate target is not met it is justified and reasonable on the basis of the low number not reaching this target and that the quality of the design.

10.5.6. The proposed apartments contain combined kitchen/living/dining layouts, and no completely internal kitchens are proposed. The applicant has undertaken a calculation of the amount of daylight received by each room in the development and expressed the results as Average Daylight Factor. Appendix 1 of the submitted report details the ADF results for the development and assesses each kitchen/living/dining room against a target of 1.5% ADF and the bedrooms against a 1% ADF target. A total of 772 no. rooms were analysed, 275 no. kitchen/living/dining rooms and 497 no. bedrooms. No summary of the results has been provided in the assessment. However, it is stated that 96% of the rooms would meet or exceed the proposed alternative target ADF of 1.5% for kitchen/living/dining rooms and 1% ADF for bedrooms.

10.5.7. Having regard to the information provided in Appendix 1, of the 275 no. kitchen/living/dining rooms, 187 no. (68%) would achieve an ADF of 2% or above and 88 no. (32%) would have an ADF below 2%. It is noted that only 8 no. (3%) of the kitchen/living/dining rooms have an ADF below 1.5%. Of the 497 no. bedrooms only 33 no. (6.6%) have an ADF below 1%. Having regard to this information, it is my view that 88% of the units would meet or exceed the BRE target of 2% for kitchen/living/dining rooms and 1% ADF for bedrooms. This indicates that the apartments would achieve good daylight levels.

- 10.5.8. While the applicant has not provided a summary of results for the development I am satisfied that shortfalls can be identified from the information provided in Appendix 1 and in my view, having regard to the proposed density and urban location, they are not significant in number or magnitude.
- 10.5.9. I note that Criteria 3.2 of the Building Height Guidelines states that appropriate and reasonable regard should be had to the quantitative approaches as set out in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. It is acknowledged in these Guidelines that, where a proposal does not fully meet the requirements of the daylight provisions, this must be clearly identified and a rationale for alternative, compensatory design solutions must be set out. The Board can apply discretion in these instances, having regard to local factors including site constraints, and in order to secure wider planning objectives, such as urban regeneration and an effective urban design and streetscape solution.
- 10.5.10. As noted, there are some shortfalls in daylight provision within the scheme. While the report assesses the development against a 1.5% ADF for kitchen/living/dining rooms. The full extent of the shortfalls of the 2% ADF can be ascertained from Appendix 1 of the Daylight and Sunlight Assessment. I am satisfied that all of the rooms would receive adequate daylight, and having regard to the need to development sites such as these at an appropriate density, full compliance with BRE targets is rarely achieved, nor is it mandatory for an applicant to achieve full compliance with same. I am satisfied that adequate justification for non-compliance exists, and that the design and associated design solutions and alternative target is appropriate.
- 10.5.11. Section 3.3 of the BRE guidelines state that good site layout planning for daylight and sunlight should not limit itself to providing good natural lighting inside buildings. Sunlight in the spaces between buildings has an important impact on the overall appearance and ambience of a development. It is recommended that at least half of the amenity areas should receive at least 2 hours of sunlight on 21st March. The applicants Daylight and Sunlight analysis demonstrates that of the proposed 3,677sqm of proposed amenity spaces at ground and roof level 2,904sqm (79%) achieves

sunlight access for more than 2 hours on the 21st March, which exceeds BRE recommendation.

10.5.12. In terms of compensatory design solutions, I note the favourable high percentage (58%) of dual aspect units, the orientation of the units and aspect onto the River Boyne. There are only 26 no. single aspect north facing apartments, with 17 no. fronting onto the natural amenity of the River Boyne. Each of the units has a balcony space that meets out exceeds the minimum requirements. In addition, the proposal provides a generous provision of communal amenity space (2,154.4sqm), in excess of the minimum requirement (1,813sqm). The scheme also includes 355sqm of internal residential amenity space. The provision of the public realm and additional pedestrian linkages through the site is also of benefit to the amenity of the proposed residential units. The proposal also contributes to wider planning aims such as the delivery of housing and regeneration of an underutilised brownfield site.

10.5.13. Having regard to above, on balance, I consider the overall the level of residential amenity is acceptable, having regard to internal daylight and sunlight provision and having regard to the overall levels of compliance with BRE targets. As such, in relation to daylight and sunlight provision for the proposed units, the proposal complies with the criteria as set out under Section 3.2 of the Building Height Guidelines and would provide a satisfactory level of amenity for future occupiers.

Adjacent Residents

10.5.14. In designing a new development, it is important to safeguard the daylight to nearby buildings. The site is bound to the south by existing 2/3 storey houses that front onto Marsh Road and 2 no. warehousing units, which are located to the rear of some of the houses. The single storey plant / service building is proposed at the southern boundary in between the 2 no. existing warehouse buildings. Block D is 5-storeys (17.4m) in height and is located a minimum c. 10m from the existing warehouse units, c. 19m from the rear gardens of existing properties on Marsh Road and a minimum of c. 26m from the rear elevation of these dwellings. It is proposed to provide a 4m wide shared surface along the southern boundary, to allow for pedestrian / cycle access and limited vehicular access to the warehouse units, which are outside of the applicant's control. A c.5m wide linear area of open space is proposed between Block

D and the shared surface. Balconies are provided on the southern elevation of Block D and a roof terrace is proposed.

10.5.15. The Daylight and Sunlight Analysis submitted with the application does not include an assessment of adjoining properties, therefore, the report does not provide results for Vertical Sky Component (VSC), Daylight Distribution (DD) or Annual Probable Sunlight Hours (APSH) for the existing dwellings on Marsh Road. Notwithstanding the absence of these assessments I am satisfied that due to minimum separation distance of 26m between the existing dwellings and Block D, which has a maximum height of 17.4m and the location of the development to the north of the existing dwellings that the proposed development is unlikely to have any overshadowing impact on properties on Marsh Road or their associated amenity spaces. Therefore, I consider the potential impact to be acceptable.

10.5.16. It is noted that no concerns were raised by third parties or the planning authority regarding the impact of the development on the residential amenities of existing dwellings with regard to overshadowing, overlooking and overbearing impact. Although not raised by third parties, I have reviewed the proposals and carried out a site inspection in respect of all potential impacts on the residential amenity of neighbouring properties. I would note that Block D is the closest to the existing properties, and as such has the greatest potential to impact by reason of overlooking, overbearing and overshadowing. However, I am satisfied that having regard to the orientation of the existing properties relative to the development site, the height of Block D and the separation distances proposed it is my view that the proposed development would not have an undue negative impact on the existing residential amenities of these dwellings in terms of overlooking, overshadowing or overbearing impact.

Noise

10.5.17. The applicants Façade Acoustic Assessment Report assessed the impact of inward noise. A baseline study was conducted at 3 no. locations within the site. The dominate source of noise related to the existing surface car park. The average ambient noise levels recorded range from 50 to 57dB across the 3 no. locations monitored. Average background level was measured in the range of 46 to 53dB. The highest noise levels

were recorded at the sites northern boundary, which was attributed to the activities at Drogheda Port. The assessment concluded that the existing environmental noise levels are determined to be low for an urban setting.

10.5.18. Having regard to the proposed location of the Northern Distributor Road at the site's eastern boundary, it is considered that there is potential for future change to the existing noise environment. Therefore, the applicant undertook a noise modelling analysis to allow for the full assessment of the potential future noise environment. This assessment indicated that day time road traffic noise levels would be highest along the sites eastern and north eastern boundary, with a noise range of between 60 and 65 dB at the eastern façade of Blocks C and D. The potential future noise levels at the northern facades of Blocks A, B and C, (at the sites northern boundary) would range from 50 to 60 dB. The remaining building facades are substantially screened from road and bridge traffic and are calculated in the range of less than 45 to 50 dB. The assessment also indicated that night time road traffic noise levels would be highest along the sites eastern and north eastern boundary, with a noise range between 55 and 60 dB at the eastern façade of Blocks C and D. The potential future noise levels at the northern facades of Blocks A, B and C, (at the sites northern boundary) would range from 45 to 55 dB. The remaining building facades are substantially screened from road and bridge traffic and are calculated in the range of less than 45 dB. The assessment concluded that in the event that the vehicular and pedestrian bridge is constructed to the east of the subject site, higher noise levels would result in this portion of the site falling within a medium noise risk and, therefore, good acoustic design is required to ensure any adverse noise impacts are avoided. To reduce the potential for adverse impacts report sets out recommended façade treatments including recommended glazing, wall construction and ventilation. Having regard to the information provided which is evidence based and robust, the proposed mitigation measures and the sites urban location it is my view that any potential future noise generated by the envisioned Northern Distributor Road would not cause undue nuisance for future residents. It is also noted that the planning authority raised no concerns in this regard.

10.5.19. The technical note did not include any assessment of the impact of noise generated by the proposed development on the adjacent properties. However, having regard the

sites urban location, the baseline noise environment the residential nature of the scheme and the minimum 26m separation distance from adjacent dwellings on Marsh Road, it is considered that all other noise generated by the development would be reasonable and would not result in an unacceptable level of noise disturbance for adjacent residents. It is noted that the planning authority raised no objection in this regard.

10.6. ***Open Space / Landscaping***

- 10.6.1. The proposed development incorporates 3 no. areas of public open space with a total area of 1,998.2sqm, which equates to 14% of the site area. The quantum of public open space is in accordance with Policy HC20 of the development plan which requires a minimum of 14% of the gross site area to be provided as open space. The public open space is provided in the form of a 532.2sqm pedestrian / cyclist route along the waterfront, a 1,319sqm central courtyard and a 147sqm pocket park at the entrance to the scheme from Marsh Road. Pedestrian links are provided between Blocks A / B and Blocks B / C from the waterfront towards the area of public open space within the centre of the scheme and on towards the pocket park at Marsh Road.
- 10.6.2. The Landscape drawings submitted indicate that the central area of open space would primarily consist of permeable reinforced grass / 'Grasscrete' with substantial areas of tree planting, low shrubs and benches. The provision of high quality public open space on this brownfield site is welcomed. However, it is my view that this central area of open space should also incorporate a children's play area, having particular regard to the proposed number of residential units and the provision of Policy RES48 to ensure adequate provision is made for children's play areas in residential developments. It is recommended that a condition be attached in this regard.
- 10.6.3. Appendix 1 of the Apartment Guidelines requires a minimum of 5sqm of communal open space per 1-bed apartment and 7sqm per 2-bed (2 person) apartment. Therefore, there is a requirement for 1,813sqm of communal amenity space. It is proposed to provide 2,154.4sqm of communal open space within the scheme. A 382.4sqm area of linear open space, (c. 7m in width) is proposed between Block C and the sites eastern boundary. This area includes substantial planting / trees and benches. It links to the public walkway on the waterfront and is overlooked by balconies on the eastern

elevation of Block C. It is noted that access to this area is via steps. Having regard to the overall size of the site it is my view that a ramped access could be provided to this area to ensure it is fully accessible. It is recommended that a condition in this regard to attached to any grant of permission. A 250sqm area of linear open space (c. 5m in width) is located to the south of Block D, adjacent to the shared surface. This area primarily consists of benches and planting. Having regard to the southern orientation of the space and its location adjacent to the shared surface which allows for limited vehicular access only I have no objection to the relatively narrow width of this space and considered that it would provide an adequate amenity for future residents. The proposed development also includes a 540sqm roof terrace at the 8th floor level of Block C and a 994.7sqm roof terrace at Block 5. I have no objection to the provision of roof terraces and consider they would provide an adequate level of amenity for future residents.

- 10.6.4. As noted above each apartment has been provided with a private balcony in accordance with the Apartment Guideline standards. I have no objection to the quantity or quality of the private amenity spaces proposed.
- 10.6.5. The proposed boundary treatments include a mix of timber fencing and planting, hedges and climbers. I have no objection to the proposed boundary treatments and considered them standard for an urban development.
- 10.6.6. The application included a Wind Analysis and Pedestrian Comfort Report. The following are considered to be relevant: -
- No areas are determined as being uncomfortable and / or unsafe within the scheme.
 - All amenity spaces had some or all of their area determined as suitable for frequent or infrequent sitting. The roof terraces are relatively sheltered due to sheltering from the Scotch Hall development.
 - 86% of balconies were deemed fully sheltered. 14% have at least some area determined suitable for frequent or infrequent sitting. These balconies are generally occurring at the corner of the blocks.

- Balconies on the waterfront are generally more sheltered, due to the prevailing wind direction.

The information submitted indicates that no undue impact could be expected. I am satisfied that the proposed development would achieve a high-quality environment for the intended use and would not introduce any critical wind impact on the surrounding areas or existing buildings.

10.6.7. In conclusion it is my view that the proposed scheme incorporates high quality areas of public open space that would enhance the character of the site and provide an additional recreational amenity for the wider environs. It is noted that the planning authority and third parties have not raised any concerns regarding the provision of open space.

10.7. *Permeability*

10.7.1. Access to the site is proposed via the unnamed private road that currently serves the existing surface car park on site and the Scotch Hall development. This access is located along the western boundary of the site adjacent to Block A. It is also proposed to retain an additional access directly from Marsh Road. At present this access is located between the hoarding associated with the Phase 2 lands to the west of the subject site and a derelict building in the ownership of the applicant. It is proposed to demolish this derelict building and provide a pocket park (147sqm) at the entrance from Marsh Road. It is proposed that this 4m wide access would operate as a shared surface to allow vehicular access to the 2 no. existing warehouse units along the site's southern boundary (to the rear of properties on Marsh Road) and for pedestrian / cycle access to the site. The applicant has stated that bollards would be provided on the shared surface to ensure the vehicular access is limited to occasional use only. A DMURS compliance statement, a Quality Audit and a Road Safety Audit were submitted with the application. It is noted that the planning authority raised some concerns regarding the management of the proposed bollards and recommended that the applicant submit an alternative barrier to vehicular movements that could be realistically managed within the scheme. It is noted that it is intended that the scheme remain in the ownership of the applicant / private management company and not be taken in charge by Louth County Council. I have no objection in principle to the

provision of bollards. However, it is recommended that a condition be attached that the final details of the barrier system to the shared surface area be agreed in writing with the planning authority. It is noted that third parties raised no concerns to the access arrangements.

- 10.7.2. The proposed layout has been designed to allow for a future vehicular and pedestrian access to the east of the site, which it is envisioned would accommodate the future Northern Distributor Road. The development is also set back c. 4m from the water front to facilitate the provision of a dedicated pedestrian / cycle route. This route would act as a continuation of the existing walkway to the front of the Scotch Hall development (to the west) and would allow for future potential links to the lands to the east. Pedestrian / cycle routes are also provided between Blocks A / D and Blocks B / C towards the central area of public open space within the scheme and on towards Marsh Road.
- 10.7.3. The red line boundary of the site includes Poorhouse Lane, which is a public road located on the opposite side of Marsh Road. Poorhouse Lane is narrow (c. 3.5m – 8m) and steep with no footpath in parts. The proposed scheme includes upgrade works to this street to improve connectivity between the site and the train station, which is located c. 700m south east of the subject site. The works proposed include footpath resurfacing, widening of the footpath and associated road markings. It is noted that a letter of consent from the local authority was submitted with the application.
- 10.7.4. Concerns were raised in the third party submissions that the proposed 1m wide footpath would reduce the carriageway width of Poorhouse Lane to only 2.5m beneath the arched tunnel. Drawing no. 182-171-030 indicates the proposed works to be carried out on Poorhouse Lane. There is an existing 1m wide footpath along the eastern side of Poorhouse Lane between Marsh Road and the underpass. It is proposed to provide a dropped kerb at the entrance to the underpass. A 1m wide footpath surface with a dashed line is proposed along the eastern side of the underpass and is continued until the junction with Sunnyside Cottages. The provision of the footpath would reduce the carriageway under the bridge to 2.5m. Stop signs are proposed at the entrance to the underpass. The carriageway is currently 3.5m and, therefore, cannot accommodate 2-way traffic. It is my view that the proposed

pedestrian route, and the road markings / stop signs would significantly improve the pedestrian environment and vehicular safety along this street. It is also proposed to provide dropped kerbs at the junction of Poorhouse Lane and Marsh Road to improve the pedestrian environment. It is noted that the planning authority raised no objection to the proposed works.

- 10.7.5. The third party submissions also suggested other options to improve pedestrian links from the site to the wider environs, including a link via the old disused steps from Marsh Road. The disused steps are located on the northern side of Marsh Road, opposite the existing vehicular access to Scotch Hall. From a site visit carried out on the 20th May 2021 the condition of the steps is unclear. There is an existing metal railing / fence at the location of the steps and the area is overgrown. The ownership of the steps is also unclear, however, the third party submission states that the steps are in the ownership of the local authority and it is noted that the planning authority's recommend a condition (2.b) be attached that the pedestrian steps from Marsh Road to the Dublin Road to be reinstated. In my view the additional pedestrian link from Marsh Road (and the development) towards the Dublin Road would improve connective and permeability with the town centre and is welcomed. It is, therefore, recommended that a condition be attached to any grant of permission requiring the reinstatement of the steps subject to the agreement of the planning authority.

10.8. ***Transportation and Car Parking***

- 10.8.1. The subject site is located in Drogheda town centre c. 700m from both Drogheda (MacBride) train station and from the Bus Eireann station. There are no dedicated cycle facilities on the surrounding road network and cyclists are required to share the carriage way. It is noted that the proposed development includes a walkway / cycleway along the southern bank of the River Boyne which would allow for future connectivity to the east of the site.
- 10.8.2. Vehicular access to the site is proposed from Marsh Road via the unnamed private road that currently serves the Scotch Hall Shopping Centre and D Hotel. Marsh Road is c. 7m in width, including footpaths and has a 50kph speed limit. There are houses fronting directly onto the footpath on both sides of the street. The existing access, which would be retained, is located c. 600m east of the Bullring junction. The Bullring

junction provides access over the River Boyne and comprises the junction of James Street / John Street / Shop Street.

10.8.3. Concerns have been raised in the third party submissions that the proposed development is premature and inappropriate in the absence of any clarity or sight on the delivery of Port Northern Access Route and that the proposed development does not offer any solution to the traffic congestion problems currently within the town centre (Bullring Junction) or the traffic that would result from this development. It is also considered that the traffic generated by this development, could prejudice the further development of adjacent sites within the docklands area.

10.8.4. Traffic Counts were undertaken on Wednesday 13th March 2019 during the periods 07.00-10.00 and 16.00 – 19.00 hours at the site entrance on Marsh Road and the Bullring signalised junction. Full details of the traffic counts are provided in Appendix B of the applicants Traffic and Transport Assessment. It is noted that the traffic counts were carried out in 2019, however, having regard to the impact of Covid related travel restrictions it is my view that these figures provide an accurate representation of traffic movements at the junction.

10.8.5. The Traffic and Transport Assessment analysed 3 no. junctions, (1) Bullring junction, (2) South Quay junction and (3) North Quay junction using LinSig. The report notes that these junctions and are all linked via one traffic controller. Tables 9.2, 9.3 and 9.4 provide a summary of the results of the operational assessment of these signalised junctions during weekdays AM peak (08.00 – 09.00) and PM peak (17.15 – 18.15) for the survey year (2019), the proposed year of opening (2023) and the design year (2038).

(1) The Bullring Junction: The information submitted indicates that all arms of this junction are currently working within capacity. The worst case was noted at the Shop Street Arm with a maximum RFC of 67.0 and queue lengths of 8.3 PCU in the PM peak (2019). The modelling also indicates that all arms of this junction would operate within capacity with the development in 2023 and 2038. The results show the busiest arm of the junction in 2038 is in the PM peak at the James Street arm with a RFC of 78.1 with the development as compared to a RFC of 76.0 without the development.

(2) South Quay junction: The information submitted indicates that all arms of this junction are currently working within capacity. The worst case was noted at the South Quay Arm with a maximum RFC of 64.9 and queue lengths of 7.0 PCU in the AM peak (2019). The modelling also indicates that all arms of this junction would operate within capacity with the development in 2023 and 2038. The results show the busiest arm of the junction in 2038 is in the AM peak at the South Quay arm with a RFC of 77.6 with the development as compared to a RFC of 72.6 without the development.

(3) North Quay junction: The information submitted indicates that all arms of this junction are currently working within capacity. The worst case was noted at the South Quay Arm with a maximum RFC of 64.9 and queue lengths of 7.0 PCU in the AM peak (2019). The modelling also indicates that all arms of this junction would operate within capacity with the development in 2023 and 2038. The results show the busiest arm of the junction in 2038 is in the PM peak at the Shop Street arm with a RFC of 83.1 with the development as compared to a RDC of 81.7 without the development.

10.8.6. As outlined above the modelling submitted indicates that the proposed development would have an insignificant impact on the capacity of these linked signalised junctions. This is attributed to the removal of trips currently generated by the 299 no. space surface car park within the subject site. Car parking for the Scotch Hall development will be available in the multi-storey car park which is accessed directly from the Dublin Road via a bridge over Marsh Road. The Car Park Management Proposal document submitted with the application notes that the proposed surface level car parking proposed within the scheme would be reserved solely for future residents. These spaces would be monitored and managed.

10.8.7. The Traffic and Transport Assessment also assessed the capacity of the proposed development access road / Marsh Road Junction using PICADY. Table 9.5 of the provides the results of this assessment during weekdays AM peak (08.00 – 09.00) and PM peak (17.15 – 18.15) for the survey year (2019), the proposed year of opening (2023) and the design year (2038). The analysis indicates that the junction would operate well within capacity for all years.

- 10.8.8. The report acknowledges that the Bullring junction can experience congestion. It is considered that this can be accounted for by some slower moving traffic manoeuvres through these linked junctions. Due to the turning manoeuvres required at these linked junctions this is considered an acceptable assumption.
- 10.8.9. The TRICS database has also been used to estimate the number of trips potentially generated by a development of 275 no. apartments. As the creche use is associated with the development it is considered the number of trips would be negligible. TRICS estimated that a development of 275 no. residential units would generate 57 no. trips (15 no. arriving and 42 no. departing) in the AM peak and 77 no. trips (53 no. arriving and 24 no. departing) in the PM peak. This indicates a very low level of trips generated by the development which would be insignificant on the surrounding road network.
- 10.8.10. Third parties have raised concerns that the creche would generate additional traffic movements which would have a negative impact on the surrounding road network. In my view, having regard to the proposed number of apartment and the relatively limited capacity of the creche (68 no. spaces) it is considered that the majority of creche spaces would be allocated to future occupants of the development. It is also noted that the site is located in close proximity to a number of residential developments / estates and, therefore, the majority of users would access the creche by walking. It is my view, that the proposed creche would not generate a significant number of additional trips and would have a negligible impact on the capacity of the surrounding road network.
- 10.8.11. The parameters of the Traffic and Transport Assessment were agreed with the Planning Authority who have not raised any concerns in this regard. It is also noted that Transport Infrastructure Ireland have no objection to the proposed development. While the concerns raised by the third parties are noted, it is my view that having regard to the information submitted, which is evidence based and robust, the proposed development would have a negligible impact on the capacity of the surrounding road network.

Northern Cross Route

10.8.12. With regard to road improvement schemes there are no specific proposals relating to the subject site. Section 7.3.10 of the development sets out the Council's *Road Improvement Programme* for the period 2015 to 2021. Table 7.8 *Strategic New Roads* includes the Port Access Northern Cross Route, Drogheda. This indicative route is located to the east of the subject site and was included as part of the previously approved application on the adjacent site to the east (Reg. Ref. 09/109). The applicant states that the local authority confirmed that this bridge crossing is not in the current Capital Programme. The concerns raised by third parties are noted. However, having regard to the information submitted which is evidence based and robust, it is my view the proposed development would have a negligible impact on the capacity of the surrounding road network and is not reliant on the provision of the Port Northern Access Route to accommodate the development. It is also my view that the development of the subject site would not impede the provision of the future development of this bridge crossing or impact on the operation of the port area. Therefore, in my view, the proposed development is not considered to be premature or inappropriate in the absence of any clarity or sight on the delivery of the Port Access Northern Cross Route. It is also noted that the planning authority and Transport Infrastructure Ireland raised no concerns in this regard.

Car Parking

10.8.13. The site is currently in use as a surface car parking associated with the Scotch Hall Shopping Centre and D. Hotel. This car park would be decommissioned to facilitate the proposed development. It is noted that the temporary planning permission (ABP PL.242986) for the existing 229 no. space surface car park on the subject site expired in December 2017, as such the surface car park on site is unauthorised. Car parking for the shopping centre and hotel would be provided in the adjacent multi-storey car park, which is also within the ownership of the applicant. The Car Park Management Proposal document submitted with the application notes that the multi-storey car park accommodates 629 no. car parking spaces over 4 no. levels. Having regard to the information provided it is my view that there is sufficient capacity within the multi-storey car park to serve the existing uses within the Scotch Hall development. I have no objection to the loss of the surface car park to facilitate the development.

10.8.14. Table 7.6 of the development plan sets out a car parking standard of 1 no. space per dwelling and 1 no. space per 6 children in a childcare facility in Area 1 (sites located within Town and Settlement Centres). Table 5.3 of the Drogheda Borough Council Development Plan also sets out a car parking standard of requires 1 no. car parking space per apartment and 1 no. space per 3 employees and 1 no. space per 6 children in a creche. It is unclear how many staff would be employed in the creche. Therefore, there is a requirement for a minimum of 286 no. car parking spaces, in this regard 275 no. residential car parking spaces and 11 no. creche places, based on a capacity of 68 no. children.

10.8.15. It is proposed to provide 96 no. car parking spaces, 86 no. ground floor level car parking spaces within the scheme and an additional 10 no. spaces within the multi-storey car park, to be assigned to the residential units. It is envisioned that the creche would utilise the existing spaces within the scheme during the normal working hours. The dual use of car parking spaces is permissible under, Section 7.3.9.2 of the development plan which states that many categories of development have the potential for shared use car parking due primarily to differential time demands. It is stated that spaces adjacent to the creche entrance would be utilised for drop off and collection for parents who live remote to the development. It is noted that 2 no. spaces to the east of the creche unit are identified as creche parking on the drawings submitted. Having regard to the proposed number of residential units it is my view that the proposed creche would primarily serve the proposed residential development and the adjoining apartment units in the Scotch Hall development and that the majority of drop offs / collections would be done on foot. Therefore, I have no objection to the proposed level of creche car parking proposed.

10.8.16. Having regard to the nature of the scheme, the sites urban location within the town centre, its proximity to a variety of public transport modes (rail and bus) and the restricted nature of on-street car parking on the surrounding streets, I am satisfied that the provision of 96 no. spaces is acceptable in this instance and complies with the standards set out in the Section 4.19 of the Apartments Guidelines (2020) which states that in larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in

certain circumstances. A Mobility Management Plan has also been submitted with the application which sets out measures and targets to support sustainable travel during the operational phase of the scheme. It is noted that the residential spaces would be solely reserved for the proposed development and would be managed and monitored by the management company.

- 10.8.17. It is noted that no concerns regarding the proposed level of car parking has been raised by third parties or the planning authority.

Cycle Parking

- 10.8.18. Table 5.2 of the Drogheda Borough Development plan sets out a bicycle parking standard of 1 no. space per apartment. Section 7.3.9.3 of the development plan states that the quantity of bicycle stands required will be one third of the number of car parking spaces required to serve the development.

- 10.8.19. The documentation submitted states that the scheme includes 301 no. bicycle parking spaces. However, the drawings submitted appear to indicate 291 no. spaces, in this regard 68 no. external spaces and 223 no. internal spaces. Notwithstanding this discrepancy the proposed number of spaces is in excess of the number of spaces set out in both the development plan and the Drogheda Borough Development Plan. I have no objection in principle to the proposed level of bicycle parking, however, it is noted that the internal spaces are stacked spaces. The spaces are shown with a separation distance of only 0.4m between stands. I have concerns that that insufficient space has been provided to facilitate access to the proposed 223 no. internal bicycle spaces. Notwithstanding this concern it is my view that there is sufficient space within the site to accommodate additional cycle parking, should the future need arise this could be addressed by the management company.

Construction Traffic

- 10.8.20. Third parties have raised concerns that impact of construction traffic has not been fully assessed. The construction period is estimated to last 20-24 months. The Traffic and Transportation Assessment notes that a Construction Traffic Management Plan would be prepared by the contractor on site and agreed with the local authority. The applicants Planning Statement notes that construction traffic would primarily consist of private staff vehicles and HGV movements associated with delivery of material. It is

noted that deliveries would occur outside of the peak period. Having regard to the existing use on site and the capacity of the Bullring junction, outlined above, it is my view that the proposed development would not result in an unacceptable level of traffic congestion during the construction period. It is recommended that a condition be attached to any grant of permission that a Construction Traffic Management Plan be submitted to and agreed with the planning authority.

10.9. **Water Services**

- 10.9.1. The proposed development would connect to the existing public water mains and public sewer under Marsh Road. Irish Water acknowledged that the applicant has engaged with IW in respect of the design proposal and has been issued with a Statement of Design Acceptance for the development. In respect of water availability for future development in the area IW also note that, in the time that has elapsed since the confirmation of feasibility was issued, water deficiencies and constraints in the Drogheda area have occurred. IW has and is receiving a large volume of Pre-Connection Enquiries for this area, each of which are / will undergo detailed Capital Needs Assessments by IW on an ongoing basis. Irish Water is currently progressing with modelling of the existing network to identify a solution to resolve these issues with a potential water project progressing in Q3 2021 (subject to change). Due to these significant constraints future demand in the Drogheda area will be assessed on a case by case basis and subject to detailed modelling assessment to assess feasibility of additional connections. Irish Water have no objection subject to standard conditions.
- 10.9.2. With regard to surface water drainage, the existing site is all hardstanding and drains to the River Boyne via an outfall in the quay wall, therefore, the proposed development would not increase the surface water run off. As part of the proposed development, all existing surface water drainage would be replaced. The new surface water drainage would limit outfalls to the River Boyne and cause no flooding during a 1 in 100 year storm.
- 10.9.3. Having regard to the information submitted I am satisfied that there are no infrastructural aspects to the proposed development that present any conflicts or

issues to be clarified. It is noted third parties have not raised any concerns regarding the capacity of the existing system to accommodate the proposed development.

- 10.9.4. A Site-Specific Flood Risk Assessment (FRA) was submitted which considered the potential sources of flooding. The OPW maps indicate that there is no record of historic flood on the site. The FRA notes that that the site is bound to the north by the quay walls along the River Boyne which provide a level of defence against flooding.
- 10.9.5. The FRA notes that the Preliminary Flood Risk Assessments (PFRA), which form part of the Catchment Flood Risk Assessment and Management Study (CFRAMS), indicate that the site lies within the fluvial and tidal extreme flood events. The entire site is shown to be within the fluvial flood plain and a large portion of the site, adjacent to the river, is shown to be within the coastal flood plain. There is also a small area in the north eastern corner which is subject to pluvial flooding. It is noted that the PFRA does not take flood defence into account. With regard to the CFRAMS mapping, parts of the northern portion of the site are considered to lie within flood Zone A and flood Zone B, the remainder of the site lies within flood Zone C for Coastal flooding. The site levels vary between c. 3.2mAOD and 4.47 mAOD. The level at the northern boundary, adjacent to the river, is the lowest point. The site is located in Flood Zone B for fluvial flooding. Having regard to the above, the applicants FRA considers the site to be located within Flood Zone A.

Fluvial Flooding: The proposed development is located adjacent to the River Boyne from a review of the CFRAMS maps it is considered that the majority of the site is not at risk of fluvial flooding with the exception of an area at the sites northern boundary with the River Boyne, which is located in Flood Zone B.

Pluvial Flooding: A review of the PFRA maps indicated that there is potential for some areas within the site experience pluvial flooding. However, the FRA considers that the proposed development is not deemed to be at risk of pluvial flooding as the surface water drainage system proposed as part of the development would mitigate against any risks for a 1 in 100 year pluvial event with a 20% allowance for climate change.

Coastal Flooding: The site is located adjacent to the River Boyne which is tidally influenced. The CFRAMS maps indicate that the site is susceptible to coastal flooding.

Groundwater Flooding: The site is not considered to be at risk from groundwater flooding and no basement levels are proposed as part of the development.

10.9.6. The Planning System and Flood Risk Management Guidelines, 2009 outlines in Table 3.1 the 'vulnerability of different types of development'. The proposed development is residential in nature and, therefore, classified as 'Highly Vulnerable Development'. As the site is considered to be located in Flood Zone A, a Justification Test is required in accordance with the guidelines. Section 5 of the applicants FRA addresses each of the criteria set out in Box 5.1 of the guidelines. It is my opinion that the proposed development satisfies each of the criteria, in this regard the site is zoned for a mix of town centre uses and contributes to the wider objective of regenerating the docklands area. The scheme has also been subject to a site specific FRA. The FRA includes a number of flood mitigation measures, in particular it is noted that the finished floor levels of the development would be raised above the estimated 1 in 1000 year flood level, in this regard c. 4.3mAOD and the area along the northern boundary of the site, adjacent to the river, would be provided as public realm. In the event of a flooding this area would be closed off. With regard to emergency access to the site it is stated that the levels on the proposed access road would be at a sufficient level to maintain emergency access to the site during a 1 in 1000 flood event.

10.9.7. Having regard to the information submitted I am satisfied that the proposed arrangements would not result in a potential flood risk within the site or to any adjoining sites and I am satisfied that there are no infrastructural aspects to the proposed development that present any conflicts or issues to be clarified.

10.10. **Ecology**

10.10.1. Third parties raised concerns that insufficient information has been submitted with regard to the impact on birds and bat flight lines / collision risks to allow for a full assessment of the potential impact of the development.

10.10.2. An Ecological Assessment was submitted with the application. The report considers that due to the low ecological value of the site the proposed development would not have a significant impact on the ecological value of the site. Site surveys were carried out on the 24th April 2019 and the 15th May 2019 and comprises of a flora, fauna and

habitat survey. The assessment notes that due to the sites current use as a surface car park the ecological value is low. This is reflected in the low number of plant and bird species recorded. The surveys found that bird species (jackdaw, magpie, pied wagtail, swallow, wren, herring gull and great blackbacked gull) were recorded on the site. The assessment states that the proposed development would not impact on the bird species that are currently found on the site as they would continue to utilise this site, with or without the development. I am further satisfied that having regard to the design (materiality, layout and height) within this urban location, that the development would not have a significant potential impact on bird species. No mammal tracks were recorded. The assessment also noted that several bat species (common pipistrelle, Soprano pipistrelle, Daubenton's and Lester's bats) are known to occur within 1km of the site and a number of other species (Brown long eared bat, Natter's bat and Whiskered bay are known to occur within 10km of the site (source: Biodiversity Ireland). Therefore, as a variety of bat species potentially occur at the site, street lighting within the site should be designated to minimise light spill. The applicants Public Lighting Report indicated that light spill would be minimised and contained within the subject site. However, it is recommended that a condition be attached that the final details of public lighting be agreed with the planning authority. The report from the DAU also noted the occurrence of various bat species within a kilometre of the site was and recommended that the street lighting within the scheme be designed to minimise light spill.

- 10.10.3. The concerns of the third parties are noted, however, having regard to the urban location, the current use of the site as a surface car park and the contents of the Ecological Assessment, which is evidence based and robust, it is my view that sufficient information has been submitted to fully assess the impact of the development and it is considered that the proposed development would not have a significant negative impact on the biodiversity of the area. It is also noted that following their assessment of the proposals and ecological report of the applicant, that neither the planning authority or the DAU raised concerns regarding the impact of the development on biodiversity within or adjacent to the site, and that this is supported by documentary evidence on the file.

10.10.4. The Local Biodiversity Action Plan for County Louth 2021 – 2026 refers to installation of bat and bird boxes, where possible. Having regard to the overall size of the subject site it is recommended that a condition be attached that bat and bird boxes be provided at appropriate locations within the site, subject to the agreement of the planning authority.

10.11. ***Built Heritage / Protected Structures***

10.11.1. The site is located on reclaimed land and originally comprises a flax mill, constructed in c.1830's. This building was later converted to a meat processing plant and subsequently it accommodated the Irish Oil and Cake Mills. This business closed in 1983 and the former Mill remained vacant for over 20 years. The original building on site was demolished in 2006. In general, the site has been cleared and comprises a surface car park. There are some remaining structures located at the site's southern boundary. It is proposed to demolish these 3 no. structures as part of the development.

10.11.2. The proposed works also includes the demolition of an end of terrace derelict 2-storey house (c.152sqm) fronting onto Marsh Road. It is noted that this structure is missing its roof and the upper part of its walls and part of the western elevation has been demolished. It is also proposed to demolish a (c.42sqm) garage / shed and (c.103sqm) a warehouse building along the southern boundary of the site, to the rear of properties on Marsh Road. Both of these structures appear to be vacant and in a state of disrepair. It is noted that the buildings to be demolished do not contain any features of architectural merit and are in a state of disrepair. It is noted that no concerns regarding the demolition of any structures on site were raised by the planning authority or the third parties.

10.11.3. There are 6 no. protected structures within and adjacent to the subject site / red line boundary. No. 4 Marsh Road (Ref. DB144) No. 5 Marsh Road (Ref. DB145). These dwellings are also listed on the NIAH (13622065 and 13622064). No. 15 Marsh Road (ref. DB146) which is also listed on the NIAH (ref. 13622066). The red line boundary incorporates a section of Poorhouse Lane. The single arch bridge over the laneway is a protected structure (Ref. DB367). There is a parish centre located to the west of Poorhouse Lane which is also a protected structure (DB365) and a boundary stone to

the side of the Dublin Road, adjacent to the parapet on the top of the bridge which is also a protected structure (DB366).

10.11.4. No. 4 and 5 Marsh Road comprise a pair of semi-detached houses, each being 2-bay, 3-storey and gable ended. The houses are faced with squared limestone rubble. The derelict house to be demolished is immediately adjacent to the east of no. 4 Marsh Road. The applicants Architectural Heritage Assessment notes that this derelict structure is likely to be causing problems for the protected structure, due to its due to its roofless state and rear walls which are in poor condition. An area of public open space would replace the derelict structure. Subject to the house being demolished in accordance with good conservation practice it is my view that the removal of this structure would not negatively impact on the protected structure and would improve its character and setting. The garage / shed to be demolished is located c. 6m from the rear elevation of no. 4 and no. 5 Marsh Road. It is my view that the demolition of this structure would not have any impact on the setting or character of the protected structures.

10.11.5. The rear gardens of No. 4, 5 and 15 Marsh Road are located a minimum of c. 30m from Block D. Block D is 5-storeys in height and I agree with the applicant's Architectural Heritage Assessment that the proposed development would not negatively impact on the character or setting of these protected structures.

10.11.6. The works to Poorhouse Lane are intended to improve pedestrian safety and include the provision of a pedestrian route under the bridge, re-painting the under pass white and landscaping works. Having regard to the nature of the works proposed on Poorhouse Lane it is my view that the proposed development would not have a negative impact on the character or setting of the single arch bridge over the laneway (Ref. DB367), the parish centre (DB365) or the boundary stone (DB366).

10.12. **Archaeology**

10.12.1. The site is located 30m south of a Zone of Archaeological Potential for the historical town of Drogheda (RMP LH024-041). There are no recorded monuments on the site. The applicants Archaeological Impact Statement notes that a range of archaeological investigations have taken place at the subject site between 2004 and 2019. These

archaeological investigations have revealed medieval archaeological remains including garden soils, a stone structure, walls and post medieval burials within and adjacent to the subject site. In 2008 a complex, area specific finds retrieval strategy was carried out on the overall landholding. A substantial quantity of medieval pottery, roof and floor tiles, metal objects and numerous other artefacts were recovered.

- 10.12.2. During archaeological monitoring of construction activity in 2008 medieval structural remains and burials were identified. These structural remains are located at the south east corner of the subject site and were preserved in situ. The foundation design of Block D aims to avoid any impact on these remains. Full details of previous archaeological investigations within and adjacent to the subject site are provided within the Archaeological Impact Statement and Appendix 4 - Summary Excavation Report 2008 submitted with the application.
- 10.12.3. It is noted that the submission from the DAU that archaeological recommendations set out in the Archaeological Impact Assessment Report, should be implemented in full. In accordance with the recommendation of the Archaeological Impact Assessment, it is my view that having regard to the sites location in an area where medieval and post medieval remains have been preserved in situ a condition should be attached to any grant of permission that all excavation works be monitored by a suitably qualified archaeologist.
- 10.12.4. With regard to underwater archaeology applicants Archaeological Assessment states that in 2005 a non-disturbance visual inspection was carried out and a full metal detection survey. No archaeological features were identified. The submission from the DAU notes that as the existing outfall in the quay wall is to be enlarged to allow discharge of surface water, the possibility of impact on underwater cultural heritage and archaeological features cannot be excluded. Having regard to the archaeological potential of the area and the findings of the Moore Marine Archaeological Reports submitted as part of the Archaeological Assessment - Appendix 5 Underwater Archaeological Impact Assessment 2009, it is recommended that 3 no. conditions be attached to any grant of permission, in this regard (1) the applicant shall engage the services of a suitably qualified archaeologist to monitor all areas of the proposed works associated with the enlarged outfall pipe and all excavated material should be metal

detected for the presence of possible archaeological artefacts, (2) Should archaeological material, wreckage, timbers, or other artefacts be found during the course of monitoring, the archaeologist shall have work on the site stopped, pending a decision as to how best to deal with the archaeology. The developer shall be advised by the Department with regard to any necessary mitigating action (e.g. preservation in situ, dive and/or geophysical survey or excavation). The applicant shall facilitate the archaeologist in recording any material found. (3) The National Monuments Service section of the Department shall be furnished with a report describing the results of the monitoring. I agree with the recommendation of the DAU and recommend that a condition be attached to any grant of permission relating to archaeology.

10.13. *Land Contamination*

- 10.13.1. Concerns were raised by third parties that insufficient consideration has been given to the potential impact of the pre-existing contamination of the development site.
- 10.13.2. A Contamination Risk Assessment was submitted with the application. It noted that site investigations were carried out in 2004, 2007 and 2008. In 2008 significant volumes of inert, non-hazardous and hazardous material were removed from the site and the excavated areas were backfilled with clean engineering grade material. In 2019, 12 no. trial pits (1.5m -2.5m in depth) were excavated. Where trial pits revealed areas that have not been remediated or some evidence was found of recent contamination these samples were collected for laboratory analysis. Full details of all trial holes and laboratory analysis are included as appendices. In the absence of any legislation for soil quality in Ireland, the results were compared with UK threshold values. The samples indicate that there is no exceedance for these UK standards. The report recommends that further sampling of any stockpiles for WAC (Waste Acceptance Criteria) and asbestos concentrations should be undertaken to confirm a suitable disposal method.
- 10.13.3. The Contamination Risk Assessment also confirmed that there is no likely emission which could affect the overall water quality status of the River Boyne. The development works, which includes hardstanding and landscaping would further reduce the risk by minimising infiltration to the River. A human health risk confirmed no likely exposure risk during construction from volatile organic compounds.

10.13.4. A Technical Note relating to the classification of soil in terms of Waste Acceptance Criteria was also submitted. This note recommends that all excavations be monitored by a suitably qualified person to ensure that waste or potentially contaminated material is identified and appropriately segregated for disposal purposes.

10.13.5. Having regard to the information submitted I am satisfied that significant consideration has been given to the issue of pre-existing contamination of the site. The site investigations undertaken have confirmed that there are no exceedances of appropriate standards (UK LQM /CIEH) for Human Health Risk for commercial land use. Therefore, in my view the proposed development does not present any conflicts or issues to be clarified with regard to contamination. It is noted that the planning authority raised no concerns in this regard.

10.14. **Health and Safety**

10.14.1. Third parties have raised concerns regarding the proximity of the subject site to a Seveso Site and raised concerns that consideration must be given to the overall management of the area in terms of emergency response to a major incident at the facility itself or on a vessel.

10.14.2. The subject site is located c. 1.2km west of the Flogas Ireland Limited site, which is a Seveso site on Marsh Road. Table 8.2 of the development plan indicates that consultation with the HSA is required for sites within 600m of this upper tier Seveso site. Having regard to the separation distance from the site the issue of major accidents does not arise in this instance.

10.15. **Material Contravention**

As outlined above the proposed development would materially contravene the Louth County Development Plan 2015 - 2021 with regard to:

- **Density:** Table 2.5, Table 4.3 and Policy RES 18
- **Building Height:** Policy RES 19
- **Car Parking:** Table 7.6
- **Apartment Floor Areas:** Table 4.5

The proposed development would also materially contravene the Drogheda Borough Council Development Plan 2011 – 2017 (as extended) with regard to:

- **Car Parking:** Table 4.5
- **Density:** Table 6.2 and Policy HC17

In addition, the proposed development would materially contravene the Drogheda Docklands Area Plan, 2007 (DDAP) with regard to:

- **Building Height:** Section 3.7 Building height and massing

The applicants Material Contravention Statement submitted with the application addresses and provided a justification for these material contraventions.

Density: Table 2.5 of the Louth County Development Plan sets out an average density for Drogheda and Environs of 40 units per ha. It is noted that this is an average density to achieve the population growth outlined in the core strategy. Table 4.3 sets out a density of 30 plus units per ha for centrally located sites in towns and villages. Policy RES 18 seeks to apply the density standards in respect of the County's towns and villages as set out in Table 4.3 and to carry out further refinement where necessary as part of the review of the local area plans.

In addition to development plan standards, Table 6.2 of the Drogheda Borough Development Plan sets out density standards, which require a minimum density of 50 units per ha in town centre sites. This is supposed by Policy HC17 to apply the density standards as detailed in sections 6.7.1 and 6.7.2.

It is noted that the third parties raised concerns that the proposed density would be a material contravention, however, having regard to the flexibility in the wording of the Louth County Development Plan and the Drogheda Borough Development Plan with regard to density, it is my view that the proposed development would not be a material contravention of either the Development Plan or the Drogheda Borough Council Development Plan. It is also noted that the planning authority raised no concerns regarding a material contravention relating to density. However, if the Board were to consider a material contravention applies, the following provisions under s.37(2)(b) should be considered

Building Height: The proposed development ranges in height from 5 – 9 storeys. Blocks A and B are 8 storeys, Block C is predominately 8 storeys with a 12 storey element and Block D is 5 storeys.

Policy RES19 of the Louth County Development Plan 2015 - 2021 states that residential buildings shall not exceed 3 storeys in height, (including roof space development), except in exceptional circumstances where the planning authority considers that the site can adequately accommodate 4 storeys (including roof space development) and where provision for higher buildings is provided for in any local area plan.

Section 3.7 of the DDAP states 'that in general terms, a maximum height of six storeys residential (plus set-back storey) or five storeys commercial (plus set-back storey) is proposed on the waterfronts, stepping down to a maximum of four storeys residential (plus set-back storey) or three storeys commercial (plus set-back storey) adjacent to Marsh Road, North Strand and the Viaduct'. Therefore, a greater range of heights is envisioned as part of the regeneration of the subject site, in excess of the heights defined by RES 19.

While it is acknowledged that Section 4.1 of the DDAP states that the building heights should not be applied rigidly and are recommended maximum heights, having regard to the difference between the height proposed (up to 12 storeys) and to the recommended maximum height (6 storeys) set out in the plan, in the circumstance where a precautionary approach is taken with regard to height, I am satisfied that the issue of material contravention has been addressed and justified. It is noted that the planning authority and third parties did not raise any concerns regarding a material contravention of the proposed building height.

Car Parking: Table 7.6 of the Louth County Development Plan 2015 – 2021 and Table 5.3 of the Drogheda Borough Council Development Plan 2011 – 2017 (as extended) require 1 no. car parking space per apartment. The proposed development comprises 275 no. apartments. Therefore, there is a requirement for 275 no. residential car parking spaces.

Table 7.6 of the Louth County Development Plan and Table 5.3 of the Drogheda Borough Council Development Plan also require 1 no. car parking space per 6 no.

children in a creche. The proposed creche has a stated capacity for 68 no. children. Therefore, an additional 11 no. creche car parking spaces are required.

The Drogheda Borough Council Development Plan also requires 1 no. space per 3 no. employees for a creche. The envisioned number of staff is unclear.

The proposed development includes the provision of 94 no. car parking spaces and, therefore, is not in accordance with the car parking standards set out in either the Louth County Development Plan or the Drogheda Borough Council Development Plan.

Apartment Floor Areas: Table 4.5 Space Provision and Room Sizes for Typical Dwellings of the Louth County Development Plan 2015 - 2021 specifies a target floor area and room sizes. It is noted that a number of the units fall below the specified targets. In particular, the gross floor area of apartments I (69.2sqm) and apartments K (70sqm) fall below the specified 73sqm gross floor area for 2-bed, 3-person apartments.

Table 4.5 sets out aggregate room sizes for the kitchen / living / dining of 28sqm for a 3-person, 2-bed and 30sqm for a 4-person, 2-bed unit. The aggregate kitchen / living / dining room sizes of Apartment types B,D,E, I, K,N and O range between 27.8sqm and 29.5sqm which is also marginally below the standard.

Table 4.5 also sets out an aggregate bedroom area of 25sqm for 2-bed apartments (both 3-person and 4-person). Apartment types B,D,G, I, K,N and O range between 21sqm and 24.6sqm, which is marginally below the standard.

10.15.1. The applicants Material Contravention Statement also stated that the Board may consider that the proposed development materially contravenes the Louth County Development Plan 2015 – 2021 and the Docklands Area Development Plan, 2007 with regard to density.

10.15.2. Section 37(2)(b) of the Planning and Development Act, 2000 (as amended) states that where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with *paragraph (a)* where it considers that: -

- (i) the proposed development is of strategic or national importance,

- (ii) there are conflicting objectives in the development plan, or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- (iii) permission for the proposed development should be granted having regard to the regional spatial and economic strategy for the area, guidelines under *section 28*, policy directives under *section 29*, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

10.15.3. Having regard to the characteristics of the proposed development, *Section 37 (2) (b) (i) and (iii)* are considered relevant in this instance.

10.15.4. ***Section 37 (2) (b)(i)***

The proposed development falls within the definition of strategic housing as set out in the Planning and Development (Housing) and Residential Tenancies Act 2016 and by the government's policy to provide more housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, the proposed material contravention is justified by reference to *section 37(2)(b)(i)* of the act.

10.15.5. ***Section 37 (2) (b)(iii) – Density***

The proposed material contravention of Table 2.5, Table 4.3 and Policy RES 18 of the Louth County Development Plan 2015 - 2021 and Table 6.2 and Policy HC17 of the Drogheda Docklands Area Plan, 2007 is justified by reference to: -

- Objectives 35 of the National Planning Framework which support increased densities at appropriate locations .
- Section 4.5 Regional Growth Centres of the Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019, to realise a more consolidated urban form that will optimise the uses of existing and planned services by increasing population and employment density in a sustainable fashion.

10.15.6. Section 37 (2) (b)(iii) – Height

The proposed material contravention of Policy RES 19 of the Louth County Development Plan 2015 - 2021 and Section 3.7 of the Drogheda Docklands Area Plan, 2007 is justified by reference to: -

- Objectives 13 and 35 of the National Planning Framework which support increased building heights at appropriate locations .
- SPPR3 of the 2018 Urban Development and Building Heights Guidelines, 2018 which support increased building heights.

10.15.7. Section 37 (2) (b)(iii) – Car Parking

The proposed material contravention of Table 7.6 of the Louth County Development Plan 2015 – 2021 and Table 4.5 of the Drogheda Borough Council Development Plan 2011 – 2017 (as extended) is justified by reference to: -

- Appendix 1: Required Minimum Floor Areas and Standards of the Sustainable Urban Housing: Design Standards for New Apartments, 2020.

10.15.8. Section 37 (2) (b)(iii) – Apartment Size

The proposed material contravention of Table 4.5 of the Louth County Development Plan 2015 - 2021 is justified by reference to: -

- Section 4.19 and 4.20 (Car Parking: Central and / or Accessible Urban Locations) of the Sustainable Urban Housing: Design Standards for New Apartments, 2020.

10.15.9. Conclusion

Having regard to the provisions of Section 37 (2) (b) of the Planning and Development Act, 2000 (as amended), I consider that a grant of permission, that may be considered to materially contravene the Louth County Development Plan 2015 – 2021, the Drogheda Borough Council Development Plan 2011 – 2017 (as extended) and the Drogheda Docklands Area Plan, 2007 (DDAP), would be justified in this instance under sub sections (i) and (iii) having regard to the Planning and Development (Housing) and

Residential Tenancies Act 2016, by government's policy to provide more housing, as set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, the National Planning Framework, 2018, the Regional and Economic Strategy for the Eastern and Midland Region 2019-2031, Urban Development and Building Heights Guidelines, 2018 and Sustainable Urban Housing: Design Standards for New Apartments, 2020.

11.0 Environmental Impact Assessment (EIA) Screening

11.1. Class 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:

- Construction of more than 500 dwelling units
- Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

11.2. Class 14 relates to works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

11.3. It is proposed to construct a 275 no apartments, a creche and 2 no. retail / café / restaurant units on a site with a stated area of 1.34ha. The site is located within an existing Docklands area (other parts of a built up area). The site is, therefore, well below the applicable threshold of 10ha. There is limited demolition works proposed. There are limited excavation works and it is noted that no basement is proposed. Having regard to the limited size and the location of the development, and by reference to any of the classes outlined above, a mandatory EIA is not required. The development is marginally over 50% of the threshold (500 dwelling units). I would note that the development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation and does not contain habitats or species of conservation significance. The proposed development would use the public water and

drainage services of Irish Water and Louth County Council, upon which its effects would be marginal. An NIS was submitted with the application. The Appropriate Assessment conclusion set out in Section 12.5 concludes that the proposed development individually or in combination with other plans or projects would not adversely affect the integrity of any European site.

11.3.1. The criteria set out in schedule 7 of the regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that could and should be the subject of environmental impact assessment. Section 15 (Brief Description of Possible Effects of the Proposed Development on the Environment) of the applicants Planning Report includes the information required under Schedule 7A of the planning regulations. In addition, the various reports submitted with the application address a variety of environmental issues and assess the impact of the proposed development in addition to cumulative impacts with regard to other permitted developments in proximity to the site, and demonstrate that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment. I have had regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts. I have examined the sub criteria having regard to the Schedule 7A information and all other submissions, and I have considered all information which accompanied the application including inter alia:

- Architectural Design Statement
- Townscape Visual Impact Assessment
- Landscape Design and Access Statement
- Screening Statement for Appropriate Assessment and Natura Impact Statement.
- Ecological Assessment
- Traffic and Transport Assessment
- Flood Risk Assessment
- Wind Analysis and Pedestrian Comfort Report

- Preliminary Construction and Demolition Waste Management Plan.
- Outline Construction Management Plan
- Construction and Demolition Waste Management Plan
- Contamination Risk Assessment
- Engineering Assessment Report
- Outline Construction Management Plan
- Façade Acoustic Assessment
- Public Lighting Report
- Daylight and Sunlight Analysis
- Planning Report and Statement of Consistency
- Archaeological Impact Assessment

11.4. Third parties have raised concerns that the information provided by the applicant does not comply with the mandatory requirements of the Planning and Development Regulations as the applicant has failed to provide the statement required under Regulation 299B(1)(b)(ii)(II)(C) of the Planning and Development regulations.

11.5. Noting the requirements of Section 299B (1)(b)(ii)(II)(C), whereby the applicant is required to provide to the Board a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation, other than the Environmental Impact Assessment Directive have been taken into account I would note that the following assessments / reports have been submitted: -

- An Energy Statement has been submitted with the application, which has been undertaken pursuant to the EU Energy Performance of Buildings Directive and requirement for Near Zero Energy Buildings
- A Site Specific Flood Risk Assessment that addresses the potential for flooding having regard to the OPW CFRAMS study which was undertaken in response to the EU Floods Directive.

- An AA Screening Statement and NIS in support of the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC) have been submitted with the application.
- A Preliminary Construction and Demolition Waste Management Plan has been submitted which was undertaken in accordance with the Waste Management Act, 1996 and associated regulations, Litter Act 1997 and the Eastern -Midlands Region (EMR) Waste Management Plan 2015-2021.
- The Façade Acoustic Assessment relies on standards derived under or related to the EU Environmental Noise Directive.

11.6. Section 14 (Environmental Impact Assessment) and Section 15 (Brief Description of Possible Effects of the Proposed Development on the Environment) of the applicants Planning Report has, under the relevant themed headings, considered the implications and interactions between these assessments and the proposed development, and as outlined in the report states that the development would not be likely to have significant effects on the environment. I am satisfied that all relevant assessments have been identified for the purpose of EIA Screening.

11.7. It is noted that third parties raised concerns that due to the nature, location and characterises of the proposed development it should be subject to a full EIA. I have completed an EIA screening determination as set out in Appendix A of this report. I consider that the location of the proposed development and the environmental sensitivity of the geographical area would not justify a conclusion that it would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances, the application of the criteria in Schedule 7 to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment and that an environmental impact assessment is not required before a grant of permission is considered. This conclusion is consistent with the information provided in Section 14 (Environmental Impact Assessment) and Section 15 (Brief Description of Possible Effects of the Proposed Development on the Environment) of the applicant's Planning Report.

11.8. A Screening Determination should be issued confirming that there is no requirement for an EIAR based on the above considerations.

12.0 **Appropriate Assessment**

12.1. **Screening**

Compliance with Article 6(3) of the Habitats Directive

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

The applicant has submitted a Screening Statement for Appropriate Assessment and a Natura Impact Statement. An Ecological Impact Assessment, an Outline Construction Management Plan and a Construction and Demolition Waste Management Plan were attached as appendices. The applicant's Stage 1 AA Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development.

- Section 1 provides an overview of the proposed project.
- Section 2 entitled Screening for Appropriate Assessment describes the proposed development and activities, identifies the characteristics of European Sites and provides a Screening Outcome.
- Section 3 is entitled Natura Impact Statement. It identifies elements of the project potentially impacting on the Natura network and mitigation measures to protect Natura sites.

Having reviewed the documents and submissions on the case, I am satisfied that the information provides a reasonable basis for the examination and identification of potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

12.2. **Screening for Appropriate Assessment**

12.2.1. The proposed development is located immediately south of the River Boyne SAC, surface water from the site would discharge to the SAC, therefore, it needs to be determined if the development is likely to have significant effects.

12.2.2. **Proposed development**

The development site is described in section 2.2.4 of the applicants Screening Statement for Appropriate Assessment. The site comprises 2 areas, one area is located at Poorhouse Lane and the other area is located beside the banks of the River Boyne. The site at Poorhouse Lane currently contains a partially constructed multi-storey reinforced concrete sub structure and car parking to the east of the site. The area beside the river Boyne comprises an existing partially constructed car park and a brownfield site.

12.2.3. **Submissions and Observations**

It is noted that the third party submissions raise concerns that insufficient information has been submitted with the AA screening report and NIS and the relevant assessments required to be carried out by the Board in respect of same cannot, therefore, be completed in the absence of same. Concerns are also raised that Screening for Appropriate Assessment fails to provide reasoned conclusions, in light of the best scientific knowledge available, for screening out the impact of the proposed development on bats and birds.

In my opinion, having regard to the information submitted in the applicants Screening Statement for Appropriate Assessment and the Natural Impact Assessment, sufficient information has been submitted to allow for a full assessment of the impact of the proposed development on designated sites and to allow for a reasoned determination to be issued, which is outlined below.

The submission from the DAU accepts that if the mitigation measures outlined in the NIS are implemented the proposed development should have no significant effect on the Qualifying Interests of the adjacent River Boyne and River Blackwater SAC or on the integrity of any designated sites.

The submission from Irish Water notes that subject local upgrades to the sewer network there is no objection in principle to the development.

12.3. European Sites

12.3.1. The development site is not located in a European site, however, the River Boyne and River Blackwater SAC (002299) is immediately north of the subject site.

12.3.2. A summary of European Sites that occur within a possible zone of influence of the proposed development is presented in the table below. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail.

<i>European Site Site Code</i>	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source pathway receptor)	Considered further in screening Y/N
<i>River Boyne and River Blackwater SAC 002299</i>	Alkaline fens Alluvial forests River Lamprey Salmon Otter	Immediately adjacent	Yes via Surface Water	Yes
<i>Boyne Coast and Estuary SAC 001957</i>	Estuaries Mudflats and sandflats not covered by seawater at low tide Annual vegetation of drift lines Galicornia and other annuals colonising mud and sand Atlantic salt meadows Embryonic shifting dunes Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes)	6km	Yes via Surface Water	Yes

	Fixed coastal dunes with herbaceous vegetation (grey dunes)			
Clogher Head SAC 001459	Vegetated sea cliffs of the Atlantic and Baltic coasts European dry heaths	11km	No	No
River Boyne and River Black Water SPA 004232	Kingfisher	3.5km	No	No
River Nanny Estuary and Shore SPA 004158	Oystercatcher Ringed Plover Golden Plover Knot Sanderling Herring Gull Wetland and Waterbirds	6.7km	No	No

12.3.3. Identification of likely effects

Tables 2.6, 2.7 and 2.11 of the applicants Screening Statement for AA identifies threats, pressures and activities affecting relevant SAC's and SPA's within 15km of the development site. The potential indirect impacts from the proposed development to the designated sites are summarised in Section 2.3.1.5 of the report as the following:

- Construction discharges – activities associated with construction and civil works may result in the release of sediment, chemical or other waste material pollution during construction periods.
- Noise disturbance – construction noise impacts.

In my view it is also considered that the enlarged outfall in the quay wall to allow for the discharge of surface water during the operational phase could also have a likely impact. Therefore, in the absence of mitigation measures, it is not possible to rule out impacts which could negatively impact on qualifying interests of the River Boyne and River Blackwater SAC (002299) and the Boyne Coast and Estuary SAC (001957).

12.3.4. **Screening Determination**

The conservation objective for the Clogher Head SAC (001459) is to maintain the favourable conservation status of habitats and species of community interest. The conservation objective for both the River Nanny Estuary and Shore SPA (004158) and the River Boyne and River Blackwater SPA (004232) is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for these SPA. Having regard to the distance between the site and these designated sites, the qualifying interest and conservation objective for the site and the nature and scale of the proposed development, the possibility of significant effects to the Clogher Head SAC (001459), River Nanny Estuary and Shore SPA (004158) and the River Boyne and River Blackwater SPA (004232) have been screened out.

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in-combination with other plans or projects could have a significant effect on European Sites, the River Boyne and River Blackwater SAC (002299) and Boyne Coast and Estuary SAC (001957), in view of the site's Conservation Objectives, and Appropriate Assessment and submission of a NIS is, therefore, required.

12.4. **The Natura Impact Statement**

The application included a NIS which examines and assesses the potential adverse effects of the proposed development on the River Boyne and River Blackwater SAC (002299) and Boyne Coast and Estuary SAC (001957). It was prepared in line with current best practice guidance and provides an assessment of the potential impacts to the designated sites and an evaluation of the mitigation measures proposed.

Having reviewed the documents, submissions and consultations I am satisfied that the information allows for a complete assessment of any adverse effects of the development, on the conservation objectives of the River Boyne and River Blackwater SAC (002299) and Boyne Coast and Estuary SAC (001957) alone, or in combination with other plans and projects

12.4.1. **Appropriate Assessment of implications of the proposed development**

The following is a summary of the objective assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

12.4.2. **European Sites**

The following sites are subject to Appropriate Assessment:-

- River Boyne and River Blackwater SAC (002299)
- Boyne Coast and Estuary SAC (001957)

Section 3.3 of the applicants NIS provides a detailed description of both the River Boyne and River Blackwater SAC (002299) and the Boyne Coast and Estuary SAC (001957). The qualifying interests and conservation objectives for these sites are set out below in Tables 1 and 2. The aspects of the proposed development that could adversely affect the conservation objectives of these European sites have been identified as impacts from construction discharges, noise disturbance and operational surface water run off. Tables 1 and 2 below summarise the appropriate assessment and integrity test for both the River Boyne and River Blackwater SAC (002299) and the Boyne Coast and Estuary SAC (001957). The conservation objectives, targets and attributes as relevant to the identified potential adverse effects have been examined and assessed in relation to all aspects of the project (alone and in combination with other plans and projects). I have also examined the Natura 2000 data forms as relevant and the conservation objectives supporting documents for these sites available through the NPWS website (www.npws.ie). Mitigation measures proposed to avoid and reduce impacts to a non-significant level have been assessed. In terms of possible in-combination effects, plans, programmes and existing and proposed

developments were considered. This allows for clear, precise and definitive conclusions to be reached in terms of adverse effects on the integrity of European sites.

12.4.3. **Potential Adverse Impacts**

The main aspects of the proposed development that could adversely affect the conservation objectives of European sites include the following: -

Hydrological Link: Surface water run off associated with the construction stage and operational phase could potentially enter the River Boyne. Therefore, there is potential for indirect effects on surface water quality during site preparation and earthworks, including potentially contaminating material such as oils, fuels, lubricants, other construction related solutions and cement based products would be used on site during the construction phase and the accidental emission of such a material would have the potential to undermine water quality within the River.

During the operational phase there is potential for contaminated surface water run-off from fuel leaks or accidental spills to potentially undermine water quality within the bay.

Any uncontrolled release of contaminated surface water to the River Boyne would likely be rapidly diluted and distributed. Notwithstanding this, the ongoing discharge of waters with high concentrations of contaminating substances could over time lead to the deposition of such contaminants, which has the potential to undermine the conservation status of the designated sites,

Section 3.6 of the NIS recommends control mitigation measures, to protect the environment from pollutants. These include the preparation of a Construction and Demolition Waste Management Plan, temporary drainage and sediment control measures, including silt fences and the correct storage, use and maintenance of all equipment, materials and chemicals.

Adherence to best practices methodologies during the construction phase would control the release of sediments to surface water and prevent surface and ground water pollution as a result of accidental spillages or leaks.

During the operational phase all surface water run-off associated with the development would drain via to an existing outfall in the quay wall to the River Boyne. This existing outfall currently drains surface water from the existing surface car park. The applicants Engineering Report notes that there are several outfalls through the quay wall of varying sizes and inverts which were utilised by previous industrial uses which previously occupied the site. Therefore, the general arrangement has been predetermined.

The NIS notes that control measures have been incorporated into the design of the scheme, including SUDS. The provision of these features would ensure that surface water emitted from the project would be adequately treated and would eliminate any risk of polluted surface water being discharged during the operational phase.

Noise Disturbance: Potential noise disturbance has the potential to impact on otters only. It is considered that the noise generated from construction activities on site would not significantly impact on otters in the river. In addition, construction operations would be carried out in daylight hours. The interaction with the otter is likely to be minimal as otters are considered to be mainly nocturnal and are generally active after dusk and before dawn.

The likelihood of effects to otters arising from noise is unlikely and the consequences of the proposed development is minor. The overall impact is concluded to be insignificant.

DECISION QUASHED

Table 1: River Boyne and River Blackwater SAC (002299)

<p>River Boyne and River Blackwater SAC (002299) Key issues that could give rise to adverse effects includes: -</p> <ul style="list-style-type: none"> • Habitat Loss • Water Quality and water dependent habitats • Disturbance of QI species <p>Conservation Objectives: to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected:</p>					
Summary of Appropriate Assessment					
Qualifying Interest feature	Conservation Objective	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
River Lamprey	to maintain or restore the favourable conservation condition of the Annex I habitat(s)	Discharges – activities associated with construction and operation may result in the release of sediment, chemical or other waste material pollution.	Adherence to best practices methodologies during the construction phase. Temporary construction surface drainage and sediment control measures, including silt fences.	No effect	Yes
Salmon	and/or the Annex II	Discharges – activities associated with construction and operation		No effect	Yes

	species for which the SAC has been selected:	may result in the release of sediment, chemical or other waste material pollution.	All material arising on site would be removed and disposed of by a permitted contractor.	
Otter	Discharges – activities associated with construction and operation may result in the release of sediment, chemical or other waste material pollution.	Noise Disturbance – Construction Noise Impacts	A Construction and Demolition Waste Management Plan would be implemented. Imported materials would be tested to determine their properties to assess their suitability for use.	No effect
Alkaline fens	Discharges – activities associated with construction and operation may result in the release of sediment, chemical or other waste material pollution.	Discharges – activities associated with construction and operation may result in the release of sediment, chemical or other waste material pollution.	Bins for storage of chemicals would be lined or constructed of materials resistant to damage by materials stored within. Refuelling would occur in a designated impermeable, bounded area, away from all drains.	No effect
Alluvial forests	Discharges – activities associated with construction and operation may result in the release of			No effect

DECISION CASHED

		<p>sediment, chemical or other waste material pollution.</p>	<p>Drip trays would be used where hydrocarbons are being used.</p> <p>Chemical portable toilets would be provided.</p> <p>Rainfall accumulating will be discharged to a designated percolation area.</p> <p>Concrete material would be stored in banded areas.</p> <p>Excavated material would be sorted and capped for reuse in separate rockpiles.</p>		
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DECISION QUASHED

Table 2: Boyne Coast and Estuary SAC (001957)

Boyne Coast and Estuary SAC (001957) Key issues that could give rise to adverse effects includes: -					
Conservation Objectives: to maintain the favourable conservation status of habitats and species					
Qualifying Interest feature	Conservation Objectives	Potential adverse effects	Mitigation Measures	In-combination effects	Can adverse effects on integrity be excluded?
Estuaries Mudflats and sandflats not covered by seawater at low tide	To maintain the favourable conservation condition of Estuaries	Discharges – activities associated with construction and operation may result in the release of sediment, chemical or other waste material pollution.	Adherence to best practices methodologies during the construction phase. Temporary construction surface drainage and sediment control measures, including silt fences. All material arising on site would be removed and disposed of by a permitted contractor. A Construction and Demolition Waste Management Plan would be implemented. Imported materials would be tested to determine their properties to assess their suitability for use.	No effect	Yes
	To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide			No effect	Yes
Salicornia and other annuals	To restore the favourable			No effect	Yes

DECISION CANCELLED

colonising mud and sand	conservation condition of <i>Salicornia</i> and other annuals colonizing mud and sand	Bunds for storage of chemicals would be lined or constructed of materials resistant to damage by materials stored within. Refuelling would occur in a designated impermeable, bunded area, away from all drains. Drip trays would be used where hydrocarbons are being used. Chemical portable toilets would be provided. Rainfall accumulating will be discharged to a designated percolation area. Concrete material would be used in bunded areas. Excavated material would be stored and capped for reuse in separate stockpiles.	No effect	Yes
Mediterranean Salt Meadows	The status of Mediterranean salt meadows (<i>Juncetalia maritimi</i>) as a qualifying Annex I habitat for Boyne Coast and Estuary SAC is currently under review.		No effect	Yes
Atlantic salt meadows	To maintain the favourable conservation condition of Atlantic salt meadows		No effect	Yes
Embryonic shifting dunes	To restore the favourable conservation condition of		No effect	Yes

DECISION QUASHED

Shifting dunes along the shoreline with Ammophila arenaria	Embryonic shifting dunes To restore the favourable conservation condition of Shifting dunes along the shoreline with Ammophila arenaria			No effect	
Fixed coastal dunes with herbaceous vegetation	To restore the favourable conservation condition of Fixed coastal dunes with herbaceous Vegetation			No effect	Yes

DECISION QUASHED

Following the appropriate assessment and the consideration of mitigation measures, I conclude with confidence that the project would not adversely affect the integrity of both the River Boyne and River Blackwater SAC (002299) and the Boyne Coast and Estuary SAC (001957) in view of the Conservation Objectives of these sites. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

12.5. **Appropriate Assessment Conclusion**

The proposed development has been considered in light of the assessment requirements of Section 177 of the Planning and Development Act, 2000 (as amended).

Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on the River Boyne and River Blackwater SAC (002299) and the Boyne Coast and Estuary SAC (001957). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of its / their conservation objectives.

Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site No.002299 and 001957, or any other European site, in view of the site's Conservation Objectives.

This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and ecological monitoring in relation to the Conservation Objectives both the River Boyne and River Blackwater SAC (002299) and the Boyne Coast and Estuary SAC (001957).
- Detailed assessment of in-combination effects with other plans and projects including current proposals and future plans.

- No reasonable scientific doubt as to the absence of adverse effects on the integrity of both the River Boyne and River Blackwater SAC (002299) and the Boyne Coast and Estuary SAC (001957).

13.0 Recommendation

Having regard to the above assessment, I recommend that Section 9(4)(a) of the Act of 2016 be applied and that permission is granted for the reasons and considerations and subject to the conditions set out below.

14.0 Reasons and Considerations

Having regard to

- a. The sites planning history;
- b. The site's location on lands with a zoning objective for residential development;
- c. The policies and objectives in the Drogheda Docklands Area Plan, 2007, Drogheda Borough Council Development Plan 2011-2017 (as extended) and Louth County Development Plan 2015-2021;
- d. Nature, scale and design of the proposed development;
- e. Pattern of existing development in the area;
- f. The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- g. The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- h. Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 – 2031;
- i. The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2020;
- j. The Urban Development and Building Heights Guidelines for Planning Authorities 2018;
- k. The Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;

- l. 'The Planning System and Flood Risk Management' (including the associated 'Technical Appendices') 2009;
- m. Submissions and observations received; and
- n. Chief Executive's Report;

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

Application: for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 11th day of March 2021 by Stephen Little and Associates, on behalf of Hallscotch Venture Limited.

Proposed Development:

The development proposed comprises 275 no. apartments, a creche (c.299.5sqm), and 2 no. retail units (c.291.6 sqm) in 4 no. blocks ranging in height from 5 -12 storeys. The scheme includes a central plaza of public open space (1,319sqm), a waterfront promenade (532.2sqm) and pocket parks (147sqm). Communal open space (2,154.4sqm) is provided in the form of roof terraces and outdoor spaces to the south of Block D and to the east of Block C. Internal residential amenity area (355sqm) is also provided at ground floor level within Block C.

A total of 94 no. car parking spaces are provided to serve the proposed development. 84 no. car parking spaces are provided at ground level throughout the proposed development. The 84 no. surface spaces will be for the use exclusively by the future residents of the proposed development. An additional 10 no. car parking spaces are provided at third floor level of Scotch Hall shopping centre.

The main vehicular access to the site is proposed via an existing access road, to the west which serves the Scotch Hall shopping centre. An additional vehicular access, to serve the existing warehouse units to the south of the proposed development, will be

provided from Marsh Road. The scheme includes an internal network of streets and pedestrian routes connecting the development to the Scotch Hall complex, Marsh Road and the future development lands to the east.

All ancillary site development and landscape works are also provided for, including improvements to pedestrian facilities along Poorhouse Lane.

The application contains a Statement of Consistency setting out how the proposal will be consistent with National and Regional Policy and the objectives of the Drogheda Docklands Area Plan, 2007, the Drogheda Borough Council Development Plan 2011 – 2017 (as extended) and the Louth County Development Plan 2013 – 2021.

The application contains a statement indicating why permission should be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act, 2000, as amended, notwithstanding that the proposed development materially contravenes a relevant development plan or local area plan other than in relation to the zoning of the land.

Decision:

Grant permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

In coming to its decision, the Board had regard to the following:

- a. The sites planning history;
- b. The site's location on lands with a zoning objective for residential development;

- c. The policies and objectives in the Drogheda Docklands Area Plan, 2007, Drogheda Borough Council Development Plan 2011-2017 (as extended) and Louth County Development Plan 2015-2021;
- d. Nature, scale and design of the proposed development;
- e. Pattern of existing development in the area;
- f. The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- g. The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- h. Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 – 2031;
- i. The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2020;
- j. The Urban Development and Building Heights Guidelines for Planning Authorities 2018;
- k. The Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- l. The Planning System and Flood Risk Management' (including the associated 'Technical Appendices') 2009;
- m. Submissions and observations received;
- n. Chief Executive's Report; and
- o. The Inspectors Report.

Appropriate Assessment

The Board completed an Appropriate Assessment in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development within an zoned and adequately serviced urban site, the information in the Natura Impact Assessment, the Screening Statement for Appropriate Assessment and the Ecological Assessment

submitted with the application, the Inspector's Report, and submissions on file. In completing the Appropriate Assessment, the Board adopted the report of the Inspector and concluded that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site No. 002299 or 001957, or any other European site, in view of the site's Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

Environmental Impact Assessment

The Board completed a screening determination of the proposed development and considered that the Environmental Impact Assessment Screening Report included in the Planning Report submitted by the applicant, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- nature and scale of the proposed development, which is below the threshold in respect Class 10(b)(i) and Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- the location of the site on lands zoned TCd - Docklands with the associated land use objective to provide for a mix of new town centre activities in accordance with Docklands Area Plan in the Drogheda Borough Development Plan 2011-2017. The development plan and Drogheda Borough Development Plan were subject to a strategic environmental assessment in accordance with the SEA Directive (2001/42/EEC).
- The location of the site within the existing built up urban area and Docklands area, which is served by public infrastructure, and the existing pattern of development in the vicinity.
- the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)

- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Outline Construction Management Plan, Preliminary Construction and Demolition Waste Management Plan and Outline Operational Waste Management Plan, Construction and Demolition Waste Management Plan, a Preliminary Contamination Risk Assessment, Site Synopsis Report and Ecological Report submitted as appendices of the Screening for AA and NIS document.

In conclusion, having regard to the absence of any significant environmental sensitivity in the vicinity and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development and that the preparation and submission of an environmental impact assessment report would not therefore be required.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that the proposed development is, apart from the parameters of Table 2.5, Table 4.3 and Policy RES 18: Density, Policy RES 19: Building Height, Table 7.6: Car Parking and Table 4.5: Apartment Floor Areas the Louth County Development Plan 2015 – 2021; Table 6.2 and Policy HC17: - Density and Table 4.5: Car Parking of the Drogheda Borough Council Development Plan 2011 – 2017 (as extended); and Section 3.7: Building Height of the Drogheda Docklands Area Plan, 2007 broadly compliant with the provisions of the Louth County Development Plan 2015-2022, Drogheda Borough Council Development Plan 2011 – 2017 (as extended) and Drogheda Docklands Area Plan, 2007 and would therefore be in accordance with the proper planning and sustainable development of the area.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the

Development Plan, it would materially contravene the Louth County Development Plan 2015-2022, Drogheda Borough Council Development Plan 2011 – 2017 (as extended) and Drogheda Docklands Area Plan, 2007 as outlined below: -

Louth County Development Plan 2015-2022,

- *Density:* Table 2.5 which sets out an average density for Drogheda and Environs of 40 units per ha and Table 4.3 and Policy RES 18 which set out a minimum density of 30 units per ha for centrally located sites in towns and villages.
- *Height:* Policy RES19 which states that building shall not exceed 3 storeys in height, except in exceptional circumstances where 4 storeys can be accommodated or where provision for higher buildings is provided for in any local area plan.
- *Car Parking:* The standards set out in Table 7.6 which require 1 no. space per apartment and 1 no. space per 6 no. children in a creche.
- *Apartment Floor Areas:* Table 4.5 Space Provision and Room Sizes for Typical Dwellings of the Louth County Development Plan 2015 - 2021 specifies a target floor area and room sizes for apartments.

Drogheda Borough Council Development Plan 2011 – 2017 (as extended)

- *Density:* Table 6.2 and Policy HC17 which set out a minimum density target of 50 units per ha for town centre sites.
- *Car Parking:* The standards set out in Table 5.3 which require 1 no. space per apartment, 1 no. space per 6 no. children and 1 no. space per 3 no. staff in a creche.

Drogheda Docklands Area Plan, 2007

- *Height:* Section 3.7 which states in general a maximum height of 6 storeys (plus set-back storey) on the waterfronts, stepping down to a maximum of four storeys (plus set-back storey) adjacent to Marsh Road.

The Board considers that, having regard to the provisions of section 37(2)(b)(i) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Louth County Development Plan 2015-2022, Drogheda Borough Council Development Plan 2011 – 2017 (as extended) and Drogheda Docklands Area Plan, 2007 would be justified for the following reasons and considerations:

- The proposed development falls within the definition of strategic housing set out in Planning and Development (Housing) and Residential Tenancies Act 2016.
- Government's policy to provide more housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2017.

The Board considers that, having regard to the provisions of section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Louth County Development Plan 2015-2022, Drogheda Borough Council Development Plan 2011 – 2017 (as extended) and Drogheda Docklands Area Plan, 2007 would be justified for the following reasons and considerations:

Density:

The proposed material contravention of Table 2.5, Table 4.3 and Policy RES 18 of the Louth County Development Plan 2015 - 2021 and Table 6.2 and Policy HC17 of the Drogheda Borough Council Development Plan, 2011 – 2017 (as extended) is justified by reference to: -

- Objectives 35 of the National Planning Framework which support increased densities at appropriate locations .
- Section 4.5 Regional Growth Centres of the Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019, to realise a more consolidated urban form that will optimise the uses of existing and planned services by increasing population and employment density in a sustainable fashion.

Height

The proposed material contravention of Policy RES 19 of the Louth County Development Plan 2015 - 2021 and Section 3.7 of the Drogheda Docklands Area Plan, 2007 is justified by reference to: -

- Objectives 13 and 35 of the National Planning Framework which support increased building heights at appropriate locations .
- SPPR3 of the 2018 Urban Development and Building Heights Guidelines, 2018 which support increased building heights.

Car Parking

The proposed material contravention of Table 7.6 of the Louth County Development Plan 2015 – 2021 and Table 4.5 of the Drogheda Borough Council Development Plan 2011 – 2017 (as extended) is justified by reference to: -

- Appendix 1: Required Minimum Floor Area and Standards of the Sustainable Urban Housing: Design Standards for New Apartments, 2020.

Apartment Floor Areas

The proposed material contravention of Table 4.5 of the Louth County Development Plan 2015 - 2021 is justified by reference to: -

- Section 4.19 and 4.20 (Car Parking: Central and / or Accessible Urban Locations) of the Sustainable Urban Housing: Design Standards for New Apartments, 2020.

In accordance with section 9(6) of the 2016 Act, the Board considered that the criteria in section 37(2)(b)(i) and (iii) of the 2000 Act were satisfied for the reasons and considerations set out in the decision.

Furthermore, the Board considered that, subject to compliance with the conditions set out below that the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development

would, therefore, be in accordance with the proper planning and sustainable development of the area.

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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The disused steps linking Marsh Road to Dublin Road shall be reinstated at the developer's expense. Details of the works shall be submitted to and agreed in writing with the planning authority. No residential unit shall be occupied until these works are completed. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of sustainable travel and to ensure the satisfactory completion of the works.

3. The upgrades to Poorhouse Lane, including lighting provision and the road crossing proposed on the Dublin Road shall be completed to the satisfaction of the planning authority. No residential unit shall be occupied until these works are completed. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of pedestrian and traffic safety and to ensure the satisfactory completion of the works.

4. Details of signage relating to the creche unit and 2 no. retail / café / restaurant units shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. Details of the materials, colours and textures of all the external finishes on the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority, prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

6. 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 amenities of property in the vicinity and the visual amenities of the area.

7. Proposals for an apartment naming / numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development. Thereafter, all signs, and apartment 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. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

8. Prior to commencement of development the applicant shall agree in writing with the Planning Authority the requirement for a piece of public art within the site. All works shall be at the applicant's expense.

Reason: In the interest of place making and visual amenity.

9. Prior to commencement of development the applicant shall submit, for the written agreement of the planning authority, proposals to provide ramped / accessible access to the area of communal open space located between Block C and the sites eastern boundary

Reason: In the interest of residential amenity

10. Prior to commencement of development the applicant shall agree in writing with the Planning Authority the requirement for a children's play area within the central area of public open space. All works shall be at the applicant's expense.

Reason: In the interest of residential amenity and place making

11. A public lighting shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The proposed public lighting shall minimize light spill in general and in particular onto the adjacent River Boyne and shall be approved by a bat specialist.

Reason: In the interests of amenity and to promote biodiversity

12. Bat and bird boxes shall be installed in the proposed development, prior to the occupation of the residential unit's. The number, type and location of the boxes shall be submitted to and agreed in writing with the planning authority.

Reason: To promote biodiversity.

13. The developer shall facilitate the preservation, recording and protection of archaeological materials or features which 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. 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.

15. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units and to prevent inappropriate commuter parking.

16. The internal road network serving the proposed development, including the barrier system to the shared surface from Marsh Road, turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

17. Prior to commencement of development a Construction Traffic Management Plan shall be submitted to, and agreed in writing with the planning authority

Reason: In the interest of road safety

18. Prior to commencement of development details of the works to the public road, shall be submitted to, and agreed in writing with the planning authority.

Reason: In the interest of road safety

19. Prior to the occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

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

20. A minimum of 10% of all car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles

21. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

Upon Completion of the development, a Stage 3 Completion Storm Water Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

Reason: In the interest of public health and surface water management

22. The site shall be landscaped, in accordance with the scheme of landscaping, which accompanied the application. The developer shall appoint and retain the services of a qualified Landscape Architect (or qualified Landscape Designer) as a Landscape Consultant, throughout the life of the construction works, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity

23. A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. This schedule shall cover a period of at least three years, and shall include details of the arrangements for its implementation.

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

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

25. The developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

26. 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

27. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management

Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

28. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

29. 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.

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

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

31. 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.

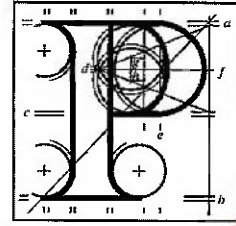
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



Elaine Power

Planning Inspector

23rd June 2021



An
Bord
Pleanála

DECISION QUASHED

Appendix 1:

EIA - Screening Determination for Strategic Housing Development Applications

A. CASE DETAILS

An Bord Pleanála Case Reference

ABP-309668-20

Development Summary

Demolition of an existing structures and the construction of 275 no. apartments, a creche and 2 no. retail units in 4 no. blocks and all associated works

1. Has an AA screening report or NIS been submitted?

Yes / No /
N/A

Stage 1 AA Screening Report and a NIS were submitted with the application. An EIA Screening exercise was included in the Planning Report

2. Is an IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?

No

No

3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA

Yes

SEA undertaken in respect of the Louth County Development Plan 2016-2022 and the Drogheda Borough Council Development Plan 2011-2017 (as extended).

B. EXAMINATION

Yes/ No/
Uncertain

Briefly describe the nature and extent and Mitigation Measures (where relevant)

(having regard to the probability, magnitude (including population size affected), complexity, duration,

Is this likely to result in significant effects on the environment?
Yes/ No/
Uncertain

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		frequency, intensity, and reversibility of impact)	
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)			
<p>1.1 Is the project significantly different in character or scale to the existing surrounding area or environment?</p>	No	<p>The development comprises the construction of residential units, creche and 2 no. retail units on lands zoned for a mix of new town centre activities. The nature and scale of the proposed development is not regarded as being significantly at odds with the surrounding pattern of development.</p>	No
<p>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</p>	Yes	<p>The proposed development is located on brownfield / regeneration lands within Drogheda town centre. The proposed development is not considered to be out of character with the pattern of development in the surrounding area.</p>	No
<p>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</p>	Yes	<p>Construction materials will be typical of such urban development. Redevelopment of this brownfield site will not result in any significant loss of natural resources or local biodiversity.</p>	No

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<p>1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	<p>No</p>
<p>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction Management Plan will satisfactorily mitigate potential impacts.</p> <p>Operational waste will be managed via a Waste Management Plan, significant operational impacts are not anticipated.</p>	<p>No</p>

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<p>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>No</p> <p>No significant risk identified. The Contamination Risk Assessment confirmed that there is no likely emission which could affect the overall water quality status of the River Boyne. The development works, which includes hardstanding and landscaping would further reduce the risk by minimising infiltration to the River.</p> <p>Operation of a Construction Management Plan will satisfactorily mitigate emissions from spillages during construction. The operational development will connect to mains services. Surface water drainage will be separate to foul services. No significant emissions during operation are anticipated.</p>	<p>No</p>
<p>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</p>	<p>Yes</p> <p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Management Plan.</p> <p>Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.</p>	<p>No</p>

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<p>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p>No</p>	<p>No</p>
<p>1.9 Will there be any risk of major accidents that could affect human health or the environment?</p>	<p>No</p>	<p>No</p>

The Contamination Risk Assessment confirmed there is no likely exposure risk to human health during construction from volatile organic compounds.

Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction Management Plan would satisfactorily address potential impacts on human health.

No significant operational impacts are anticipated.

No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature.

The site is located in Flood Zone A. Subject to the mitigation measures outlined in the Flood Risk Assessment the development would not result in a potential flood risk within the site or to any adjoining sites.

The nearest Seveso / COMAH sites is c. 1.2km east of the subject site.

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	Yes		No
<p>1.10 Will the project affect the social environment (population employment)</p>		<p>Redevelopment of this site as proposed will result in a change of use and an increased population at this location. This is not regarded as significant given the urban location of the site and surrounding pattern of land uses.</p>	
<p>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	No	<p>This is a stand-alone development, comprising renewal of a site and is not part of a wider large scale change. There are no permitted / proposed development on immediately adjacent lands. Other developments in the wider area are not considered to give rise to significant cumulative effects.</p>	No
<p>2. Location of proposed development</p>			
<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ul style="list-style-type: none"> 1. European site (SAC/ SPA/ pSAC/ pSPA) 2. NHA/ pNHA 3. Designated Nature Reserve 4. Designated refuge for flora or fauna 	No	<p>No European sites located on the site. The River Boyne and Blackwater SAC (002299) is located immediately north of the site. An NIS accompanied the application which concluded that subject to mitigation measures the development would not be likely to give rise to significant effects on any European Sites. This brownfield site does not host any species of conservation interest.</p>	No

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<p>5. Place, site or feature of ecological interest, the preservation/conservation/protection of which is an objective of a development plan/ LAMP draft plan or variation of plan</p>	
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: or breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	<p>No</p> <p>No such species use the site and no impacts on such species are anticipated.</p>
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>No</p> <p>There are no recorded monuments on the site. The site is located outside of a Zone of Archaeological Interest. Having regard to the archaeological potential of the site the applicants Archaeological Impact Statement notes that medieval remains have been preserved in situ on the site and that the foundations design (of Block B) aim to avoid any impact on these remains.</p>
<p>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>	<p>No</p> <p>No such features arise in this urban location.</p>

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<p>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</p>	<p>No</p>	<p>The site is not traversed by any watercourses. It is located to the south of the River Boyne and surface water will drain from the site to the river via an existing outfall in the quay wall. Discharged would be controlled and managed.</p> <p>The site is located in Flood Zone A. Subject to the mitigation measures outlined in the Flood Risk Assessment the development would not result in a potential flood risk within the site or to any adjoining sites.</p>	<p>No</p>
<p>2.6 Is the location susceptible to subsidence, landslides or erosion?</p>	<p>No</p>	<p>Site investigations identified no risks in this regard.</p>	<p>No</p>
<p>2.7 Are there any key transport routes (eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</p>	<p>No</p>	<p>The site is served by a local urban road network. There are sustainable transport options available to future residents. The site currently comprises a large surface car park. 96 no. car parking spaces are proposed on the site. No significant contribution to such congestion is anticipated.</p>	<p>No</p>
<p>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?</p>	<p>Yes</p>	<p>There are no existing sensitive land uses or community facilities which could be affected.</p>	<p>No</p>

3. Any other factors that should be considered which could lead to environmental impacts		
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phases?	No	No developments have been identified in the vicinity which would give rise to significant cumulative environmental effects. Some cumulative traffic impacts may arise during construction. This would be subject to a construction traffic management plan.
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No trans boundary considerations arise
3.3 Are there any other relevant considerations?	No	No

C. CONCLUSION		
No real likelihood of significant effects on the environment.	Yes	EIAR Not Required
Real likelihood of significant effects on the environment.	No	EIAR Not Required

DECISION QUASHED

D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- The nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(i) and (ii) and (b)(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended;
- The location of the site on lands zoned TCd - Docklands with the associated land use objective to provide for a mix of new town centre activities in accordance with Docklands Area Plan in the Drogheda Borough Development Plan 2011-2017. The development plan and Drogheda Borough Development Plan were subject to a strategic environmental assessment in accordance with the SEA Directive (2001/42/EEC).
- The location of the site within the existing built up urban area, which is served by public infrastructure, and the existing pattern of development in the vicinity.
- (e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- (e) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003),

- (f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- (g) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Outline Construction Management Plan, the Preliminary Construction and Demolition Waste Management and the Operational Waste Management Plan.

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

Inspector: Elaine Power Date: 23rd June 2021

Elaine Power

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