



An  
Bord  
Pleanála

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

### **Inspector's Report ABP-309907-21**

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#### **Strategic Housing Development**

Demolition of 'Little Auburn' and associated outbuildings, construction of 411 no. residential units (102 no. houses including preservation of Auburn House and 309 no. apartments), childcare facilities and all other associated site works.

#### **Location**

Auburn House (a protected structure), Little Auburn and Streamstown off the R107 Malahide Road/Dublin Road and Carey's Lane (accesses via Streamstown Lane), Malahide, Co. Dublin. ([www.auburnshd.ie](http://www.auburnshd.ie))

#### **Planning Authority**

Fingal County Council

#### **Applicant**

Kinwest Limited

**Prescribed Bodies**

Minister for Tourism, Culture, Arts,  
Gaeltacht, Sport and Media

Heritage Council

An Taisce

An Comhairle Ealaíon

Fáilte Ireland

Irish Aviation Authority

Irish Water

Dublin Airport Authority

**Observer(s)**

1. Anthony Lavin
2. Antonia Macari
3. Barry and Catherine English
4. Brian Murray
5. Carl and Sandra Skelton
6. Carol Wright
7. Ciaran Coleman
8. Clairville Lodge Residents  
Group (O'Neill Town Planning)
9. David Healy
10. Dave and Fiona Cassidy
11. David and Nicole Murphy
12. Declan and Doreen Gray
13. Emer O'Donnell
14. Erika and Albert Reynolds
15. Fiona Fox
16. Gareth Murray
17. Gary and Sandra Crean

18. Gary Wedick and Sinead Lenihan
19. Joe O'Brien
20. John and Barbara Clegg
21. John Conway and Louth Environmental Group
22. Karl Deeter
23. Linda MuNulty and Fergal O'Leary
24. Lisa Shanks
25. Lucy and Adrian Cawley
26. Malahid Community Forum
27. Marcella Duffy and Tracey Ecock
28. Mark Young
29. Niall Casement
30. Norma and Tom Stokes
31. Pat Griffin and others
32. Patrick and Louise Goodman
33. Paul and Alison Murphy
34. Paul Humphries
35. Peter Goodman
36. Philip Tyrrell
37. Piero Tintori
38. Residents of Auburn Grove
39. Robert and Gina O'Callaghan
40. Ronan Barry
41. Sandra McCusker
42. Savaron Ltd.

- 43. Seamus and Angela Connolly
- 44. Siobhan Maughan
- 45. Stephen and Susanne Jeffery
- 46. Stephen Oppermann
- 47. Streamstown Wood Owners  
Management Company (Philip  
Tyrrell)
- 48. Tom Gilligan
- 49. William and Doris Roben

**Date of Site Inspection**

2<sup>nd</sup> July 2021

**Inspector**

Rachel Gleave O'Connor

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## 1.0 Introduction

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

## 2.0 Site Location and Description

- 2.1. The subject site is located approximately 2.4km south west of Malahide Village. It is bounded by the R107 / Dublin Road / Malahide Road to the east, Abbingdon residential estate to the north and north-west and Claireville Lodge estate on Careys Lane to the west. The grounds of Malahide Castle are situated to the east of the R107 / Dublin Road / Malahide Road.
- 2.2. The subject site itself, comprises the grounds of Auburn House a Protected Structure (RPS No. 448) and include a separate detached dwelling and garden to the east known as 'Little Auburn'. The original curtilage of Auburn House has been subdivided over time and three separate dwellings within the original grounds share access over the main entrance driveway, but are excluded from the site. There are currently two access points to the subject site from the R107 two Auburn House and Little Auburn respectively. The existing access to Auburn House is adjacent to the junction with Back Road to the east. A third entrance is available from Careys Lane to the west.
- 2.3. Auburn House is identified in the Record of Protected Structures (No.448) as a Late 18<sup>th</sup> or early 19<sup>th</sup> century house, outbuildings and walled garden. The house faces east across an open paddock / 'frontfield', with a woodland area surrounding it to the south, west and north. The grounds in general contain areas with mature trees, groupings and hedgerow. The grounds are traversed by a small stream flowing southwest and south towards the R107.

## 3.0 Proposed Strategic Housing Development

- 3.1. The proposed development will consist of the preservation of the existing Auburn House, conversion of existing stables and construction of 406 no. residential dwellings, to provide a total of 411 residential units as follows:

- The preservation of the existing three storey 11 bedroom residential dwelling of Auburn House a Protected Structure (RPS no.448). The main house is to remain in single residential use (i.e. 1 no. 11 bedroom, three storey over basement detached dwelling);
- The conversion of the existing stables to the rear of Auburn House into 4 no. two storey terraced residential dwellings (1 no. 1 bed, 2 no. 2 bed and 1 no. 3 bed units). Internal and external alterations to the stables of the Protected Structure including minor demolition works are proposed to accommodate same;
- The preservation and protection of the existing woodland of Auburn House;
- The preservation of existing follies and walls associated with the 'walled garden' with amendments to the garden proposed to accommodate the proposed development;
- The demolition of detached stable/shed building off Streamstown Lane;
- The construction of 97 no. residential dwellings (45 no. 3 bed, 39 no. 4 bed and 13 no. 5 bed units) in detached, semi-detached and terraced dwellings, ranging from 2, 2.5 and 3 storey in height;
- The construction of 309 no. apartments / duplex apartments (136 no. 1 bed, 161 no. 2 bed and 12 no. 3 bed units) all provided with balconies / terraces, ranging between 2 and 6 storeys in height;
- Single level basement below Apartment Blocks 1, 2 & 3 comprising car parking (164 no. spaces), bicycle parking (278 no. spaces), refuse storage, plant rooms, comms room, maintenance room, attenuation tank and services;
- The provision of 1 no. childcare facility (located within the ground floor of apartment Block 4);
- The provision of a 2 storey detached community building within the walled garden, for use as part of the overall ancillary residential facilities;
- 540 no. residential car parking spaces across surface, undercroft / podium and basement level, and 7 no. car parking spaces serving the childcare facility, providing an overall total of 547 no. car parking spaces and a total of

716 no. bicycle parking spaces across surface, undercroft / podium and basement level;

- The construction of 1 no. new vehicular entrance off Malahide Road (providing for a new signalised junction with Back Road and Malahide Road) and adoption of the existing vehicular entrance off Carey's Lane;
- Utilisation of existing vehicular entrance access and road for pedestrian and cycle route only with vehicular access retained solely for existing residential use;
- Landscaping including provision of public, communal and private open spaces, playground and boundary treatments;
- 4 no. ESB substations, 1 no. new foul pumping station, public lighting; proposed foul sewer works along Back Road and Kinsealy Lane and all associated engineering and site works necessary to facilitate the development.

3.2. The proposed apartment blocks are described in more detail below:

- Apartment Block 1 consisting of a total of 51 no. units in a 5-storey block (27 no. 1 bedroom units; 22 no. 2 bedroom units; 2 no. 3 bedroom units).
- Apartment Block 2 consisting of a total of 57 no. units in a 6-storey block (29 no. 1 bedroom units; 27 no. 2 bedroom units; 1 no. 3 bedroom units).
- Apartment Block 3 consisting of a total of 51 no. units in a 5-storey block (27 no. 1 bedroom units; 22 no. 2 bedroom units; 2 no. 3 bedroom units).
- Apartment Block 4 consisting of a total of 27 no. units in a 5-storey block (9 no. 1 bedroom units; 17 no. 2 bedroom units; 1 no. 3 bedroom units) along with childcare facility, ancillary resident amenity facilities, plant, waste storage, ESB substation, car parking and bicycle parking at ground floor/undercroft level.
- Apartment Block 5 consisting of a total of 28 no. units in a 5-storey block (6 no. 1 bedroom units; 22 no. 2 bedroom units) along with plant, waste storage, car parking and bicycle parking at ground floor/undercroft level.



- Apartment Block 6 consisting of a total of 21 no. units in a 4-storey block (5 no. 1 bedroom units; 14 no. 2 bedroom units; 2 no. 3 bedroom units) along with plant, bin store, bicycle parking and maintenance/cleaner’s stores at ground floor level.
- Apartment Block 7 consisting of a total of 6 no. units in a 4-storey block (6 no. 2 bedroom units) with bin store, bicycle and car parking at ground/undercroft level.
- Apartment Block 8 consisting of a total of 25 no. units in a 5-storey block (6 no. 1 bedroom units; 17 no. 2 bedroom units; 2 no. 3 bedroom units) along with bin store, plant, cleaning store and bicycle parking at ground floor level.
- Duplex Apartment Block 1 consisting of a total of 6 no. units in a 3-storey block (1 no. 1 bedroom units; 3 no. 2 bedroom units; 2 no. 3 bedroom units) along with bin store at ground floor level.
- Duplex Apartment Block 2A consisting of a total of 8 no. units in a 2-storey block (6 no. 1 bedroom units; 2 no. 2 bedroom units) along with bin store and car and bicycle parking at ground floor/undercroft level.
- Duplex Apartment Block 2B consisting of a total of 11 no. units in a 3-storey block (8 no. 1 bedroom units; 3 no. 2 bedroom units) along with bin store and bicycle and car parking at ground floor/undercroft level.
- Duplex Apartment Block 2C consisting of a total of 9 no. units in a 2-storey block (7 no. 1 bedroom units; 2 no. 2 bedroom units) along with bin store and bicycle and car parking at ground floor/undercroft level.
- Duplex Apartment Block 2D consisting of a total of 9 no. units in a 2-storey block (5 no. 1 bedroom units; 4 no. 2 bedroom units) along with bin store and bicycle parking at ground floor/undercroft level.

### Key Figures

<b>Site Area</b>	13.28 hectares (of which 9.879 hectares is net development area)
<b>No. of units</b>	411

<b>Density</b>	41.6 uph net
<b>Plot Ratio</b>	0.42
<b>Site Coverage</b>	5.06%
<b>Height</b>	2-6 storeys
<b>Dual Aspect</b>	53% (apartment and duplex blocks)
<b>Open Space</b>	Communal Open Space 6,445sqm Public Open Space 2.909 ha
<b>Part V</b>	41 no. units (10%)
<b>Vehicular Access</b>	From the existing R107 Malahide / Dublin Road and Carey's Lane accesses
<b>Car Parking</b>	547
<b>Bicycle Parking</b>	716
<b>Creche</b>	173sqm

<b>Unit Mix</b>							
<b>Housing Type</b>	<b>1 bed</b>	<b>2 bed</b>	<b>3 bed</b>	<b>4 bed</b>	<b>5 bed</b>	<b>6 bed +</b>	<b>Total</b>
<b>No. of Apartments</b>	109	147	10	-	-	-	266
<b>No. of Duplexes</b>	27	14	2	-	-	-	43
<b>No. of Houses</b>	1	2	46	39	13	-	101
<b>Auburn House</b>	-	-	-	-	-	1	1

<b>Total</b>	137	163	58	39	13	1	411
<b>(%)</b>	(33.3%)	(39.6%)	(14.1%)	(9.4%)	(3.1%)	(0.2%)	(100%)

## 4.0 Planning History

### 4.1. Subject Site:

- **Reg. Ref. F18A/0445** –Fingal County Council GRANTED planning permission for the conversion of service entrance off main driveway to serve as new eastern entrance to dwelling house, erection of new gate posts and automated gates, entrance forecourt, new entrance canopy to east elevation, alteration to existing entrance doorway on west elevation and associated external works at "Belmont" part of courtyard housing (formerly outhouses) in the grounds of Auburn House (a protected structure), Malahide, Co Dublin.
- **FS5/035/11** –Fingal County Council decided that the erection of slatted cattle shed with straw bedded area (190.6 sq.m) yard was not exempted development.
- **Reg. Ref. F09A/0065** –Fingal County Council GRANTED planning permission for Demolition of existing shed and construction of new stable structure containing stables, tack room, shed and associated site works to the stable yard of Auburn House (a Protected Structure).
- **Reg. Ref. F08A/0685** –Fingal County Council REFUSED planning permission for the demolition of existing shed and construction of new stable structure containing office, stables, stores, tack room, tractor shed and shower facility and associated site works to the stable yard of Auburn House (a protected structure).
- **Reg. Ref. F06A/1775** –Fingal County Council GRANTED permission for alterations to plans approved under register reference: F06A/0230 for demolition of derelict hay barn and erection of a two-storey, five bedroom house, biocycle treatment system and associated site works. Alterations consist of the revised layout to ground and first floor level at the north west end of the building and consequent alterations to elevations and site works at the stable yard of Auburn House (a protected structure).

- **Reg. Ref. F06A/0230** –Fingal County Council GRANTED permission for the demolition of derelict hay barn and erection of a two storey, five-bedroom house, biocycle treatment system and associated site works at the stable yard of Auburn House (a protected structure).
- **Reg. Ref. F02B/0376** –Fingal County Council GRANTED planning permission for a Single storey extension to side of the Gate Lodge, Auburn House, Malahide, Co. Dublin.
- **Reg. Ref. F99B/0094** –Fingal County Council GRANTED planning permission for alterations and extension to gate lodge dwelling Auburn House, Malahide, Co. Dublin.
- **Reg. Ref. F96B/0484** –Fingal County Council GRANTED permission for a conservatory extension to rear of Auburn House, Malahide Road, Co. Dublin.
- **Reg. Ref. F96A/0011** –Fingal County Council GRANTED planning permission to alter, extend and convert 2 no. existing stable buildings to 2 no. 2 storey houses within the walled gardens at Auburn House, Malahide Road, Malahide.
- **Reg. Ref. F95A/0460** –Fingal County Council REFUSED permission for 4 new 2 storey houses within the walled gardens at Auburn House, Malahide Road. An Bord Pleanála upheld the decision of the Planning Authority following a first party appeal.

4.2. Other relevant applications:

- **Plot no. 3 Abington, Swords Road, Malahide, Reg. Ref. F14A/0157 / ABP Ref. 243567** – Construct 3 storey house, 2 storey outbuilding / garage, new vehicular access and site works.
- **Plot no. 4 Abington, Malahide, Reg. Ref. F13A/0393 / ABP Ref. 243275** – Construction of a house, garage and associated site works. GRANT.
- **Rockport, Streamstown Lane, Streamstown, Malahide, Reg. Ref. F14A/0376 / ABP Ref. 244433** – Construction of 4 bedroom house. GRANT.
- **Lands at Streamstown Wood, Streamstown Lane, Malahide, Reg. Ref. F19A/0452 / ABP Ref. 307020-20** – Construction of 52 no. residential units of

detached, semi-detached and terraced housing. REFUSE following first and third party Appeal. It was considered that the proposed development as permitted by the planning authority would not at a net density of 24.9 units per hectare, constitute an acceptable residential density in this outer suburban / greenfield location. In addition, the design was unacceptable as it was dominated by roads and surface car parking.

## 5.0 Section 5 Pre Application Consultation

- 5.1. A pre-application consultation with the applicants and the planning authority took place via video call with An Bord Pleanála on 17<sup>th</sup> November 2020 in respect of a proposed development of 412 no. residential units.
- 5.2. Copies of the record of the meeting and the inspector's report are on this file. In the Notice of Pre-Application Consultation Opinion dated 11<sup>th</sup> December 2020 ABP Ref. ABP-307610-20) the Board stated that it was of the opinion that the documentation submitted with the consultation request under section 5(5) of the Act would constitute a reasonable basis for an application for strategic housing development.
- 5.3. Specific information was requested which is summarised below:
- Treatment of Dublin Road frontage of the site;
  - Relationship with entrance avenue;
  - Visual corridors to / from Auburn House and landscape setting;
  - Treatment of Auburn House, associated structures and walled garden;
  - Treatment of existing trees and woodland;
  - Risk of flooding;
  - Daylighting of apartments;
  - Traffic / transport; and
  - Open space.

## 5.4. Applicant's Statement

5.5. The application includes a statement of response to the pre-application consultation (Statement of Response to An Bord Pleanála's Opinion), as provided for under section 8(1)(iv) of the Act of 2016, which may be summarised as follows:

**Item 1 – Relationship to Dublin Road**

The submitted Architects Design Report, Verified Views and site cross sections describe the interface with the Malahide Road / Dublin Road in detail.

**Item 2 – Relationship to Existing Avenue**

The Avenue Character Area in the Architects' Report describes the relationship of the proposed development to the original Auburn avenue.

**Item 3 – Views to and from Auburn House**

Submitted verified views and associated discussion of this item in the Applicant's Statement.

**Item 4 – Auburn House and Conservation**

An Architectural Assessment / Conservation Report is enclosed with the application.

**Item 5 – Existing Trees and Woodland**

A tree survey, Auburn Tree Impact Plan, Arboricultural Method Statement and woodland management plan is submitted with the application.

**Item 6 – Flood Risk Assessment**

A Site Specific Flood Risk Assessment has been submitted with the application.

**Item 7 – Daylight Assessment**

A Daylight Report is submitted with the application.

**Item 8 – Traffic, Transportation and Parking**

A Transport Report, Travel Plan and associated engineering / technical documentation is submitted.

**Item 9 – Public and Communal Open Spaces**

A landscaping plan and design report, sections and planting / material schedules, alongside drawing no.1902 P032 (breakdown of open space) are submitted with the application.

## 6.0 Relevant Planning Policy

### 6.1. National Policy

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

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009) (the 'Sustainable Residential Development Guidelines').
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020) (the 'Apartment Guidelines').
- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the 'Building Height Guidelines').
- Architectural Heritage Protection- Guidelines for Planning Authorities (2011).
- Childcare Facilities – Guidelines for Planning Authorities (2001).

Other relevant national guidelines include:

- Project Ireland 2040, National Planning Framework.
- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.

### 6.2. Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES-EMR)

The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and ten year National Development Plan (NDP) - and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region.

- RPO 3.2 - Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin City and suburbs and a target of at least 30% for other urban areas.
- RPO – 4.1 – Settlement Hierarchy – Local Authorities to determine the hierarchy of settlements in accordance with the hierarchy, guiding principles and typology of settlements in the RSES.
- RPO 4.2 – Infrastructure – Infrastructure investment and priorities shall be aligned with the spatial planning strategy of the RSES.
- RPO 4.3 -Consolidation and Re-Intensification- seeks to support the consolidation and re-intensification of infill / brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.
- RPO 4.3 – Dublin City and Suburbs, Consolidation and Re-intensification- Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.
- The site lies within the Dublin Metropolitan Area (DMA) – The aim of the Dublin Metropolitan Area Strategic Plan is to deliver strategic development areas identified in the Dublin Metropolitan Area Strategic Plan (MASP) to ensure a steady supply of serviced development lands to support Dublin’s sustainable growth.
- Key Principles of the Metropolitan Area Strategic Plan include compact sustainable growth and accelerated housing delivery, integrated Transport and Land Use and alignment of Growth with enabling infrastructure.
- Section 9.2 Diverse and Inclusive Region, notes that changing household formation trends will require a range of housing typologies including student housing, smaller units, shared living schemes and flexible designs that are



adaptive for people's full life cycle to meet their housing needs today and into the future.

**6.3. Local Policy**

6.4. The subject site is subject to land use zoning objective: 'RA' - Provide for new residential communities subject to the provision of the necessary social and physical infrastructure”.

6.5. Vision: Ensure the provision of high quality new residential environments with good layout and design, adequate public transport and cycle links and within walking distance of community facilities. Provide an appropriate mix of house sizes, types and tenures to meet household needs and to promote balanced communities.

6.6. It is an objective to provide a masterplan for the Streamstown area which includes subject site, however, this masterplan has not yet been prepared.

6.7. Section 1.6 Strategic Policy, includes the following:

- 6. Consolidate development and protect the unique identities of ... settlements (including)..... Malahide.
- 11. Protect, maintain and enhance the natural and built heritage of the County, particularly the coastal areas which are of such importance to residents of and visitors to the Dublin region.
- 20. Ensure new developments have regard to the requirements of the Planning System and Flood Risk Management Guidelines.

6.8. Auburn House is a Protected Structure (RPS448).

6.9. Objectives CH20, CH21, CH25 and CH46 refer to the protection of protected structures and their setting and curtilage, and their designed landscapes in any development proposal

6.10. Local objective 57 relates to the section of the Dublin Road along the boundary of the subject site, and states: “New or widened entrances onto the Dublin Road between Streamstown Lane and the Swords Junction will be restricted, to ensure the protection of the mature tree-lined approach along the Dublin Road to Malahide.”

6.11. Chapter 3 notes that the Development Plan will identify large or key sites that will require the preparation of approved Masterplans and subsequent planning

applications will be required to adhere to the approved Masterplans. Masterplans will be subject to a public consultation process and presentation to the Elected Members of the Planning Authority for agreement.

- 6.12. Objective PM14: Prepare Masterplans for areas designated on Development Plan maps in co-operation with relevant stakeholders, and actively secure the implementation of these plans and the achievement of the specific objectives indicated.
- 6.13. Objective PM20: Local Area Plans, Masterplans, Urban Framework Plans and other plans and strategies will be subject to Strategic Environmental Assessments as appropriate and Screening for Appropriate Assessment.
- 6.14. Section 4.1, notes that in accordance with Objectives PM13 and PM14, Masterplans shall be prepared and agreed by the Planning Authority prior to the submission of any planning application for these lands. LAPs and Masterplans shall provide for the phased development of subject lands as appropriate.
- 6.15. Malahide is identified as a Moderate Sustainable Growth Town.
- 6.16. Objective SS17: Manage the development and growth of Malahide and Donabate in a planned manner linked to the capacity of local infrastructure to support new development of the area and taking account of the ecological sensitivity of qualifying features of nearby European Sites.
- 6.17. Objective Malahide 1- Preserve the special character and identity of the town by securing its physical separation from Swords, Portmarnock and Kinsaley by greenbelts.
- 6.18. Objective Malahide 2 - Retain the impressive tree-lined approach along the Dublin Road as an important visual element to the town and, specifically, ensure the protection of the mature trees along the Malahide Road at the Limestone Field and property boundary walls which create a special character to the immediate approach to Malahide.
- 6.19. Objective Malahide 11 seeks the preparation and/or implementation of Masterplans during the lifetime of the Plan including, Streamstown Masterplan.
- 6.20. The main elements of the Streamstown Masterplan should include:
  - Facilitate low density development reflective of the character of the area.

- Protect and preserve trees, woodlands and hedgerows.
- Preserve the tree lined approach to Malahide along the Dublin Road.
- Facilitate high quality sustainable development that protects and enhances the sensitive historic and natural setting of Auburn House and integrates new development with the conservation and preservation of the Protected Structure, its curtilage and protected trees.
- Retain visual corridors to/from Auburn House through the establishment of a visual buffer to the east of Auburn House.
- The area for development north of Auburn House is a sensitive development zone, where a max ridge height of 6m should be applied.
- Provide for a pedestrian / cycle route along the Auburn House Avenue to Malahide Road.
- Ensure pedestrian connectivity between Auburn House Avenue and Abington / Gaybrook / Castleheath.
- The lands will be the subject of a detailed flood risk assessment.

6.21. Objective PM64 Protect, preserve and ensure the effective management of trees and groups of trees.

6.22. Section 11.3 Masterplans, notes that a number of Masterplans will be prepared during the Plan period. Subsequent planning applications will be required to adhere to the approved Masterplans.

6.23. Objective Z03 Prepare and implement Masterplans where required.

6.24. Objective DMS30 Ensure all new residential units comply with the recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.209, 2011) and B.S. 8206 Lighting Buildings, Part 2 2008: Code of Practice for Daylighting or other updated relevant documents.

## 7.0 **Statement of Consistency**

7.1. The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and

objectives of National Planning Framework, Section 28 Guidelines and the Development Plan and I have had regard to same. A Statement of Material Contravention also accompanies the application relating to the submission of the application in the absence of a statutory Streamstown Masterplan, and the proposed density and height of the development, which are matters that materially contravene following objectives in the Fingal County Development Plan 2017-2023:

- Objective PM14 'Prepare Masterplans for areas designed on Development Plan maps in co-operation with relevant stakeholders, and actively secure the implementation of these plans and the achievement of the specific objectives indicated.
- Objective 11 Malahide 11, which seeks to prepare and/or implement the Streamstown Masterplan, the main elements to be included in the Streamstown Masterplan area. The 2 items noted to be a material contravention by the applicant under this objective are highlighted below:
  - Facilitate low density residential development reflective of the character of the area;
  - The area for development north of Auburn House is considered a sensitive development zone, whereby a maximum ridge height of 6m should be applied.

## 8.0 Third Party Submissions

8.1. 49 no. submissions on the application have been received from the parties as detailed at the front of this report. The issues are summarised below:

### General / Principle / Nature of Development

- Proposed development is premature pending completion of the Streamstown Masterplan, of which objectives include, facilitate low density residential development to reflect the character of the area, protect and preserve trees, woodland, hedgerows and wildlife within the masterplan area. Lack of public consultation that would normally be part of the masterplan process.
- The submitted Masterplan is non-statutory and does not fulfil or comply with the Masterplan objective of the Fingal Development Plan.

- Contrary to the Streamstown LAP and its executive summary.
- The Housing Minister recently confirmed that the Strategic Housing Development system has not achieved what it was created to. The Housing Minister intends to bring forward new legislation which will end the SHD system with it being removed by February 2022. It would be irresponsible to continue to consider these types of developments in these circumstances.
- Question the ownership of the site as inconsistency in filings regarding the same.

### Infrastructure

- Lack of facilities (including schools) close to the site.
- Proposed childcare facility is an inadequate size.
- Need for retail and medical facilities in the development.
- Lack of a Social Infrastructure Audit.
- The proposed phasing plan has the pumping station and creche in phase 3 and the community building in phase 4, also query when foul water drainage facilities will be available.
- Insufficient detail of the management, funding, use and hours of the community centre.
- Cumulative impact of developments in the area upon infrastructure and the environment.

### Residential Amenity

- Proposed houses backing onto the rear of Clairville Lodge have substandard back gardens and will be too close to the boundary. Associated negative affect on privacy and amenity from the proximity and height.
- The proposed community facility will impact privacy, through overlooking and late night use, on properties in Clairville Lodge.
- Overall size of the development and the expected time for completion will cause undue stress, discomfort and will impact the existing beauty of the trees and foliage along that part of the R107.

- Overbearing, overshadowing and overlooking, including from development within the walled garden area.
- Local green spaces are being taken over by antisocial individuals who leave litter and broken glass.
- The submitted Daylight and Sunlight Assessment is inadequate.
- Removal of trees.
- The minimum garden size is not met by a number of proposed houses.
- Contest the dimension for separation to existing property at no.1 Abington, which is stated to be 22.4m, but is between 17.6m to 18.6m.
- Community centre may be used as a meeting point for residents of the development causing noise pollution on a nightly basis. Attract loitering and create a security risk to surrounding residents, create potential antisocial behaviour.
- Adverse impact on the health of adjacent residents from dust.
- Particular impact on property at Dunroman Streamstown Lane given proximity to units and access proposed as part of the development, and associated noise, dust, traffic, safety and privacy concerns.

### Transport

- Streamstown Lane and Carey's Lane cannot cope with the existing traffic and have inadequate pathways for only single traffic in places. Inadequate to be used for a development of the size proposed.
- Inadequate provision for cyclists. No cycle lanes in the area. Pavements are used by bikes and electric scooters.
- Minimal public transport serving the site and overcapacity.
- Narrow footpaths in the area.
- Introduction of a signalised junction exiting Streamstown Lane will make exiting very difficult. Entrance details inadequate.
- Vehicular access from Careys Lane is unsuitable and should be a pedestrian / cyclist entrance only.

- Cars in the area park on the pavement making it difficult for elderly to get around.
- Development will compound traffic congestion on Dublin / Malahide Road.
- Request that Streamstown Lane is not used by the development during either construction or operation.
- The submitted Transport Assessment inadequate.
- Junctions at either end of Streamstown Lane are uncontrolled and dangerous.
- In April 2019 Fingal County Council Executive Engineer sent a letter to residents proposing to restrict turning onto Streamstown Lane.
- An application cannot assume upgrades to a road conditioned in another permission will ever happen.
- The previous LAP identified the need for a substantial upgrade of Streamstown Lane and Carey's Lane. Streamstown Lane has numerous potholes.
- The TTA was undertaken during lockdown, therefore data does not show the true nature of the traffic which uses the lane.
- Emergency vehicle access is a major concern.
- Inadequate permeability through the proposed development site.
- Inadequate parking provision.
- The RSA notes the hard standing for bus stops is unsatisfactory and there are open drains behind narrow footpaths.
- Question whether it is intended to use Auburn House as a hotel specialising in weddings, which would add to traffic congestion and parking requirements.
- Inadequate sightlines in the development and on surrounding roads.
- Oppose potential access through Abington.

#### Height / Density / Design

- Fingal Development Plan objectives would oppose a development of this kind, height and density in this location.

- The calculation of density for the development is based on the total volume of land and not the land used for housing and supporting infrastructure. Density is therefore higher than stated.
- The proposal does not comply with the requirements of the Guidelines for Planning Authorities on Urban Development and Building Height 2018.
- Ministers have stated that 35 units per hectare no longer suitable.
- Malahide is a village, the proposed development is suitable for a city.
- The proposed form and density is completely out of keeping with the existing built form in the vicinity and is contrary to objective RF59, SS02 and Z04 section 11.4 of the FDP.
- The site can not be deemed to be well served by or in close proximity to high frequency public transport facilities and therefore unsuitable for the density proposed.
- The apartment blocks at 14m exceed the intended maximum ridge height of 6m by a factor of 2.5 times.
- The distribution of density within the site is uneven.
- The 6 storey height, bulk/mass are not in keeping with the general character of the area which is 3-3.5 storeys, is unsympathetic to Auburn House and contrary to objective 11 of the Streamstown Masterplan [sic].
- Proposal will create a precedent for overdevelopment.
- Proposal cannot rely on the Ministerial guidelines on sustainable development or building height as it represents an encroachment on a protected structure and its attendant lands.
- The design of the buildings is featureless, ugly, and not in keeping with the design of properties in Clairville.
- The design of the community building is a standard rectangular featureless build, it does not fit in with the setting or the pre-existing homes or the character with the 18<sup>th</sup> and 19<sup>th</sup> century period aspects of the walled garden.



- The proposed development must include full permeability within the development and with neighbouring communities.
- The proposal is taller than existing trees and of considerable scale and mass, larger than almost any other existing building in Malahide. Will be very visible through the trees for almost six months of the year.
- The proposal should be considered as falling within the scope of the Department of Housing, Local Government and Heritage Circular Letter NRUP 02/2021 of 21/04/2021 and be significantly lower than density of 35units/ha.

### Heritage

- The destruction of the walled garden by placing a large community building will assist in destroying the historic and natural setting of the main house. Believe that planning permission previously refused within walled garden.
- The creation of a driveway into the walled garden will further take away from its character and peaceful purpose.
- The walled garden should be restored and retained.
- The private open space for Auburn House should be retained and the stables should continue to be part of the original house. Otherwise ability to sell the house unlikely and it will remain empty, neglected or vandalised or turned into apartments.
- The proposed development will substantially alter the vistas from Auburn House, erode the landscape setting associated with the Protected Structure and result in a highly obtrusive form of development at the subject site resulting in negative visual and conservation impacts.
- Insufficient detail on what is ultimately going to happen to Auburn House.
- The proposed development does not respect or integrate with the historic setting of Auburn House and its woodland surroundings.
- 4-6 storey heights inappropriate in the setting of Auburn House.
- The vista from the upper floors of Malahide Castle, should not be broken by 6 or even 5 or 4 storey blocks of flats. Malahide Castle should remain the

dominant structure in the area. Proposal damages the setting of Malahide Castle and Malahide Park against the Objective DMS44.

- Non-compliance with Development Plan objectives CH20, CH21, CH22 and CH25.
- Contrary to National Conservation Policy in terms of heights to the north of Auburn House, which the Development Plan highlights as a sensitive area 'whereby a maximum ridge height of 6m should be applied', buildings 6, 5 and 3 all break this ridge height.

#### Open Space

- The private open space of Auburn has been assimilated into the public open space of the overall development which will lead to the decay of the building as a large family home.
- Playground poorly located and insufficiently overlooked.

#### Material Contravention

- The proposed development is a material and significant breach of all the planning documents prepared for the area and the guidelines issued by the National Planning Framework, Urban Development and Building Height Guidelines 2018 regarding density and the height.
- The Board cannot grant a permission justified by reference to the Guidelines for Planning Authorities on Urban Development and Building Height 2018. The guidelines are ultra vires, not authorised by s28(1c) of the Planning and Development Act 2000 (as amended). The Guidelines are also contrary to the SEA Directive.
- Until the Masterplan is completed in accordance with the Development Plan, the lands are not in fact zoned for residential development.
- The proposed development does not comply with the requirements of the Development Plan/Guidelines/National Policy in relation to density.
- The proposed development does not comply with the requirements of the Height Guidelines.

- Unclear what reliance can be placed by the Developer on SPPR1 (pg 15 Material Contravention Statement).
- The Developer has not demonstrated by reference to s37(2)(b) criteria, that the proposed development can be justified. Failed to demonstrate how it can be justified in light of the requirements of the Development Plan.
- The proposed development is not of strategic or national importance, no objective basis has been advanced to sustain this assertion.
- Contrary to Objectives 55 and 57.
- Material Contravention of the Development Plan in relation to the submission of this application in the absence of a Masterplan or new Streamstown LAP.
- Reference to judgement quashing the Board's permission for lands at Sybil Hill, Raheny. He held there was no material on foot of which the Board could have held the proposed development to be of strategic or national importance. It was simply 'one of many high density housing developments.'

#### Environmental Impact Assessment

- The EIAR is inadequate and deficient and does not permit an assessment of the potential environmental impacts of the proposed development.
- The process provided for under the 2016 Act contravenes the requirements of the EIA Directive and the public participation requirements set out in Art. 6.
- The EIAR does not comply with the mandatory requirements / contents / statements required in the EIAR/EIA.
- Insufficient information with respect to Badgers and bats, extent and duration of site surveys. Insufficient information on bird/bat flight collision/risk (operation and construction). The Masterplan has not been considered in the EIAR.
- The majority of chapters in the EIAR have not consider cumulative impacts.
- The biodiversity chapter concludes a hydrological link to the Malahide Estuary / Broadmeadow Way SPA / SAC, which is not considered elsewhere in the biodiversity chapter or AA. There is a potential groundwater hydrogeological link too which is not considered.

- Biodiversity chapter does not consider if the increase in population is likely to have a potential anthropogenic impact on the Malahide Broadmeadow Way SPA less than 1.5km away.
- No consultation with NPWS.
- Landscape and Visual Chapter refers to a small stream that is not considered in the Biodiversity Chapter or the Water Chapter.
- The EIAR read with the Construction and Waste Management Plan, provides insufficient information to enable a proper and complete assessment of potential pollution and nuisances / human health.
- The Board lacks ecological and scientific expertise and/or does not appear to have access to such ecological/scientific expertise in order to examine the EIA Screening Report as required under Article 5(3)(b) of the EIA Directive.
- EIAR does not consider engineering works on Back Lane or Kinsealy Lane, relevant for Archaeology and Cultural Heritage Section, Geophysical Survey and Biodiversity Section.

#### Appropriate Assessment

- There are inadequacies and lacunae in the AA Screening and NIS, the Board does not have sufficient / adequate information to complete AA Screening and AA, in compliance with the requirements of the 2000 Act and the Habitats Directive.
- Data provided for bird surveys only goes up to 2015. Further relevant survey information is available from Birdwatch Ireland as recently as the winter of 2019/2020, data therefore cannot be considered most up to date or best scientific knowledge.
- The NIS refers to the Annual Environment Report from Ringsend WwTP in 2018, the 2019 AER was available from the EPA website in September 2020. The data cannot be considered most up to date or best scientific knowledge.
- The AA Screening states that walking with or without dogs may have caused a significant disturbance to water birds. The impact of a sizable increase in

population within 1.5km of Malahide Estuary SPA and anthropogenic disturbance not considered.

- The AA documentation fails to consider migrating bird species, insufficient consideration of bats and badgers.
- No winter bird survey, no breeding bird methodology.
- NIS does not refer to the rising main along Back Road and Kinsealy Lane or the construction of 2km of piping for the proposed development, which cross Hazelbrook Stream.
- Reference to the Construction Management Plan as an addendum to the NIS, however no addendum uploaded to the SHD website. Document entitled Preliminary Construction, Demolition and Waste Management Plan makes no reference to the NIS.
- The NIS refers to Clonshaugh WwTP having been granted permission in 2019 being able to take the pressure of Swords WwTP. Permission for Clonshaugh has recently been overturned in *Kemper v An Bord Pleanála & Ors.* [2020] IEHC 601.
- Cumulative impact on Baldoyle SPA/SAC not considered, projects including expansion of Dublin Airport and other large projects in north Dublin linked to the SPA/SAC.

#### Mix and Tenure

- The large number of 1 bed apartments is inappropriate for this location. Nearest food shops over 2km away.
- Most of the proposed apartments and homes seem designed for rental and affordable homes, rather than a sensible mix, which is not in keeping with the historical character and charm of the area.
- Consideration of a shop should be included.
- Consideration of the incorporation of step-down housing with support facilities should be included.

#### Construction

- The EIAR states that 240 people will be employed in the construction of the development, which will lead to significant car and van travel to and from the site, and query where are all of the cars and vans going to park during the multi-year build phase.
- Use of Carey's Lane entrance for construction traffic will cause major disruption to current residents. Significant disturbance, congestion, noise, danger to cyclists, pedestrians and young children.
- General environment degradation and dirt during the extensive period of construction.
- Particular impact on property at Dunroman Streamstown Lane from construction access / dust / activities.

#### Property Values

- The proposed development will adversely impact the value of homes in Clairville Lodge and the immediate area.

#### Biodiversity

- Destruction of mature trees and wildlife on the site.
- Bat survey is inadequate, a derogation license should have been applied for.
- The Invasive Species Study by Mr. W. Cuthbert states there are no invasive species on the site. This is not an accurate statement as there is Three-cornered garlic on the site which is an invasive species.
- Removal of 40 trees for the entrance and up to 320 trees on the site, contrary to objective NH27 of the Fingal Development Plan which seeks to protect and preserve trees, woodlands and hedgerows.
- The landscape plan does not clearly indicate on site all the trees, those retained and those proposed to be removed and what will be replaced.
- Crucial to the character of Malahide to preserve the special tree lined approach along the Dublin Road. The plan proposes to remove a huge number of trees from the area.
- Conflict with objectives 221 and 216 of the LAP in relation to tree removal.

- Contrary to objectives 11, 55 and 57 of the FDP.
- Removal of large stretches of hedgerows will disturb protected wildlife such as bats.
- Badger survey undertaken in July-November 2019 and will be 21 months old at the time of the decision for the SHD application and cannot be relied upon.
- The layout of the proposed development in the submitted Badger Assessment differs to the Architects proposed site plan in the application and therefore conclusions in the report cannot be relied upon.
- Foxes, rabbit, squirrels, stoats, pheasants in the area. Huge disruption to their natural habitat and boundary treatment will limit the ability to roam freely.
- Migrating birds have been known to use 'The Back Field' as shelter which they would be prevented from doing so with the proposed development.
- A fully funded submission on the proper management of woodland in the 5 years following completion of the development of the site should be required.
- There are nesting Barn Owls in the area.
- EIAR does not refer to impact on wildlife such as birds and bats.

#### Water Infrastructure / Flooding

- The development does not adhere to FDP principles in relation to SUDS. Underground attenuation tanks are not acceptable to Fingal CC. Object to feeding into the existing ditch network, currently the Clairville development feeds into this and has created a stagnate green scum of 90m approx.
- Access to new foul water infrastructure to serve new development in the area has not been given to existing residents. Irish Water / FCC need to put in proper mains services accessible to all.
- Additional pressure on drainage services.
- Increased demand on water pressure.
- Will create water supply problems.
- Flooding problems.

- The current Oak Park development on Kinsaley Lane raised numerous concerns with regard to sewage disposal capacity, the current system is already overcapacity and requires upgrade.
- There is a potential flood risk in 'The Back Field', the highest density of the proposed development, with regular surface water flooding on the Auburn House lands surrounded by the Abington estate.
- Potential very serious surface water discharge issues form this development, adversely impacting on neighbouring properties.
- In the early 2000's there was a major flood at the junction of the Back Road and the Malahide Road, blocking traffic in the area. While downstream works addressed this issue, in the short-term, there is concern that various culverts and lack of maintenance on the network may cause a recurrence.
- The proposals for dealing with surface water disposal is fundamentally flawed.
- It is the experience of those living in the area that the ditch network contains water at or close to ground level.

#### Energy and Carbon Emissions

- Query if developer will encourage green energy initiatives.
- CHP would appear appropriate for the development and if not possible, all buildings should be future-proofed through the specification of ASHP.
- Consideration should be given to the large scale removal of tree canopy and associated carbon value. Ireland has committed to increase forestry coverage. Replacement trees will be smaller and not have the same carbon capture.

#### Other Concerns

- The true boundary of the proposed development site is between one and two metres further into the applicant's lands than outlined in the subject planning application. This would mean that the existing ditch and hawthorn hedgerow should not be removed and the proposed wall in the application should be built on the northern side of this natural boundary. The retention of the natural boundary would maintain much needed biodiversity. This would necessitate a



new planning application as the gardens of many of the proposed houses would be significantly deficient in terms of the Development Control Standards for Private Open space and garden depths as set out in the FDP.

- When Little Auburn was developed a sterilisation order was made by the planning authority, Dublin County Council, restricting any further development on that site.
- Increased pollution from the proposed development.
- Inconsistencies/omissions from application material: Address on statutory notices fail to identify the red line includes lands at Back Road and Kinsealy Lane; Site notices not provided on all relevant points on the red line (do not extend to Fingal CC land); Letter of consent is dated 4<sup>th</sup> July 2020, is addressed to a Senior Planner and does not have the final layout for the development.
- Address of the applicant differs to the address of the site owner, questions 2 and 7 of the application form, as such the application is invalid, in addition, a c/o address is provided for the applicant which does not fulfil requirements.
- Development includes a new access of Carey's Lane and not merely adaption as described.
- Site red line boundary doesn't extend full length of new water / sewage infrastructure proposed. No site notices to cover this extent and works not included in the public notices.
- Kinwest Limited placed an advert in the Daily Star on 7<sup>th</sup> April 2021, a paper that does not seem to have a significant circulation in the area. The Development Plan requires circulation in the area and the Planning and Development Regulations provide for a sufficiently large circulation.
- Query whether the developers propose to highlight to prospective owners and investors the impact of the new runway at Dublin airport and the impact that runway will have on noise, emissions and pollution close to the development.
- Query what the developers plans are for affordable housing.

- In the context of Covid, need to consider how we can live safely and avoid gatherings inside a duplex community centre with such close proximity, poor access, ventilation and security, monitoring and health and safety.
- Lack of consultation or engagement by developer with existing residents.
- Previous refusal on appeal to An Bord Pleanála for the creation of a 6.5m wide entrance to the proposed Abington housing development from the Dublin Road, PL06F.102938 / F96A/0674 / 0676 to preserve the 'sylvan approach' entry to Malahide.
- Query management arrangements for development once completed.
- Request condition that no further residential development take place within the retention and northern quarter as set out in the LAP.
- Cement Roadstone's Feltrim site carries out regular underground explosion works which can be physically felt by nearby residents and would potentially significantly impact any development on the proposed site, particularly with the 6 storey height proposed.
- Site notices not located at potential future connection points.
- Application fee and item 15 on the application form does not account for the proposed community building, as such the application is invalid.
- Notices erected in Abington Estate without consent.
- Application form states site area includes engineering works on Back Road and Kinsealy Lane, while EIAR states site area excludes works to the foul sewer along Kinsealy Lane.

#### In support

- We are saying 'yes in my back yard'. Have faith in the Planners, Architects and others involved.

Enclosures: Google street view images and photos of Streamstown Lane & Careys Lane showing single lane width, inadequate pedestrian infrastructure, lack of lighting and potholes; Census 2016: Malahide Travel to School or College Patterns results; photos of property and grounds in Clairville in context with proposed community building; Extracts from application documents; Photo of site notice; Letter from

Property Boundaries Ireland to no.5 Clairville Lodge regarding work to establish the correct boundary for the property which is asserted to extend to the centre of the ditch to the rear of the property; Traffic Wise submission to support third party observation; Letter to Derek Cullen from Malahide Community School confirming no room for additional growth and consist maximum capacity with inability to satisfy demand; letter to Derek Cullen from FPLogue Solicitors with notes on validity of the application, AA, Material Contravention and EU Directives; report from Stephen Ward Associates on the application proposals outlining objections on behalf of their client Savaron Ltd c/o Derek Cullen.

## 9.0 Planning Authority Submission

9.1. Wicklow County Council has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016. It summaries observer comments as per section 8(5)(a)(i). The planning and technical analysis in accordance with the requirements of section 8(5)(a)(ii) and 8(5)(b)(i) may be summarised as follows:

### 9.2. Fingal Development Plan 2017-2023

9.3. The applicant has submitted a Masterplan document and it is noted that the Planning Authority has no approved or adopted the Masterplan submitted. Note the material contravention statement submitted in relation to objectives for a masterplan for the Streamstown Area, facilitating low density and exceeding the maximum ridge height of 6m. Whilst the Planning Authority has supported the provision of a deviation in density from the surrounding area at this location throughout the pre-application process, it is considered that some aspects of the design require further consideration e.g. impact upon tree lined approach to Malahide.

### 9.4. Density and Height

9.5. Given the historical and environmental sensitivity of the site the Planning Authority would have concern over the way the density has been achieved in terms of the height of a number of the proposed apartment buildings and their location relative to the Protected Structure and the R107.

- 9.6. The subject site is consider an 'outer suburban' site where densities generally of 35-50 dwellings per hectare are considered to be acceptable. It is considered that the application has not provided a clear strategy for the density and building height proposed within the documentation submitted. Consideration to Circular NRUP 02/2021 has not been provided. The Planning Authority request that the Board give consideration to section 2.8 of the Urban Development and Building Heights Guidelines for Planning Authorities 2018 and Circular NRUP 02/2021 in undertaking their assessment.
- 9.7. Urban Design, Architectural Expression and Built Heritage
- 9.8. Concern regarding the impact upon the tree-lined approach to Malahide and The Avenue/SE Quadrant (Little Auburn lands). Concern over the location of Block 4 and the pump station within this section of the site, considered the first building at the entrance to this historic landscape should be more considerate to its surroundings. In addition, the locating of the pump station will undermine the tree line. Removal of trees for the construction of the new entrance or due to condition will reduce the density of the canopy coverage and associated woodland appearance.
- 9.9. Recommend condition to provide additional supplemented tree planting, that the construction exclusion zone be increased to include all non-developable land. The Board should be minded over the location of apartment block 4 which has a ridge height of 14.45m and its proximity to the R107 and amend block 4 and 5 so that they do not exceed 3 storeys in height.
- 9.10. In relation to views from Auburn House, concerns remain with the location of unit no's. 58-63 into the view sheds (verified within CGI9 and viewpoints 6&7). In the event that the Board wish to protect these view sheds they may consider reduction the number of court yard units by omitting under 48 to 59 and the row of units 58 to 61. Furthermore, the Board should consider that courtyard developments tend to be single or two storeys in height as opposed to what is being proposed here.
- 9.11. Concern regarding the lack of practical consideration for residential amenity for Auburn House and its use as a single unit. In the event of a grant of permission, the applicant should be requested to submit amended plans for Auburn House and stable buildings which provide for adequate storage space for maintenance

equipment and bin storage to the historic house and a dedicated private garden space.

- 9.12. A protection plan is also requested, to indicate how the Protected Structure will be safeguarded prior to and during any development. Continued occupation will be key to this through both the planning and construction phases whether by a residents, tenant, caretaker or other.
- 9.13. The NW Quadrant/Back Field has potential to facilitate more intensive development as it is the most hidden part of the site. However, scale should still be appropriate to the historic setting. Objective Malahide 11 of the FDP sets a maximum ridge height. The apartment blocks exceed this height and range from a ridge level of 16.95m to 20.1m. The Planning Authority consider that the heights should be reduced to sit below the tree line, necessitating the omission or redesign of the top floors. A condition is recommended to reduce the height of Blocks 1, 2 and 3 by omitting a floor.
- 9.14. Concern with the proximity of units in the SW Quadrant and Walled Garden to the boundary with Clairville Lodge. The applicant has previously been advised that provision of an apartment block within the woodland area was not appropriate and should be omitted. The community building is a modest structure and is acceptable. However, given the lack of commercial facilities within walking distance of the subject site, the Board should consider conditioning the community building to be amended to provide for commercial floorspace.
- 9.15. Unit Typologies and Mix
- 9.16. The Planning Authority have concern over the number of 1 bed apartment units being proposed as part of this development. It is considered that a greater mix should be proposed to create a sustainable community in this area, with a greater variety of dwelling mix.
- 9.17. Residential Amenity
- 9.18. Note that the submitted daylight and sunlight report states that the building modelling results satisfy the ADF minimum requirements for living rooms and bedrooms.
- 9.19. Impact on Surrounding Residential Amenity

- 9.20. Concern over the impact of the proposed development on the area to the south, Clairville. There is a significant level change from the Auburn lands to Clairville Lodge. Note that the site layout submitted does not include the dwellings constructed within Clairville Lodge and as such the impact upon these dwellings may be lost. Considered that the dwellings together with the 2m high boundary treatment could be overbearing upon the rear amenity spaces associated with the dwellings located in Clairville Lodge.
- 9.21. Green Infrastructure
- 9.22. The Parks & Green Infrastructure Division consider that the proposed development is an insensitive and damaging intrusion to the existing landscape character. The proposed landscaping cannot mitigate the scale of landscape alterations. It is not clear how block 7 can be constructed without undermining the root protection zone of a large number of trees within the woodland area. As such it is considered that block 7 should be omitted by way of condition.
- 9.23. The largescale removal of hedgerows, tree groups and pockets of woodland to accommodate buildings and road infrastructure is considered unacceptable and conflicts with Fingal's stated Objectives including those specific to this site.
- 9.24. The feasibility of the proposed tree protection measures is of concern to the Parks & Green Infrastructure Division which is confirmed with the Tree Survey submitted. The proposed site layout will facilitate future ongoing conflict between future residents and trees to be retained as a result of insufficient distances between existing tree groups and proposed buildings. A more sensitive layout is required to maximise the benefits of existing green infrastructure features and minimise the scale of the SUDS basin. Recommend a condition for a sizable tree bond to be lodged with the Local Authority.
- 9.25. The open spaces proposed are mainly categorised as tree retention areas or environmental areas, which are dominated by SUDS features. As per the Fingal Development Plan, the calculation of public open space shall exclude such environmental features and the applicant has therefore failed to demonstrate that the submission meets the minimum requirement for public open space.

9.26. A revised layout is required to show provision of play that is not in proximity to trees, tree groups or woodlands. Recommend condition to ensure that all play items and finishes be agreed with the Planning Authority.

9.27. Connectivity

9.28. It is considered that the proposal provides weak pedestrian/cycle connections to the adjoining areas. These connections are critical to ensuring that proposed class 1 open spaces are public rather than having a perception of private lands. Footpath to rear of house no's.31-49 is particularly ill conceived due to the absence of sufficient passive observation and the potential for anti-social behaviour/reduced security. There is no dedicated cycle segregation within the proposed development. The applicant should clarify the proposal, confirm any wayleave in this area, consider the privacy provided by the proposed 2m high railing to rear gardens and clarify future responsibility for maintaining this back-land area.

9.29. Movement and Transport

9.30. In relation to car parking provision, there are a number of areas which the Planning Authority consider require amendment to overcome restrictive movements and potential for conflict between 2 or more spaces. Concern regarding provision of visitor spaces, basement car parking layout, EV charging points, podium parking and the submitted swept path analysis.

9.31. Recommend a condition requiring the omission of shared surface or home zone areas which are not in accordance with guidance and replacement with standard road/footpath.

9.32. Integration of cycle routes and increased right turning lane on the R107 and The Back Road need to be addressed. Details of the junction should be agreed with the Planning Authority. Details of access including sightlines should be addressed by condition.

9.33. It is considered that there are a number of flaws within the TTA submitted and a stress test with a shift in the bias of the traffic movements would have been a more appropriate robust assessment. Concerns that the potential increased traffic along Streamstown Lane associated with the proposed development may require some

degree of improvement to Streamstown Lane that has not been accounted for in the proposed development.

9.34. Request control measures/signage to reserve the creche set down and staff parking for the exclusive use of the creche. Outside of operating times, this area can be used for visitor parking.

9.35. Archaeology

9.36. Conditions recommended.

9.37. Infrastructure and Services

9.38. It is considered that the proposal is in accordance with The Planning System and Food Risk Management Guidelines for Planning Authorities.

9.39. In relation to surface water, the proposal is acceptable subject to conditions relating to underground attenuation and drainage. Note Irish Water have issued a confirmation of feasibility in relation to water supply. Concern over the location, visibility and impact on the tree line as a result of the pumping station. Suggest a condition to relocate the proposed pumping station as a result.

9.40. Construction Management

9.41. Recommend a condition requiring submission of a construction management plan.

9.42. Appropriate Assessment and EIAR

9.43. An Bord Pleanála is the competent authority.

9.44. Public Lighting

9.45. Recommend condition.

9.46. Taking in Charge

9.47. Recommend condition regarding finishes or, alternatively, that development is excluded from being taken in charge.

9.48. Part V

9.49. Recommend condition.

9.50. Conclusion



- 9.51. It is considered that the proposed development will provide for an appropriate standard of residential development and is considered to be acceptable, subject to a number of amendments as set out in recommended conditions.
- 9.52. Statement in accordance with Section 8(5)(b)(ii): Having regard to the zoning, nature, scale and design of the residential proposal, the pattern of existing and permitted development, the FDP, Section 28 Guidelines, subject to compliance with the conditions recommended, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect existing character and aid in the development of new character to the area and would be acceptable in terms of traffic safety and pedestrian permeability. The proposed development would therefore be in accordance with the FDP policies and the proper planning and development of the area.
- 9.53. The Planning Authority request 47no. conditions, with specific conditions noted above. The following recommended conditions are highlighted for attention of the Board:
- 9.54. Condition 2 requesting the height of the development be reduced as follows: Block 1, 2 and 3 by omitting second floor (36 units); Block 4 by omitting the second floor (10 units) Block 5 by omitting the pop-up 4<sup>th</sup> storey (2 units); and Block 7 omitted in its entirety (6 units). Condition requesting amended plans for Auburn House and associated stable buildings to provide for private garden space and storage. Condition 5 that works for Auburn House be undertaken in phase 1. Condition 16 regarding boundary treatment to Clairville Lodge. Condition 17 and 19 regarding submission of revised layouts for the development showing relocation of the play area and pump station respectively. Condition 18 requiring updated drawings of pedestrian/cycle connections to overcome PA concerns. Condition 25 that the tree-lined boundary with Malahide Road be supplemented with additional mature or semi-mature trees of an appropriate species to fill in existing gaps. Condition 29 that construction exclusion fencing enclose all non-developed land. Condition 28 that the alignment of the new main avenue within the entrance gate from Malahide Road be re-examined to avoid removal of Category B trees. Condition 32 concerning detailed design of the upgraded junction of the R107 with the Back Road and new vehicular entrance (to be provided in phase 1), RSA and details of boundary treatment to

ensure sightlines. Condition 38 requiring public art or sculpture or architectural feature. Condition 47 financial contribution.

#### 9.55. **Departmental Reports**

#### 9.56. Water Services Department

- Confirm that the proposal is acceptable subject to conditions concerning compliance with standards, code of practice, a connection agreement with Irish Water, infrastructure upgrades, boundary treatment details, details of attenuation features, provision of flood storage and maintenance of ditch network with details of culverted section.

#### 9.57. Transportation Planning Department

- Visitor parking should be provided;
- Revised parking arrangement for creche requested;
- Mobility impaired spaces are poorly located;
- Segregation measures for cyclists / vehicles in basement car park recommended;
- Bin collection arrangements unclear;
- Impact protection for attenuation tanks required;
- Podium parking spaces 34-37 appear restrictive;
- Bin storage in podium maybe impractical;
- Identification of detail matters around individual residential parking spaces and areas of potential conflict in vehicle movements;
- Level of passive surveillance of visitor bicycle parking is unclear;
- Lack of dedicated cycle segregation in the development;
- Concern with proposed shared surface / home zone areas proposed;
- Request that all parking spaces for houses have an EV charging point and a minimum of 10% for apartment and duplex car park areas;
- Swept path analysis is incomplete and shows conflict between refuse trucks and parking spaces / pedestrian areas, which requires revision;

- Identification of issues with the submitted Traffic and Transport Assessment;
- Concern that the potential increase in traffic along Streamstown Lane associated with the proposed development may require some degree of improvement to Streamstown Lane that has not been accounted for in the proposed development;
- Details of the junction upgrade of the R107 with The Back Road require agreement with the Planning Authority and should be undertaken in phase 1 of the development;
- Sightlines at the Carey's Lane entrance have not been shown and should be requested by condition if the application is granted;
- Request conditions in relation to taking in charge;
- Road safety audits should be carried out as part of the development;
- A final construction management plan should be agreed with the Operations Department.

#### 9.58. Parks and Green Infrastructure Department

- In summary, given the stated, indicated and expected impacts it is considered such a proposal will have a very significant landscape impact over the long term. Such impacts will not be restricted to the site only, but to the wider landscape character including unprecedented tree loss, large engineered SUDS basin, formalised watercourse and potential negative impact of apartment blocks from Malahide Demense. The latter has not been adequately assessed and raises concerns of long-term impacts on the adjoining historic park.

#### 9.59. Conservation Officer

- Auburn House and its lands is one of the sensitive areas that Section 2.8 of the Building Height guidelines makes reference to and so the Planning Authority's determination as set out in the Fingal Development Plan on appropriate heights for this site should be followed. The sensitivities of the Auburn House lands and the capacity for development and/or change has already been clearly outlined within the Streamstown LAP document and

these have not changed in the intervening years. The area to the front/east of Auburn House was identified as a Sensitive Development Area, the walled garden was to be retained as an open space and amenity area, and appropriate scales and density were outlined.

- Heights of the apartment blocks are of concern.
- It is vital that the significant belt of trees along the Dublin Road is adequately protected and supplemented;
- Concern at the scale of tree removal, placement of the pumping station, alignment of main avenue;
- Trees marking the curved eastern boundary of the Back Field in the north quadrant should be retained to reference the historic divisions of the land and to enclose the proposed development within this NW (Back Field) quadrant that is proposed to be at a higher scale and density to the rest of the lands and so enable the area to have a distinctive and different character. Suggest a redesign or shifting of the footprint of apartment block 3 and redesign/reduction of the courtyard housing units as part of tree retention;
- Apartment 7 should be omitted as it results in loss of woodland;
- Concern about apartment blocks 4 and 5 and visual impact on the entrance area of Auburn House. The main approach to Auburn House, even where along a new route, should be complementary in scale to the historic house;
- Preference that development in the Avenue / SE Quadrant is not above 3 storeys, set back 4<sup>th</sup> storey to block 4 potentially acceptable where not easily legible from ground level;
- Block 5 should be reduced in height;
- The original orientation of Auburn House to align towards Malahide Castle should be referenced in the landscape proposal. The semi-detached pair of units 48-59 and row of houses 58-66 should be omitted to facilitate this;
- The courtyard group formed by unit 50-57 should be reduced to allow retention of the existing historic planted field boundary;
- Courtyard ranges should be single to two storey;

- Adequate storage needed for Auburn House garden;
- Protection Plan required for Auburn House, works should be carried out under the supervision of qualified conservation consultant and as part of phase 1;
- Concern regarding the proximity of apartment block 8 to the walls of the walled garden and potential impacts during construction. Block 8 should be recessed further back or its footprint reduced to provide a greater separation from it and the walled garden.

#### 9.60. Architects Department

- Question the marketability of Auburn House as proposed. The house is losing its position in the hierarchy of the estate by virtue of the extent of the proposed development;
- The scheme is a substantial increase in scale and type of existing urban grain, the buildings are designed in a rational manner and are a strong response to place and time, the scheme will bring a new character to the area notwithstanding how each grouping is screened by vegetation and trees both existing and planned. Some boundary conditions require further consideration;
- The proposal is well connected to its receiving environment;
- The Architectural language is strong and sustained throughout the scheme;
- The materials and design detail are of high quality;
- Echo conservation officer comments in relation to the setting of Auburn House and impact on trees.

#### 9.61. Environmental Health

- The development is acceptable submitted to conditions. In summary, restriction on hours of demolition and construction works; works to be carried out with regard to noise and vibration standards, and noise and dust management as part of construction management plan; noise and vibration monitoring; containment of dust; dust monitoring; air emissions/odour control; operational noise control.

#### 9.62. Economic, Enterprise, Tourism and Culture Department

- No objections, recommend condition requiring a piece of public art / sculpture / architectural feature.

9.63. Heritage Officer

- No objections, recommend conditions regarding archaeological investigation, monitoring, protection and recording.

9.64. **Elected Members**

9.65. A summary of the views of elected members as expressed at the area committee meeting on the 5<sup>th</sup> May 2021 is included in the Chief Executive's Report and summarised below:

- SHD process contributing to the housing crisis;
- Concern re. the distance from the train station;
- Problem with the SHD process itself;
- The SHD process has allowed for this development proposal to override the main principles of the Development Plan;
- Auburn House is a treasure;
- Not opposed to the form of development at this location;
- Issues with proposed volumes of people;
- Developer has gone to the extreme with the density being proposed;
- 3 storeys would be more in keeping with the area;
- 6 storeys out of character;
- Concern in relation to impact on Back Road and Streamstown Lane;
- Lack of car parking given distance from the village;
- Necessary to have Part V provision dispersed throughout the site;
- Question whether the development complies with the Streamstown LAP;
- Concern over permeability, heights, density;
- Bus stops for some residents would be on Swords Road;
- Permeability though the site is not clear and not in compliance with the LAP;
- SHD legislation has not delivered housing at a rapid rate, only 30% of SHD's granted are currently under construction;

- Overdevelopment;
- Question why certain bodies were not consulted e.g. dept. education;
- No faith in ABP;
- Massive intensification in density;
- Absence of Masterplan of concern;
- Access to Streamstown Lane should be limited to pedestrian only;
- 6 storey apartment located too close to Abington and will negatively impact on residents;
- Removal of c.25% of trees on site not acceptable, should be only trees required for removal for junction;
- Only local service is a creche, will force residents into cars;
- Need to ensure services are provided locally;
- Uneven distribution in density;
- Traffic impact;
- Environment impact;
- Impact on existing services;
- Impact on getting children into schools;
- SHD a failed process not overcoming the housing problem;
- Will follow the guidance of the planners.

## 10.0 Prescribed Bodies

### 10.1. An Taisce – The National Trust for Ireland

The development fails to provide for pedestrian and cycle permeability to the existing residential area to the north. In doing so, it will distance the new residents from local facilities including creche, schools, churches, shops and coastal amenities. This will be liable to worsen the already severe car-dependence of the tow. It is surprising that despite the importance of these pedestrian and cycle links being highlighted in the LAP, this development has made it through the various pre-planning consultations in the SHD process without this major flaw being rectified.

## 10.2. Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media

Archaeology – Recommend that a planning condition pertaining to Archaeological Monitoring of ground disturbance and topsoil removal at construction stages be included in any grant of planning permission that may issue.

Nature Conservation – The main block of plantation woodland adjacent to Auburn House is to be retained but a large number of trees elsewhere on the site are to be removed. Altogether of the 1348 individually surveyed trees and tree groups on the site 308 are to be removed, and 225m of hedgerow. A substantial number of trees, including semi-mature standard trees, and hedging are to be planted however, which should compensate to considerable extent for the trees to be removed. Also note recommendations in the Arboricultural Report. Note the findings in relation to badger, bat and bird surveys on the site and the NIS mitigation measures. Recommend planning conditions regarding the following: prevention of the clearance of trees or shrubs during main bird breeding season; a repeat badger survey prior to clearance / construction works and implementation of measures to protect badger setts; new bat activity and roost survey of the site prior to clearance or construction works with measures to avoid injury to bats and appropriate action for roost removal; and submission of a construction environmental management plan (CEMP) with measures to avoid damage to trees or hedgerows to be retained and protect watercourses on the site.

## 10.3. Irish Water

In order to facilitate wastewater connection(s) for this and other proposals in the area, Irish Water is currently progressing a high-level strategy for the area which includes the delivery of a new pumping station to serve the existing and future Connolly Avenue pumping station catchment. The existing Kinsealy Lane pumping station and the Connolly Avenue pumping station are currently at capacity. In order to support growth in the area Irish water has capital works in progress to deliver a new Chapel Lane Pumping station in the sough of the catchment and a rising main extension from Chapel Lane pumping station to the North Fringe Sewer. These works are included on Irish Waters Capital Investment plan and due to be completed by Q4 2021 (subject to change).



In order to service this proposed development with a wastewater connection, an extension of the Irish Water network is required east along Back Road and then south along Kinsealy Lane and then gravitate to the new Chapel Lane Pumping Station. These works will be subject to a valid Connection Agreement at Connection Application Stage. It is expected that works for this extension will be along public roads, delivered by Irish Water with the costs borne by the applicant.

In respect of water a new connection to the existing network is feasible without upgrade.

The applicant has engaged with Irish Water in respect of design proposal and has been issued a Statement of Design Acceptance for the development. Request conditions requiring the signing of a connection agreement with Irish Water, that development be carried out in compliance with Irish Water Standards and that Irish Water does not permit any build over of its assets, with separation distances as per the code and practice to be achieved.

#### 10.4. Irish Aviation Authority

In the event of planning consent being granted, the applicant/developer should be conditioned to notify the Authority, daa / Dublin Airport and the IAA's Air Navigation Service Provider ( ANSP) of the intention to commence crane operations with at least 30 days prior notification of their erection.

#### 10.5. DAA

The proposed development is located within noise zone C where policy objective DA07 of the Fingal Development Plan 2017-2023 seeks to strictly control provision of new residential development and other noise sensitive uses within zones A, B, C and where appropriate in zone D. In the event of a grant of permission, a condition is requested requiring the noise sensitive uses to be provided with noise insulation to an appropriate standard, having regard to the location of the site within noise zone C. This is to ensure the proposed development is designed with noise mitigation to an appropriate standard in accordance with Fingal Development Plan Objective DA07.

## 11.0 Oral Hearing Request

11.1. One formal request for an Oral Hearing was received in relation to this application. Section 18 of the Act provides that, before deciding if an oral hearing for a strategic housing development application should be held, the Board:

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

11.2. Having regard to the circumstances of this case, to the issues raised in the observations received by the Board, and the assessment set out in section 12.0 below, I consider that there is sufficient information available on the file to reach a conclusion on the matters arising. I do not consider therefore that there is a compelling case for the holding of an oral hearing in this instance.

## 12.0 Assessment

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

- Principle of Development
- Density
- Heritage Considerations, Height, Scale, Mass and Design
- Neighbouring Residential Amenity
- Proposed Residential Standards
- Traffic and Transport
- Material Contravention
- Other Issues

### 12.2. Principle of Development

12.2.1. Provision of Housing on the Site and the Requirement for a Masterplan

- 12.2.2. National policy as expressed within Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness and the National Planning Framework – Ireland 2040 supports the delivery of new housing on appropriate sites.
- 12.2.3. The application site is zoned RA – “Provide for new residential communities subject to the provision of the necessary social and physical infrastructure”. Residential and childcare facilities are permitted in principle within the RA zoning under the Fingal County Development Plan 2017-2023. Therefore, the proposed land uses under this application are consistent with the Development Plan.
- 12.2.4. The vision for the RA zoning is to *“Ensure the provision of high quality new residential environments with good layout and design, adequate public transport and cycle links and within walking distance of community facilities. Provide an appropriate mix of house sizes, types and tenures to meet household needs and to promote balanced communities.”* I address the detail of the proposed development in relation to these matters as part of my wider assessment below.
- 12.2.5. I note third party objections on the basis of prematurity in the absence of a Local Area Plan or Masterplan, and the incompatibility of the proposed development with the former Streamstown Local Area Plan 2009 (extended to 2019).
- 12.2.6. In relation to previously adopted Streamstown Local Area Plan, this was extended to 2015 but has since expired. As such, it is appropriate to set aside this previous LAP for Streamstown, as it no longer reflects the most up to date approach to planning for the area. This also follows the submitted Chief Executive report for this application from Fingal County Council, which does not recognise the previous LAP as having any status in the determination of this application.
- 12.2.7. In relation to the need for a Masterplan, the subject site is identified on the zoning map as part of area MP 9.A. This relates to Objective MALAHIDE 11 under the Development Plan, to prepare and/or implement a Streamstown Masterplan. The Development Plan goes on to list (non-exhaustively) the main elements to be included in the Streamstown Masterplan, and I consider these in detail in sections 12.3, 12.4 and 12.8 of my report below. Objective Z03 also relates to the preparation and implementation of Masterplans, and in the explanatory text at para.11.3 of the Development Plan, it states that Masterplans will be subject to public consultation and presented to Elected Members for agreement. Objectives PM14 and PM15 also

describe the preparation and implementation of Masterplans in accordance with the Development Plan, with explanatory text around the contents of Masterplans and requirements for consultation. It is therefore clear to me that the intention is for Masterplans as required under the Development Plan, to be adopted by the Planning Authority following specific consultation obligations.

12.2.8. As a result of these objectives under the Development Plan, three principal matters are raised in third party objections to the current application. Firstly, relating to the submission of this application in the absence of a Streamstown Masterplan, secondly in relation to the validity of the applicant's submitted 'masterplan' as part of the application documentation, and thirdly concerning the conformity of the proposed development with the list of matters to be included in the Streamstown Masterplan that follows Objective MALAHIDE 11 in the Development Plan.

12.2.9. In relation to the first item, the applicant acknowledges that the submission of the application in the absence of an adopted Masterplan represents a material contravention of the Development Plan, and I address this material contravention and the question of prematurity further in section 12.8 below. In relation to the applicant's submitted 'masterplan', this is a non-statutory document that should be considered as purely illustrative in my view. It has not been produced by, or endorsed by the Planning Authority, has not be subject to consultation, and as a result, does not hold any status in the determination of this application. Lastly, in relation to the conformity of the proposed development with Objective MALAHIDE 11, the applicant has submitted a material contravention statement which identifies two criteria under this objective, which the proposed development would not adhere to. I address this further as part of my consideration of material contraventions in section 12.8 of my report. In addition, I undertake a detailed assessment of the proposed development details against the list associated with Objective MALAHIDE 11 in section 12.3 and 12.4 below.

12.2.10. Overall, there is nothing prohibiting the submission of an application on the subject site in the absence of an adopted Streamstown Masterplan. The question of prematurity or conformity is related to the detail of the proposed development and therefore forms part of my assessment of the appropriateness of the application proposal. Therefore, while the proposed development can be considered acceptable in principle in terms of land use and zoning, a more detailed assessment of the detail

and form of development, alongside any associated impacts, is required, and I set this out in detail in the remaining sections of my report.

#### 12.2.11. SHD Process

12.2.12. In relation to third parties and Elected Member concern relating to the SHD process, I can confirm that the SHD process is defined under a legislative framework and until that framework is expunged or replaced, it forms the legitimate process for the determination of this application.

#### 12.2.13. Validity of the Application

12.2.14. I note third party representations that the submitted application is invalid for a number of reasons. In summary, concerns relate to the site redline boundary and associated descriptions of the site location, along with positioning of site notices, which did not extend to the area for water/sewage infrastructure works; the address for the applicant differing to the address for the owner of the site; that the letter of consent from the Planning Authority as land owner is addressed to a Senior Planner and did not contain the final layout for the development; and queries around the confirmation of feasibility / design acceptance issued by Irish Water.

12.2.1. With respect to site address and notices, the exact site outline is available to view on both the hard copy and via the website for the application. The purpose of the public notices is to give an indication to the general public that a planning application has been lodged on the subject lands and a broad outline of the development proposed. It is clear that the general public have been made aware of the proposed development, given the volume of submissions received. In terms of legislative requirements, a site notice is required at the main entrance to the lands or structures concerned, and not at all points along the route, therefore in my opinion, the locations where notices were displayed for this application is acceptable. I also consider that the notices adequately informed the public as to the nature and extent of the development proposed. The development description, site layout plan and all drawings submitted clearly indicate the extent of the development, and the location of the notices did not prevent the concerned parties from making representations.

12.2.2. In relation to the applicant address and site owner address, I note that the application form specifically requires the registered company address, and this appears to me to be what the applicant has provided. While a different address is

provided for the site owner, this appears to me to be a contact address. The name of the applicant and site owner is the same, and I have no reason to doubt the validity of the information provided. The difference appears to me to arise from the requirement for a registered company address, versus the provision of an owner contact address, under two different questions in the application form.

- 12.2.3. With respect to the letter of consent from the Local Authority as landowner of a small section of the site, it is clear that Fingal County Council were aware of the nature and extent of the works intended in the application, notwithstanding the addressee on the letter or attachment of the layout for the development.
- 12.2.4. Lastly, concerning the confirmation of feasibility and statement of design acceptance issued by Irish Water, it is not unusual for the identification of upgrade works to facilitate connections and I address the detail of this infrastructure in more detail in section 12.9 below.
- 12.2.5. Overall, I am satisfied that on the basis of the information currently before me that the application is valid and can be determined by the Board.

### 12.3. **Density**

#### 12.3.1. Density

- 12.3.2. A number of representations have been received regarding the proposed density of the development. Concerns centralise around the appropriateness of the density level proposed for the location. I also note the Planning Authority comments in relation to density and the need to consider the Urban Development and Building Heights Guidelines for Planning Authorities 2018 and Circular NRUP 02/2021.
- 12.3.3. I note Objective MALAHIDE 11 under the Development Plan relating to a Streamstown Masterplan and the specific reference to facilitating low density development on the subject site. The applicant has highlighted this in their submitted Material Contravention Statement, and I deal with this requirement specifically in section 12.8 below. In this section of my report I focus on the National Planning Policy approach to development density.
- 12.3.4. The proposed density is 41.6 units per hectare based upon the net development area. Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. Of relevance, objectives 33 and 35 of the NPF seek to

prioritise the provision of new homes at locations that can support sustainable development and seeks to increase densities in settlements, through a range of measures. In relation to Section 28 Guidelines, the 'Urban Development and Building Height, Guidelines for Planning Authorities' 2018, 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2018) and Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) all support increases in density, at appropriate locations, in order to ensure the efficient use of zoned and serviced land.

- 12.3.5. The Apartment Guidelines state that sites in suburban areas that do not meet proximity or accessibility criteria are characterised as 'Peripheral and/or Less Accessible Urban Locations'. These areas are identified as suitable for limited, very small-scale, higher density development that may wholly comprise apartments, or residential development of any scale that will include a minority of apartments at low-medium densities (broadly less than 45 dwellings per hectare).
- 12.3.6. The proposed development site is located circa 2km outside of Malahide's Town Centre and within the development boundary as defined in the zoning map 'Sheet 9' of the County Development Plan. The subject site is located adjacent to existing housing estates in Clairville Lodge and Abington and is zoned for new residential communities. As such, I consider the site to fall within the definition of a 'Peripheral and/or Less Accessible Urban Location' under the Apartment Guidelines.
- 12.3.7. I note Circular NRUP 02/2021 advising of residential density guidance for towns and villages, intended to clarify the application of Sustainable Residential Development Guidelines, with a graduated and responsive, tailored approach to the assessment of residential densities in Peripheral and/or Less Accessible Urban Locations, as defined in the Apartment Guidelines. In terms of defining Malahide in the context of settlement hierarchies and suitable densities, Malahide is designated as a moderate sustainable growth town under the Development Plan and is not considered to be a 'village' in the context of the guidance.
- 12.3.8. Having regard to the Sustainable Residential Development in Urban Areas Planning Guidelines and Circular NRUP 02/2021, the subject site can be considered an Outer Suburban / Greenfield site. These are defined as open lands on the periphery of cities or larger towns, requiring the provision of new infrastructure such as roads,

sewers, social facilities etc. The Guidelines state that the greatest efficiency in land usage on such lands will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare. Development at net densities less than 30 dwellings per hectare should be discouraged.

12.3.9. I note concerns raised in third party responses relating to the calculation of the proposed development density. The applicant has described a net development site area of 9.879 hectares, with the exclusion of areas including Auburn House, woodland and existing entrance avenue, which are not considered developable. This results in a density of 41.6 units per hectare. Third parties argue that a greater area should be discounted from the net site area calculation on the basis that it is not developable. I agree with the applicant's approach to calculating the net developable site area. While other areas in the site may be sensitive to development, they still form part of the overall development lands, albeit with careful consideration of what form and extent development might take. The proposed density is therefore within the acceptable density ranges for the subject site, as described in the guidelines set out above.

12.3.10. I note paragraph 5.6 of the Sustainable Residential Development Guidelines 2009, which identifies the desirability of preserving protected buildings and their settings. I consider in detail below the impact of the proposed development upon the Protected Structure and there is nothing to preclude the proposed density level on the site with reference to those guidelines, which promote a qualitative assessment, as set out in my report.

#### **12.4. Heritage Considerations, Height, Scale, Mass and Design**

##### **12.4.1. Heritage considerations**

12.4.2. A number of objections are raised by third parties to the proposed development and associated impacts upon the existing Protected Structure on the site and its grounds. Serious concerns are also raised by the Planning Authority and its conservation officer, with requested amendments to the proposal. I consider these matters in further detail below.

12.4.3. Auburn House (RPS No. 0448) is currently located on the site and described as a late 18<sup>th</sup> or early 19<sup>th</sup> century house, outbuildings and walled garden. Additional houses are also situated within the 'grounds' of Auburn House but do not form part of



the application and are situated outside of the redline boundary. The site referred to as 'Little Auburn' also forms part of the application site and existing house (circa 1960's) with associated outbuildings / structures.

12.4.4. The applicant has submitted an Architectural Assessment / Conservation Report, The Historic Landscape at Auburn House report and The Walled Garden Walls and corner Bastions with the planning application describing the history and condition of the Protected Structure, its associated structures and grounds. The house was constructed in circa 1779 and consists of a 5 bay three storey (including an attic storey) over basement dwelling, with later single storey ballroom wing with rear stableyard. A separate walled garden with ancillary structures previously converted to residential use, are also located within the grounds. The estate retains the same entrance position as indicated on the 1907 and 1829-42 survey.

12.4.5. I note the specific references to the protection and enhancement of the historic and natural setting of Auburn House in objective MALAHIDE 11 of the Fingal County Development Plan relating to the Streamstown Masterplan. Particularly the references to preserving the tree lined approach to Malahide along the Dublin Road and retention of visual corridors to/from Auburn House through the establishment of a visual buffer to the east of Auburn House.

12.4.6. The proposed development includes the retention of Auburn House, the Protected Structure, as a single dwelling. This is a beneficial and welcome feature of the proposal, and any refurbishment works to the house would need to be undertaken in line with good conservation practice. This is confirmed in the submitted Architectural Assessment / Conservation Report with the application. Works are proposed within the wider area of the site and include alterations and demolition of structures, including existing house / structures for 'Little Auburn'. The existing structures identified for demolition are not of particular historical value and their removal would not negatively impact the setting of the Protected Structure. For the purposes of my assessment, it is clear that the entrance, stableyard, stableyard buildings and walled garden can all be considered to be within the curtilage of the Protected Structure, and therefore are afforded special consideration and protection. Therefore, works to these curtilage features require detailed assessment to determine any overriding impact upon the special features of the Protected Structure, and I describe this in more detail below.

- 12.4.7. In addition to consideration of curtilage features, it is also necessary to consider both the setting of the Protected Structure, and how it is appreciated visually. The Architectural Heritage Protection Guidelines for Planning Authorities provide guidance on determining the attendant grounds of a Protected Structure (para.13.2). Attendant grounds are described as *'lands outside the curtilage of the structure but which are associated with the structure and are intrinsic to its function, setting and/or appreciation.'* Therefore, works or construction of new buildings / features within the attendant grounds, also requires special consideration.
- 12.4.8. Having visited the site, it is apparent to me that not only the Protected Structure, but it's associated grounds, are intact and the site has a special heritage character which would not be easily replicated or represented commonly on other sites. This special character is not confined to the fine appearance to Auburn House itself, alongside its curtilage features, but because of the completeness of the grounds within which it is located. The entrance avenue leading to Auburn House retains its historical charm and signals the grandeur that awaits beyond. To the front of Auburn House are stone steps and piers leading down to a water fountain (now disused) and open areas beyond. The open character to the front (east) of the house, where lands are now used for grazing animals, allows appreciation of the large and imposing presence of Auburn House, set in front of dense woodland area. The overall effect is impressive and not readily replicated elsewhere. The site itself is not included in the NIAH, but I note the entrance to Malahide Castle Demesne opposite the subject site entrance, with the walls / gates / railings and Auburn Gate Lodge situated just inside, all recorded to be of regional importance, in addition I note the milestone further up Dublin Road / Malahide Road, also recorded to be of regional importance. The historical arrangement of Auburn House was to purposely orientate it towards the Malahide Castle Demesne.
- 12.4.9. I note that the applicant's submitted Architectural Assessment / Conservation Report concludes that in their existing condition, Auburn House, its curtilage structures and attendant grounds, has all its principal elements intact and largely well maintained, and deserves a rating of *'at least Regional Importance under any reasonable interpretation of the NIAH ratings criterion'* (my emphasis). The submitted Architectural Assessment / Conservation Report considers in detail the Protected Structure and curtilage features, however there is little recognition of the attendant

grounds to Auburn House, however this is carried out in more detail in the applicant's submitted The Historic Landscape at Auburn House report where mitigation measures are outlined.

12.4.10. In relation to structures situated in the curtilage of the Protected Structure, I will address the impact of the proposed development on each of these features in turn.

12.4.11. Firstly, in relation to the entrance, I note that the applicant's submitted Architectural Assessment / Conservation Report, states that the entrance gates, piers and flanking walls add to the totality of interest of the Protected Structure. These extant entrance features are to be retained, albeit as a cyclist and pedestrian route, with retained vehicle access to Auburn House and the houses to the south with fall outside of the redline boundary. A new vehicular entrance to the proposed development is intended to be created to the south and adjacent to the original entrance location. The submitted report does not discuss these proposed works or any resulting impact upon the Protected Structure and its curtilage features. The Historic Landscape at Auburn House report describes that the new entrance has been located where few trees are present, with a route to avoid the removal of trees. The visual relationship between the new entrance / route with the existing avenue route is not discussed. I also note that the avenue for the site currently exhibits a number of heritage type lights / lamps along the route. I am unclear of the age of these lamps, but certainly they add beneficially to the character of the avenue currently. The applicant's conservation reports and lighting plans do not identify these lamps and I'm unclear whether they would be retained or removed in the proposed development.

12.4.12. I note that extensive representation has been received from third parties and the Planning Authority in relation to the treatment of the entrance area, with concern regarding the extent of tree removal, position of vehicular entrance and pump station in this area. The new 'underground' pump station is situated approximately 31m from the front site boundary and over 55m from the original entrance. The Planning Authority have stated that the description of the pump station as being an 'underground' facility is misleading, as some features associated with the pump station will appear above ground.

12.4.13. I address the general approach to tree removal on the site separately in section 12.9 below, however it is clear that as there is an intrinsic relationship between the

woodland setting of Auburn House and its heritage value, and therefore I consider the interrelationship of heritage value and tree removal in this section of my report. I also note the specific references to the entrance and the preservation of trees in objectives in the Development Plan, and I have considered this as part of my assessment.

12.4.14. The woodland quality of the Auburn House grounds is clearly an important feature that has characterised the site historically, and a quality that continues to survive to date. The new entrance (prior to its intersection with the existing entrance road) results in the removal of approximately 13 category C trees (limited value), 2 category B trees (moderate quality) and several category U trees (no realistic sustainability). This would result in a significant change to the character of the entrance area in my view, with a reduced canopy cover and erosion into the woodland character that currently defines the character of the entrance area. While the category U trees are of poor quality with no realistic longevity of life, they currently contribute to a densification of the green and woodland quality in this location and therefore the removal of these trees would still be a loss in that sense. The removal of 2 category B trees is particularly disappointing, as they contribute particularly positively to the character of the entrance.

12.4.15. In addition to the negative impact that tree removal would have upon the heritage value of the entrance area, and therefore the curtilage of the Protected Structure, I also consider that the general positioning of the new entrance is problematic. In my opinion, the new vehicular entrance would detract from the significance of the original entrance. Its situation adjacent to the original entrance dilutes the prominence of the existing entrance features, which currently give an indication of the grandeur of Auburn House beyond.

12.4.16. Overall, I consider the new entrance a harmful addition to this important site, with resulting impacts upon features that contribute to the protected character of Auburn House. In my view, the new entrance as currently proposed is not the best solution for this site, and greater care, should in my view, be taken to minimise all tree removal along this important edge of the site. The applicant has not clearly explained why a new vehicular access is required and greater utilisation of the existing access is not possible, or indeed whether the access to the 'Little Auburn' lands could have been modified to serve the proposed development. In my view, greater utilisation of

the existing entrance (without extensive modification), or a modified access at the exiting vehicular access to the 'Little Auburn' lands, would perhaps have been a better solution for the site. Where this is not possible, an alternative solution should be pursued that is more sensitive to the woodland character of this edge to Dublin Road, ensuring that the original entrance retains a suitable level of visual significance.

12.4.17. In relation to the location of the pump station, this appears largely subterranean from the submitted documentation, however there is indication of minor elements at surface level associated with it. There are no visualisations of these elements and further clarification would be required to ensure an acceptable appearance. However, I am satisfied that the pump station would not be a negative feature here given the distance from the entrance and its largely underground positioning. In terms of the character of the avenue route and the existing lamps, confirmation should be provided by the applicant as to whether these elements will remain, as certainly they are a positive feature.

12.4.18. In relation to the stable yard and buildings, these are situated to the rear, and attached to, Auburn House. The stable buildings are proposed to be altered to facilitate the creation of 4 dwellings. The stable yard currently forms a courtyard to the rear of Auburn House, with the stable buildings located along two sides. There are no new openings proposed in the stable building elevations as they front onto the stable yard, with existing doors and windows utilised. A small number of new openings are proposed in the rear elevations and the removal of roof dormers and chimneys is also proposed. The applicant's submitted conservation report concludes that the overall impact resulting from these alterations is neutral. In my view, when considered in the context of the overall development, the alterations might be deemed minor, although I consider the alterations to roof features (i.e. dormer and chimney removal) to be more significant and potentially harmful to the heritage value of these structures. It also does not appear to me that these roof alterations are essential to the conversion of the stables to dwellings. However, I think the most problematic consideration is related more to the intended future use of Auburn House and the relationship it would have with these attached dwellings fronting onto the stableyard courtyard to the rear of the Protected Structure. I consider the future use

of Auburn House and this relationship with the stable buildings in further detail below from paragraph 12.4.21.

12.4.19. The final curtilage feature for consideration is the walled garden. Concerns have been raised by third parties in relation to the treatment of this area and specifically the situation of a new community building within the walled garden. The Planning Authority has not raised any objections to the proposed works to the walled garden. The applicant has submitted a report specifically related to The Walled Garden Walls and Corner Bastions. This describes the existing conditions of the walled garden and methods for its repair and preservation, which are in line with best conservation practice. The proposed development includes the repair of walls and tower structures within the walled garden, along with new landscaping and the construction of a 2 storey community building to the south end of the walled garden. The applicant's submitted conservation report concludes that the works should be considered a conservation gain, as they include the restoration and maintenance of structures in the garden. Impacts are considered in the report to be modest and manageable with new landscaping mitigating negative impacts from positioning of a building within the walled garden. The applicant's submitted The Historic Landscape at Auburn House report describes the intervention to the walled garden as a negative impact.

12.4.20. The existing condition of the walled garden is poor, and I think that there is a real proposition of the heritage value of this feature being undermined without restoration and repair. In this sense, the proposals can be considered beneficial, albeit it is a compromised solution to include the construction of a new building within the walled garden area. While it is a compromise in my view, the building will be relatively modest and form community gain, with increased use of the walled garden resulting which would also be beneficial in my opinion. Heritage features are also proposed for retention within the walled garden, including the pet gravestones that signal the history of the site. The new community building footprint would not significantly reduce the proportion of garden area, and the new landscaping works would enhance the attractiveness of the space. On balance, I consider that the proposed works to the walled garden would be acceptable because of these aforementioned beneficial impacts. I note that the Planning Authority has suggested that this proposed community building should be changed to a retail use, in my opinion, the location

would not lend itself to a retail use as it is hidden behind the walls. A community use is therefore more appropriate in my view.

12.4.21. Turning to consideration of the setting and attendant grounds to Auburn House, these are formed of the lands surrounding the Protected Structure and are formed of woodland area to the rear and side, with open space to the front of the house. The Planning Authority conservation officer confirms that Auburn House is considered to be of Regional Importance due to the rarity and quality of the building, and describes that *'it is set within a pastoral or picturesque landscape that has been specifically designed to appear natural through the planting of strategically placed trees and woodland...'* whilst some trees have been lost or replaced with less appropriate species *'...the principal elements and blocks of planting of the original landscape design, as depicted on historic early-19<sup>th</sup> century maps of Auburn House, survive to the present day and so there is a significance and value to the lands too.'* These features are intrinsic to the setting and appreciation of Auburn House, and therefore can be considered highly sensitive areas from a development perspective. I note that the conservation officer for the Planning Authority, raises significant concerns about the construction of new dwellings in these areas, with reference to the original orientation of Auburn House to align towards Malahide Castle Demesne. The Planning Authority also recommend a number of significant alterations to the development. I have considered this matter in detail as part of my assessment.

12.4.22. I have two principal areas of concern regarding the proposed works in what I view to be the setting and attendant grounds to Auburn House. Firstly, the locating of apartment block 7 within the southern end of the woodland setting to the house, and secondly the positioning of new self-contained houses with associated landscape screening, in the open space frontage area to the house. I also have related concerns regarding impacts upon the setting of Auburn House as a result of proposed apartment blocks 1, 2 and 3, which I address further in the design section of my report below. The Planning Authority recommend that in the event the Board determines to grant planning permission for the application, apartment block 7 be removed. The Planning Authority's conservation officer also recommends that a number of the proposed dwellinghouses be removed to preserve the original orientation of Auburn House to Malahide Castle Demesne, although the Chief Executive report does not adopt this as a recommended condition.

12.4.23. In my view, the positioning of apartment block 7 within the woodland setting of Auburn House is harmful to the appreciation of the Protected Structure and its established woodland setting. The proposed development relies heavily upon screening from trees, both existing and proposed, to reduce the negative visual impact upon the historic character of the site, however I do not think this is successful. The situation of an apartment block in the woodland setting to the Protected Structure will no doubt have negative visual implications, regardless of any potential screening that trees will offer. The integrity of the woodland setting to Auburn House would be negatively impacted because of this intrusion. In coming to this conclusion I am mindful of paragraph 13.7.4 of the Architectural Heritage Protection Guidelines, which state that:

*“Proposals which attempt to ‘conceal’ housing or other developments within existing woodlands should be carefully scrutinised. Woodlands were an important feature of historic designed landscapes and were used as a design element to sculpt and enclose landscapes and vistas..... The construction of new development within existing woodlands can damage their character and integrity and have an adverse impact on the character of a wider designed landscape and the setting of protected structures.”*

12.4.24. In relation to the proposed houses to the east / in front of Auburn House, these are situated in the open area to the front of the Protected Structure, and consequently represent a change to the open character of this setting. I note that the applicant’s submitted The Historic Landscape at Auburn House states in relation to this parkland setting to the east of the Protected Structure, that *“the character of the approach to the house along the drive is altered by the intervention of the southerly courtyard cluster and can be characterised as a negative impact.”* The report goes on to conclude that this should be viewed on balance, and in light of works in the proposed development to reinstate and preserve historic features on the site.

12.4.25. The proposed tree planting attempts to reduce the negative visual harm that results from these new dwellings upon the historic character of the site, however in my view, this does not successfully mitigate against the encroachment into the open space setting in front of Auburn House. I note that the need for a visual buffer to the east and in front of Auburn House is referenced in Objective MALAHIDE 11, and this is in recognition of the sensitivity of this location. The applicant has endeavoured to leave



an opening here, but this is not generous enough in my view, and I would concur with the Planning Authority's conservation officer in this regard, and this is also acknowledged in the applicant's report as a negative impact.

12.4.26. While there is opportunity for development in this zone, the degree of intrusion currently described in the submitted application is excessive in my view. This is apparent from Verified Views no.'s 28 and 37, which demonstrates the intrusion of both proposed buildings and associated landscape screening into the open frontage area to Auburn House. This alters the appreciation of the Protected Structure, as well as eroding the historical relationship to the Malahide Castle Demesne. I therefore agree with the Planning Authority's conservation officer that there is need to reduce the level of intrusion into this area.

12.4.27. I have given consideration to the alterations recommended by the Planning Authority and its conservation officer, noting that there does not appear to be agreement on the extent of alteration required. In my view, it would be difficult to determine the exact number of houses that require removal to reduce this negative visual impact and intrusion into the attendant grounds of the Protected Structure. It is clear that the courtyard house groups, 50-57, 58-63 and 64-69 require amendment, alongside the terrace and semi-detached houses at 35-49. However, the extent of alteration required is more difficult to identify. The conservation officer recommends removal of units 48-59, 58-60, 61-66, and a reduction in units 50-57, however having reviewed the plans I am unclear whether this adequately addresses the matter and whether the quoted unit numbers are accurate. In any case, the degree of alteration requires proper consideration in my view, to ensure that an adequate layout is achieved that would no longer encroach into the open setting of Auburn House. This would need to be tested through the production of views and other illustrations. I have therefore decided not to recommend that the application be altered by condition in this regard, and I consider the negative impacts on a whole resulting in this application, to be too significant to be appropriately amend by way of condition. This is particularly in light of the heritage value of the site, agreed to be of at least Regional Importance by both the applicant and by the Planning Authority's conservation officer.

12.4.28. In relation to Auburn House itself, I have already described that it will be retained as a single dwelling and without alteration, which is a beneficial aspect of the proposed development. However, questions remain regarding the future use of the property

and the practicality of the proposals in relation to this. Concerns are raised by third parties and the Planning Authority in relation to the extent of grounds to be retained in ownership of the Protected Structure and the exterior storage provided as part of the house. This is not a matter considered in detail as part of the applicant's submitted report.

12.4.29. The submitted application drawings include an ownership plan, defining those areas proposed to be retained in private ownership and areas that would be the responsibility of the management company. This logically identifies the proposed self-contained dwellinghouses and associated private garden areas as being privately owned. The area immediately surrounding Auburn House and the stable buildings is also shown as privately owned. This ownership boundary excludes the majority of the woodland area, the walled garden and the open space to the front of the Protected Structure. These areas are intended to form the public open space areas for the development.

12.4.30. The question of land ownership is not generally a material consideration in the assessment of planning applications. The disposal of these areas to different landownership would not require planning approval and therefore are not for consideration in that sense. However, in this case, there are clearly corresponding considerations between the proposals for Auburn House and the practicality of proposals for its associated grounds, which relate to the future use, and therefore long term protection of the house. It is described in the application submission that Auburn House will remain in single ownership and that this ownership will extend to the stable buildings, with the stable buildings being occupied by staff, family or used as an income by the occupier of Auburn House. In my view, there are a number of practical problems with this proposition.

12.4.31. The area identified as falling within the ownership of Auburn House does not comprise a landholding comparable to the significance of the house. It is also possible that the 4 attached stable block dwellings could be disposed of to separate landowners, if this was not prevented in some way, perhaps by condition. I also note the Planning Authority queries regarding the lack of provision of suitable exterior storage for ground maintenance equipment etc. however this could be resolved by condition. In my view, without a clear understanding of the future use of Auburn House, pressure could result in future to significantly alter the property to facilitate a

more viable use, and directly as a consequence of the altered characteristics of the site following this proposed development. Therefore, in my view, it is important that any decisions around the proposals for this site are cognisant of the sustainability and viability of the proposals for Auburn House. In my opinion, the intended use of the house as a single dwelling does not appear realistic on the basis of the submitted details.

12.4.32. Overall, I consider there to be a number of fundamental flaws in the proposed works resulting in negative impacts upon the Protected Structure. These negative impacts are also recognised in the applicant's submitted report and are not appropriate mitigated or justified in my view. As such, in my opinion the proposed development is incompatible with objectives CH20, CH21 and CH22 of the Fingal Development Plan 2017-2023 relating to the sensitive / sympathetic design approach and protection of integrity to Protected Structures and their settings / features of significance. As well as The Architectural Heritage Protection Guidelines for Planning Authorities and specifically Chapter 13 of those guidelines as they relate to development within the curtilage and attendant grounds of a Protected Structure, including (but not limited to) development within historic woodlands.

#### 12.4.33. Height, Scale, Mass and Design

12.4.34. Concerns have been raised regarding the height, scale, mass and design of the proposed development in many of the representations received. Concerns centralise around the scale of the development in context of the established built environment. Concern is also raised regarding the impact upon Auburn House a Protected Structure and the Planning Authority have recommended amendments in this regard.

12.4.35. The 'Urban Development and Building Heights Guidelines for Planning Authorities' (the Building Height Guidelines) provides clear criteria to be applied when assessing applications for increased height. The guidelines describe the need to move away from blanket height restrictions and that within appropriate locations, increased height will be acceptable even where established heights in the area are lower in comparison. In this regard, SPPRs and the Development Management Criteria under section 3.2 of these section 28 guidelines have informed my assessment of the application. This is alongside consideration of other relevant national and local planning policy standards. Including national policy in Project Ireland 2040 National

Planning Framework, and particularly objective 13 concerning performance criteria for building height, and objective 35 concerning increased residential density in settlements.

12.4.36. I note that the Planning Authority considers the site to be a sensitive environment as referenced in the Building Height Guidelines, and therefore suggest that the height specifications under the Fingal Development Plan should be followed. The Building Height Guidelines state in paragraph 2.8 that:

*“Historic environments can be sensitive to large scale and tall buildings. In that context, Planning Authorities must determine if increased height buildings are an appropriate typology or not in particular settings. An Initial assessment of the existing character and setting of a place will assist in a robust framework for decision-making that will facilitate increases in building height and involve an integrated understanding of place. With regards to large-scale and tall buildings in historic urban areas, an examination of the existing character of a place can assist planning authorities, and others to:*

- establish the sensitivities of a place and its capacity for development or change and;*
- define opportunities for new development and inform its design.*

*In order to consider proposals in an integrated and informed way, an urban design statement addressing aspects of impact on the historic built environment should be submitted along with a specific design statement on the individual insertion or proposal from an architectural perspective addressing those items outlined above.... Planning Authorities are the primary consent authority in establishing if proposals align with best practice in this area and which design standards are to be used in certain circumstances.”*

12.4.37. The application is accompanied by an Architectural Assessment / Conservation Report and Design Statement, as well as a The Historic Landscape Report and The Walled Garden Walls and Corner Bastions report. My assessment includes focused consideration of the sensitivities of the site and potential impact upon its historic character. As a result, I am satisfied that the Building Height Guidelines are satisfied in this regard, and I am able to continue with an application of the criteria under SPPR 3 and 3.2 as part of my assessment.

12.4.38. SPPR 3 states that where a planning authority is satisfied that a development complies with the criteria under section 3.2 then a development may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise. In this case, Objective 11 MALAHIDE of the County Development Plan indicates that the development area to the north of Auburn House is considered a sensitive zone where a maximum height of 6m is specified. The proposed development has a maximum height of approximately 20.1m (6 storeys), although this may increase by more than a metre in some areas as a result of level changes across the site. I address the material contravention of the development plan in section 12.8 below and I will provide further assessment against the criteria in section 3.2 of the Height Guidelines here.

12.4.39. The first criterion of SPPR 3 relates to the accessibility of the site by public transport and related to this, and I also note that SPPR 1 of the Height Guidelines state that it is Government policy to support increased building height in locations with good public transport accessibility. The applicant describes the site as having excellent public transport connectivity.

12.4.40. The subject site is approximately a 10 minute cycle to Malahide Rail Station, but public transport connections should primarily be viewed in terms of walking distance. The Rail Station is close to a 30 minute walk from the site and this cannot reasonably be described as an excellent connection in my view. I also note that there is only a narrow pedestrian footpath and no cycle lanes on the Dublin Road. There is a Dublin Bus Stop immediately adjacent to the site on the Dublin Road. This serves the no.42 route which has a stated frequency of every 15-30 minutes in the applicants' documents. During daytime hours, there is pedestrian access to the train station and amenities in the centre of Malahide through the Malahide Castle Demise. However, as this route is closed during evening times, and particularly early in winter times given shorter daylight hours, it cannot be relied upon as a primary connection from the site. Therefore, the accessibility of the site hinges on its proximity to the no.42 Dublin Bus route. As an inner-city service with a frequency of 15-30 minutes, this would be sufficient to satisfy both SPPR 1 and the criteria under SPPR 3 in my view.

12.4.41. The second criterion relates to the character of the area in which the development is located. The area surrounding the subject site is characterised by one off and groups of low rise housing, one and two storey in height. A group of houses are also situated

to the south west of Auburn House, but outside of the ownership and red line boundary extent. They are accessed from the original entrance to the site and would continue to be accessed in this way. Clairville Lodge is a more modern housing estate situated to the south of the site. Houses on Abington are formed of a range of architectural styles, situated to the north, west and east of the site.

12.4.42. The proposed development comprises new 1-2 storey houses, 2-3 storey duplex blocks and 4-6 storey apartment blocks. The location of blocks has been informed by the relationship to adjacent buildings, with lower-rise elements located closer to boundaries and the taller apartment blocks set in away from boundary edges. This reduces the impact that the increased height on the site would have on these lower rise existing adjacent areas.

12.4.43. I note third party concerns regarding the size of rear garden areas to the proposed dwellinghouses in certain locations, and that this is insufficient to create suitable separation to existing properties. I also note assertions that the redline boundary of the application is not reflective of the correct landownership extents and this would further reduce the size of gardens and associated proximity to existing residents.

12.4.44. In relation to the proximity of proposed houses to existing dwellings, this is not harmful in my view and is reflective of established suburban housing layouts. The proposed buildings are generally 2 storey, with some 3 storey elements where the site adjoins Abington to the east. These heights will not result in significant negative visual impact upon existing properties in my view. I also consider the heights of proposed apartment and duplex blocks, to be sufficiently distant from existing properties, limit negative visual impact upon those residents. There will be a change in character, but this is a site zoned for residential development and therefore a change in visual character would be inevitable following any efficient development of the site. In relation to landownership extents, I note the letter submitted concerning establishing correct boundary extents, but this does not provide any legal challenge to the redline boundary submitted by the applicant. As a result, I have no evidence that the boundary submitted by the applicant is incorrect.

12.4.45. In terms of the relationship of the proposed blocks to the Protected Structure, concerns have been highlighted by the Planning Authority, with a reduction in height by a storey to blocks 1-5 and the omission of block 7 recommended. I have already

described in the section above relating to heritage considerations, why I agree that block 7 is unacceptable. Blocks 4-5 are situated close to the entrance area but would not have a negative impact on the character here in my view, as they are situated a significant distance away from the entrance area (over 40m). The heights of these blocks, would in my opinion, be appropriate given the distance from the Protected Structure and tree screening along Malahide Road / Dublin Road, as well as along the avenue. Similarly, block 6 is located in a less sensitive part of the site in my view. In my opinion, apartment blocks 1-3 are the most sensitive in terms of relationship to the Protected Structure.

12.4.46. As I have previously described, the proposed development is heavily reliant upon the screening from trees to mitigate harmful visual impact, and this is the case in terms of the relationship between proposed apartment blocks 1-3 and Auburn House. To the south and closest to Auburn House, apartment blocks 1 and 3 are 4-5 storeys in height, while apartment block 2 is 5-6 storeys in height. The applicant's CGI's and Verified Views do not include comprehensive visual representations of what the impact would be from blocks 1-3 upon the setting of Auburn House. There is no view provided in the direction of apartment blocks 1-3. View no.36 essentially suggests that the blocks will not be visible, however the angle of the view is not directly towards the proposed blocks. View no.37 shows that the blocks will be perceived in the setting of the Protected Structure, albeit with some screening provided by the trees. In my opinion, insufficient visualisation is provided to clearly demonstrate how the blocks will appear in the setting and views of Auburn House. As a result, I consider it likely that apartment blocks 1-3 will be a prominent feature in the setting of the Protected Structure, with consequential negative visual impact. I therefore agree with the Planning Authority that a reduction in height should be required to apartment blocks 1-3. I have considered whether this matter could be dealt with by condition, however with the lack of visualisations and in light of the wider issues with this application, I have decided not to seek amendments in this way.

12.4.47. The Architectural Heritage Protection Guidelines state in paragraph 13.7.2 in relation to works within attendant grounds to a Protected Structure, that consideration is required even where a proposed development is at a distance from a Protected Structure, that if it is tall or bulky, it could still interrupt views of, or from, the protected structure and other features of designed landscape. In my view, the proposed

apartment blocks 1, 2 and 3 would disrupt the integrity of the woodland setting to the north of the Protected Structure. I also consider that the self-contained dwelling houses proposed to the east of Auburn House will amplify this negative impact, exacerbating the extent of built intrusion upon the setting of Auburn House and its attendant grounds.

12.4.48. Overall, it is apparent that there are some locations within the site that are more sensitive to development than other areas, specifically as a result of the relationship to the Protected Structure and its attendant grounds. Those areas directly north and east of the site have a direct and visual relationship to Auburn House, as well as forming the attendant grounds from which the Protected Structure is appreciated. Areas to the north west and south west can be considered less sensitive. I also consider that the area south east of the site over the 'Little Auburn' lands is also less sensitive, where sufficient distance and screening is preserved between proposed blocks and the original entrance / avenue route. In my opinion, the applicant has not maximised the development potential and efficiency of land in areas that are less proximate to the Protected Structure. As a result, the proposed development has situated the highest proposed blocks in the setting of the Protected Structure, without sufficient visualisation to describe what the impact would be. In addition, the proposed development includes low rise housing forms that intrude into the attendant grounds of the Protected Structure. One solution could be a decrease in density in these more sensitive areas, counteracted by a slight increase in density in the less sensitive development zones on the site.

12.4.49. In terms of an assessment of the contribution of the proposed development to the urban neighbourhood (a 3.2 criterion), I note viewpoints 3 and 4, which demonstrate the extensive visibility of the proposed development from Clairville Lodge. This visibility is not harmful in my view. The impact is consistent with an extension of the development area of Malahide, within which this site is zoned. In fact, in my opinion, it is clear from View 2 and View 5 (as well as my visit to the site and Clairville Lodge) that the visual impact overall will be modest on the Clairville Lodge estate, and perhaps greater scope exists to maximise the development efficiency of this part of the site and reduce intrusion into the Protected Structures attendant grounds. Similarly, I consider that Views 8, 9 and 11 demonstrate the minor visibility of the proposed development when appreciated from the Abington areas. Whilst I



appreciate that the applicant has taken care to reduce visual impact upon existing residents in the area, this has been to the detriment to the setting of the Protected Structure in my view. Development of this site will of course result in an alteration to the visual physical environment for existing residents, but this is consistent with the need to efficiently develop an existing underutilised site for residential use in accordance with its zoning under the Development Plan. However, development should not be to the detriment of a historically significant site of Regional Importance. The proposed development as currently detailed, would have significant and harmful visual impacts upon the Protected Structure, and therefore is not the right solution for the site in my view.

12.4.50. I note the reference under Objective MALAHIDE 11 to ensure pedestrian connectivity between Auburn House Avenue and Abington/Gaybrook/Castleheath. Legibility is also required to be considered as part of the application of the 3.2 criteria. There are 2 vehicle accesses into the site from the south and west, and pedestrian / cycle access / egress would also be from these points. Cycle and pedestrian access will also be possible from the existing entrance and avenue route, albeit shared with vehicles associated with Auburn House and the houses to the south outside of the redline boundary. There is no through routes connecting to the neighbouring areas north or east of the site, however the applicant shows the potential for a number of future connections in these locations. This would appear to be a missed opportunity in my view, and I note that a number of representations, including that from An Taisce, pick up on this point. The Planning Authority also describe connectivity in the proposed development to be weak, as well as highlighting a number of detailed concerns with routes within the proposed development site. In my opinion, the proposed development should have sought to maximise connectivity to the surrounding area more, and in the least, connected to Abington to the north west of the site. If this is not possible due to constraints, such as private landownership, greater explanation should have been provided in this regard. Subsequently, I cannot describe the development as integrating with the wider area or making a positive contribution to the improvement of legibility, as required in the Building Height Guidelines.

12.4.51. In terms of the detailed appearance of the blocks (3.2 criteria including avoidance of uninterrupted walls, contribution to space and materials), the design incorporates

variation in height to create visual interest. Materials and finishes are also described in a submitted report. A consistent material palette is proposed to the apartment blocks, formed of a predominately brick, with slight variations on an ochre / earthy yellow palette to compliment Auburn House. Projecting balconies also feature to the apartment blocks, with powder coated steel railings. A green wall is proposed to block 7, however this does not successfully mitigate the negative visual impact the block would have on the setting of Auburn House in my view and would require a long time to establish, as well as extensive maintenance to ensure success. Upper floors to the apartment blocks are set back and proposed to be finished in reflective, profiled metal cladding, to reduce the visual prominence of the height to these blocks. These measures are not successful in my view and a more consistent finish, albeit at a reduced height, and using high quality materials throughout the elevation of the blocks would be a more convincing design finish.

12.4.52. The proposed development will provide increased diversification of housing typology in the area which is currently predominately self-contained dwelling houses. The incorporation of apartments and duplexes on the site will therefore be a positive contribution to the mix of typologies in the area (a 3.2 criterion). Lastly, the section 3.2 criteria under the Building Height Guidelines refers to considerations on daylight and overshadowing. In relation to Building Research Establishments (BRE) criteria for daylight, sunlight and overshadowing, I discuss this in detail below in sections 12.5 and 12.6 of this report. The submission of specific assessments is also referenced in the guidelines and reports sufficient to assess a development of the scale proposed have been submitted. I have noted reports throughout my assessment, including the landscape and visual impact assessment, CGIs, bat and badger assessment, conservation report, EIAR and NIS.

12.4.53. Overall, and following the above discussion, I do not consider that the criteria under 3.2 of the Building Height Guidelines has been satisfied, due to the harmful visual impacts upon the setting of the Protected Structure that would result from the proposed development.

## 12.5. Neighbouring Residential Amenity

12.5.1. The representations received raise a number of concerns relating to the potential impact of the proposed development upon surrounding residential amenity,

particularly for the neighbouring areas around Clairville Lodge and Abington, and I address potential impacts in detail below.

#### 12.5.2. Daylight and Sunlight

12.5.3. I note that the criteria under section 3.2 of the Building Height Guidelines include reference to minimising overshadowing and loss of light. The Building Height Guidelines refer to the Building Research Establishments (BRE) 'Site Layout Planning for Daylight and Sunlight – A guide to good practice' and ask that '*appropriate and reasonable regard*' is had to the BRE guidelines. I also note reference to British Standard (BS) 8206-2:2008 'Lighting for buildings - Code of practice for daylighting', which has subsequently been withdrawn and replaced by BS EN 17031:2018 'Daylight in buildings'. These standards have therefore informed my assessment of potential daylight and sunlight impact as a result of the proposed development. However, it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria.

12.5.4. In relation to existing properties, the BRE guidelines recommend that a proposed development does not reduce daylight levels to a VSC (vertical sky component) to less than 27%, or where this is the case, not more than 0.8 times its former value.

12.5.5. A Daylight and Sunlight Report has been submitted with the application. This describes the performance of the development against BRE criteria (The Building Research Establishment guidelines on Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice). The report states that as all the apartment buildings on the site are a considerable distance from the site boundary and from the neighbouring properties, there will be no impact on the access to daylight of any of the neighbouring properties.

12.5.6. The BRE guidelines state that in relation to daylight to existing buildings:

*"Loss of light to existing windows need not be analysed if the distance of each part of the new development from the existing window is three or more times its height above the centre of the existing window. In these cases the loss of light will be small..."* (para. 2.2.4)

12.5.7. The guidelines also state that if the angle from the horizontal between the mid pane of a window of the existing dwelling and the highest point of the new structure is less

than 25 degrees, there would be no discernible impact on the daylight levels to the existing window.

- 12.5.8. The applicant has provided distances from surrounding existing properties to the apartment blocks in the proposed development, which would all meet the criteria as set out in the BRE guidelines and quoted above. However, there has been no consideration of the proposed dwelling houses and duplex blocks which are up to 3 storeys in height in some areas. In my opinion, there are a couple of areas that warrant further evidence to determine firstly whether the above criteria is satisfied, which I think is questionable, and secondly what the impact would be. Specifically in relation to the relationship between proposed duplex blocks 1 and 2C with existing properties, as well as those proposed houses closest to the boundaries with Clairville Lodge.
- 12.5.9. On the basis of my experience working with the BRE guidelines, I do not consider it likely that daylight impact upon surrounding properties would be significant or so harmful as to warrant a refusal of the development. I also note that the numerical targets set out in the BRE guidelines should be applied flexibly, as confirmed in paragraph 1.6. However, in the absence of proper consideration of the impact on the existing properties, I am unable to provide a complete assessment. Therefore, while I am not suggesting that the potential impact of the proposed development upon existing daylight levels would necessarily be unacceptable, the application as currently submitted has failed to give proper consideration of daylight impact in my opinion.
- 12.5.10. In relation to overshadowing of amenity areas, BRE target value is that over 2 hours of sunlight is achieved over a minimum of 50% of existing amenity areas on the 21<sup>st</sup> March. The applicant's submitted report has only considered amenity areas within the proposed development in relation to overshadowing. As a result, I have no evidence of what impacts would be upon existing residential gardens from the proposed development. However, based upon my professional experience I can provide an overview of expected impacts in my opinion. For the most part, the proposed development situates rear garden areas for the proposed houses closest to boundaries with existing properties, and it is unlikely in my view that significant overshadowing would result. The proposed development is also situated to the north of Clairville Lodge and therefore would not unduly overshadow the rear garden areas

associated with those properties. The closest property to duplex block 2C is set in large grounds and would also be unlikely to be negatively impacted in my view. To the north, properties on Abington are situated with their rear gardens adjoining the site. The proposed development is situated to the south of these existing properties and therefore will cast a shadow in their direction, however as the proposed heights for the development are low in this location and the gardens for existing properties are very large, I fully expect BRE recommendations would be satisfied. Overall, I am content that any overshadowing from the proposed development upon existing amenity areas, would be within an acceptable range. Albeit, no evidence has been submitted by the application to demonstrate this.

#### 12.5.11. Overlooking (Privacy)

12.5.12. My assessment of the potential for overlooking of adjacent areas considers the location of windows, balconies and terrace areas within the proposed development, to habitable room windows in surrounding residential dwellings. Objections have been received from residents in properties adjoining the boundaries to the site. Objections include concern regarding overlooking of private garden areas, which I have also given consideration of.

12.5.13. Objective DMS28 of the Fingal Development Plan requires a minimum separation distance of 22m between directly opposing rear first floor windows, with distances to be increased in developments over 3 storeys. I also note that the Development Plan references a general rear garden depth of 11m expected to result from compliance with the required 22m separation distance, however this does not form an objective of the plan. I note that the Planning Authority highlights concern regarding the representation of Clairville Lodge properties in the proposed site layout plan, however from my review of the plans and visit to Clairville Lodge, I consider that the submitted plan to be sufficient.

12.5.14. The proposed development generally complies with this minimum separation distance, with the exception of the following relationships: two adjacencies to properties in Clairville Lodge; the adjacency between proposed units 83 and 71/72 with two properties off Carey's Lane / Auburn Grove; and an adjacency to no.1 Abington. These adjacencies appear to be from the rear of proposed dwelling houses to the side elevation of existing properties. However, the applicant has not provided

analysis of this or an explanation of window layout, so it is unclear whether direct opposing relationships result. From my visit to the site, all of the existing properties referenced above, did not appear to have rear or habitable rooms served by first floor windows at these points noted to be less than 22m to proposed blocks. However, in my opinion, the applicant should ideally have demonstrated compliance with Objective DMS28 through analysis of window locations at these points.

12.5.15. I also note that the proposed community building is situated 8m away from the side of a property in Clairville Lodge, however there are no windows at first floor level within the rear of the proposed community building and therefore no overlooking would result. In relation to garden depth, there are a number of proposed houses that do not have a minimum garden depth of 11m, and therefore the achievement of separation is reliant on the adjacent existing garden space exhibited to properties. However, I do not consider these adjacencies to be detrimental to the privacy of existing occupiers in the area with the proposed gardens reflecting established suburban housing layouts.

12.5.16. I note a submission from no.1 Abington, which contests the applicants stated separation distance to their property of 22.4m, stating that it is closer to 17.6m-18.6m. I concur with this representation that the closest adjacency of the proposed development to the rear of no.1 Abington is less than the 22m annotated on the submitted drawings. However, the applicant has not provided any analysis of this adjacency with an explanation of window location. It is clear that the building line for no.1 Abington is on a slight angle as it faces the subject site, and therefore any potential overlooking would be on an oblique angle.

12.5.17. I note objections received in third party responses, that the loss of trees will reduce screening at boundary edges. I address the proposals with respect to trees specifically in section 12.9 below, but with respect to shared boundaries with existing properties, I do not perceive there to be specific harm in terms of tree loss and associated screening. The proposals incorporate tree planting along these edges and the overall visual impact will be consistent with the extension of the development area for Malahide into the site, which is in accordance with the zoning for the site.

12.5.18. Overall, I am content that the separation distances to existing properties to the proposed development are acceptable and would not result in undue overlooking.

#### 12.5.19. Noise and Anti-Social Behaviour

12.5.20. I note third party concern regarding the proposed community building, and potential noise and general disturbance associated with the use of that building. In addition, concerns are raised regarding anti-social behaviour in general on the site as a result of the public spaces proposed. Overall, while I accept that the proposed development will alter the existing quiet nature of the site, with increased footfall and population in the area and on the site, I do not consider this to be a negative consequence of the development and there is nothing inherent in the proposed design that would attract anti-social behaviour in my view. In general, instances of anti-social behaviour are matters for the Gardai to address. I consider the provision of the community building and new public open space to be beneficial elements of the proposed development for both existing and future occupiers of the area.

#### 12.5.21. Lighting

12.5.22. A public lighting report and external lighting plans have been submitted with the application, these describe the location and luminance level of exterior lighting to be included as part of the development. Luminance levels are appropriate for a residential area. I am satisfied that there will be no disturbance to adjacent lands from lighting at the proposed development. Consideration of biodiversity impact from the proposed development, including lighting, is set out in section 14 of this report below and my EIA for the application.

#### 12.5.23. Construction

12.5.24. Representations have been received regarding the potential for noise, dust, traffic disruption and damage to roadways as a result of construction works on the site. The existing property located opposite the Carey's Lane entrance to the site raises specific concerns as a result of their proximity to the works. A Preliminary Construction Environmental Management Plan has been submitted with the application. Measures for the management of noise and suppression of dust are described. Vehicle site access and traffic management is also addressed. A condition could secure these arrangements with the submission of a final construction management plan for approval. With the application of such mitigation measures, I would have no concerns regarding construction impacts (or construction transport impacts) resulting from the proposed development.

## 12.6. Proposed Residential Standards

12.6.1. I note third party concerns that there are insufficient amenities within the proposed development for residents. In this section of my report, I address the range of applicable standards guiding an appraisal of the quality of proposed accommodation.

### 12.6.2. Daylight, Sunlight and Overshadowing

12.6.3. I note that the criteria under section 3.2 of the Building Height Guidelines include the performance of the development in relation to daylight in accordance with BRE criteria, with measures to be taken to reduce overshadowing in the development. However, it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria. I also note that the Fingal Development Plan includes Objective DMS30 'Ensure all new residential units comply with the recommendations of Site Layout Planning for Daylight and Sunlight: A Good Practice Guide (B.R.209, 2011) and B.S. 8206 Lighting for Buildings, Part 2 2008: Code of Practice for Daylighting or other updated relevant documents.'

12.6.4. A Daylight and Sunlight Report has been submitted with the application and describes the performance of the development against BRE guidelines in relation to daylight and sunlight. The analysis is for selected rooms in the development that are considered to be the rooms representative of the 'worst case scenario' for access to daylight, due to their orientation and the presence of obstructions. BRE guidelines describe ADF targets of 2% for kitchens, 1.5% to living rooms and 1% to bedrooms. In the proposed development kitchens form part of living areas and the applicant has applied an ADF of 1.5% to these areas. However, I note that BS 17037:2018 identifies that where kitchen and living areas are combined, the default ADF value to be applied should be 2%.

12.6.5. In the proposed development, open plan kitchen, living and dining spaces are included within the proposed apartment and duplex units. I acknowledge that within urban development schemes, particularly in Dublin City, a reduced target of 1.5% ADF to these open plan kitchen/living spaces has been accepted by the Board in the past; however, the characteristics of this site are not comparable to an urban city location, and therefore similar constraints do not apply. As such, there is no reason in my view why a 2% ADF value should not have been target for the proposed development on this site. I also note that the applicant's daylight and sunlight



assessment makes no reference to the 2% ADF target being the correct value to be applied, defaulting straight to a 1.5% value without explanation, and this is misleading in my view.

12.6.6. As the applicant has failed to acknowledge the 2% ADF minimum value to be applied, the results do not reflect accurately against BRE criteria. The applicant's report states that 100% of units meet their applied target of 1.5% ADF to living spaces, however it is not clear what the proportion of units would be with the correct 2% ADF target applied. I am not able to ascertain this on the bases of the results presented, as only a selection of 'worst case scenario' rooms have been tested and included in the report. From the results provided, at least 7 open plan kitchen, dining and living rooms would not meet the 2% ADF minimum. This margin of failure is not significant and does not fall below 1.65% in the results presented. However, as previously stated, and because only results to a selection of units are provided, I cannot be certain how this margin of failure would be reflected across the scheme in its entirety. With respect to bedrooms, these all meet the minimum 1% ADF target in the results presented.

12.6.7. In assessing this matter, I am mindful that the BRE guidelines state in paragraph 1.6 that:

12.6.8. *"Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design."*

12.6.9. From the information presented, I consider it likely that the proposed development would have daylight conditions within an acceptable range, with application of a 2% ADF target for open plan kitchen / livingrooms. However, as I have highlighted above, I consider that the submitted daylight and sunlight report has failed to provide a comprehensive analysis of the development in accordance with the correct criteria under the BRE guidelines.

12.6.10. In relation to sunlight, the applicant has provided overshadowing analysis of amenity areas within the proposed development only. BRE guidelines recommend that at least 50% of an amenity area should receive at least 2 hours of sunlight on the 21<sup>st</sup> March. The submitted analysis demonstrates that the proposed development will comply with BRE criteria relating to overshadowing of proposed amenity areas.

12.6.11. In relation to sunlight to windows, the BRE guidelines refer to a test of Annual Probable Sunlight Hours (APSH) to windows. The submitted assessment does not provide analysis in this regard; however, I note that the Building Height Guidelines do not explicitly refer to sunlight in proposed accommodation. The Building Height Guidelines state in criteria 3.2 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'*. Therefore, while daylight and overshadowing are explicitly referenced, there is no specific reference to sunlight, and reference is only to daylight, overshadowing or more generally 'light'.

12.6.12. However, objective DMS30 of the Development Plan refers to the application of BRE criteria in general, and therefore analysis of sunlight should therefore have been provided as part of the application.

12.6.13. This flaw is part of a cumulative failure in the submitted daylight report to correctly apply BRE methodology in the assessment of the proposed development. While I do not necessarily consider that the proposed development is likely to experience unacceptable levels of daylight or sunlight, sufficient and correct analysis has not been provided to demonstrate this. As such, I recommend that the application be refused on this basis, due to the lack of a comprehensive assessment of daylight, sunlight and overshadowing impacts contrary to Objective DMS30 of the Development Plan and the criteria under 3.2 in the Building Height Guidelines.

#### 12.6.14. Dual Aspect

12.6.15. The Apartment Guidelines state that in peripheral and/or less accessible urban locations, at least 50% of units should be dual aspect. These types of location are defined in light of their public transport accessibility and walking distance to surrounding centres. I have described in section 12.3 of my report why I consider the subject site to be a peripheral and/or less accessible urban location. Therefore, a minimum 50% for dual aspect units applies.

12.6.16. The proposed development provides a for 53% dual aspect units across the apartment and duplex units in the scheme and therefore satisfies this requirement.

#### 12.6.17. Private Amenity Space

- 12.6.18. All units within the proposed development have access to private amenity space in the form of a balcony, terrace or private garden and all these amenity spaces meet minimum space standards described in the apartment guidelines, or Fingal Development Plan 2017-2022 with respect to housing units.
- 12.6.19. I note third party representations that some of the proposed dwellinghouses do not comply with minimum requirements for private garden space. I have acknowledged above (in relation to separation distances to existing properties) that there are a number of houses with a rear garden depth less than 11m, however this depth is not an objective under the Development Plan and I have undertaken a qualitative assessment of the proposed garden spaces. The applicant acknowledges that in relation to quantitative requirements, house types A, A1, A2, A3, A4, A5 and A6 fall below minimum private open space standards described in the Development Plan (being Objective DMS87 and 60sqm to 3 beds or less and 75sqm to 4 beds or more). However, this is as a result of attempts to reduce impact upon the Protected Structure, and these proposed units still comply with Objective DMS88 which allows for a reduced standard of private open space for 1 and 2 bedroom townhouses in certain circumstances. I note that the Planning Authority has not raised any concern regarding this matter and I am satisfied that adequate private amenity is provided to all proposed units in the development.
- 12.6.20. In relation to Auburn House, I have outlined in section 12.4 above, my concerns relating to the future amenity associated with occupation of this house. I also note that the ground floor plan submitted notes a rear garden of 49sqm to Auburn House. Additional space to the front and within the woodland area is also highlighted to be in the ownership of Auburn House, but would not form a private amenity area, as these areas directly adjoining public open space, with minimal boundary treatment. Garden areas are shown to the rear of the converted stable yard houses, but these are divided and attached to each house, and would not form provision for Auburn House in my view. Therefore, it is not clear to me that the standards for external private amenity under the Development Plan have been complied with in relation to provision for Auburn House, and this forms part of matters previously highlighted in section 12.4 above relating to the proposals for Auburn House.

12.6.21. Communal and Public Open Space

12.6.22. The proposed development includes circa 2.909ha of open space. Dedicated communal amenity areas are included for the apartment / duplex blocks. The quantum of open space and communal space exceeds the minimum requirement for a scheme of this size. Public open space includes park areas to the front of Auburn House, as well as smaller areas to the south and north of the site. All areas of the site are well catered for open space alongside dedicated play space, with a total area of 1,644sqm for play.

12.6.23. I note that the Planning Authority raise objection to the quantum of open space provision located in areas where SUDS measures will be incorporated, or situated within woodland zones. The incorporation of SUDS into open space areas is not uncommon and can be successful, if appropriate measures are applied. The final details of these areas could be conditioned to ensure spaces are appropriate for open space use. In relation to the woodland areas, these hold a strong amenity value, and while they will restrict some activities (such as ball play) they promote more naturalistic forms of play and appreciation. Therefore, I am satisfied with the open space provision included in this sense.

12.6.24. Mix

12.6.25. I note third party concerns regarding the mix of dwellings proposed, as well as the Planning Authority concern over the number of 1 bed apartment units proposed. SPPR 1 of the Apartment Guidelines states that developments may include up to 50% one bedroom units, with no minimum requirement for apartments with 3 or more bedrooms.

12.6.26. Of the apartments and duplexes in the proposed development, 44% are 1 bed apartments which is in compliance with SPPR 1. In relation to the houses proposed, The Planning Authority has not raised any concerns regarding the bedroom mix. In my opinion, the proposed mix of housing types and sizes supports a variety of household types and sizes in accordance with County Development Plan and National planning policy requirements.

12.6.27. Floor Area

12.6.28. The individual floor area for apartments meets the standards outlined in the Apartment Guidelines and 50% are greater than 10% larger than minimum standards, also complying with minimum standards in the guidelines.

#### 12.6.29. Floor to Ceiling Height

12.6.30. The proposed development provides for acceptable ground to ceiling heights of a minimum 2.7m at ground floor as described in the Apartment Guidelines.

#### 12.6.31. Number of Apartments to a Core

12.6.32. The proposed development does not exceed 12 apartments per core in accordance with policy standards described in the Apartment Guidelines.

#### 12.6.33. Privacy

12.6.34. I note Objective DMS28 in relation to a separation distance of at least 22m between directly opposing rear first floor windows and Objective DMS29 requiring at least 2.3m between the side walls of detached, semi-detached and end of terrace units.

12.6.35. For the most part, the proposed development complies with these standards, and I note that the Planning Authority has realised no concerns in this regard. There are adjacencies between the proposed apartment / duplex blocks that would not meet the 22m separation described, however this is reflective of standard relationships between such housing types and there are no instances where I would consider negative impact would result.

### 12.7. **Traffic and Transport**

12.7.1. I note third party objections to the application related to existing congestion on the surrounding road network, which could be exacerbated by the proposed development. Concerns are also raised regarding the narrow width of existing roads, insufficient provision of pedestrian infrastructure and cycle lanes, with resulting dangerous conditions. The Transportation Group for the Planning Authority have raised concerns regarding the use of a non-comparable scheme as part of the methodology that underpins the data produced. I also note concern with potential increase in traffic on Streamstown Lane that the proposed development has not adequately accounted for in the application details. A number of conditions are recommended with respect to the proposed junction upgrade at R107 with The Back Road and sightlines at Carey's Lane entrance.

12.7.2. This section of my report should be read alongside my Environmental Impact Assessment in section 14 of this report below, specifically as it relates to transportation. A Traffic and Transport Assessment and Engineering Assessment

Report have been submitted with the application to describe the potential impact of the proposed development. The data accounts for movements associated with the proposed development with growth accounted for to the year 2023, and cumulative impact with both phase 1 and subsequent phases of the Broomfield Masterplan, with growth accounted for to the year 2028. The data demonstrates that the in all scenarios, junctions would operate within capacity. I am satisfied that the submitted Traffic and Transport Assessment incorporates an acceptable methodology and demonstrates that the proposed development impacts on traffic movements in the area will be within an acceptable range.

12.7.3. A Stage 1 Road Safety Audit is included as part of the Engineering Assessment Report. Recommendations have been incorporated into the design of the proposed development and subsequent audits can be requested by condition in the event that the Board determines to grant permission. A DMURS compliance is also confirmed as part of the Engineering Assessment Report.

#### 12.7.4. Vehicle Access

12.7.5. A new vehicle access is proposed from Dublin Road / Malahide Road and a modified vehicle access form Carey's Lane. Sightlines have not been provided for the access from Carey's Lane and should the Board be minded to approve the application, a condition can request further detail of this. The new access from Dublin Road is acceptable from a transportation perspective.

12.7.6. In relation to the new signalised junction with The Back Road / Malahide Road in conjunction with the Dublin Road entrance to the site, further details are required of this to ensure compatibility with planned upgrades and incorporation of cycle lanes to these roads, and this could also be sought by condition.

#### 12.7.7. Car Parking

12.7.8. A total of 540 residential car parking spaces are proposed, this is formed of 262 residential / visitor spaces plus 3 staff spaces in croft / under podium areas, and 278 podium / on-street areas for residents and visitors plus 4 drop off spaces for the creche. This is a reduced quantum of car parking when compared to standards described in the Development Plan, however these standards are described as a 'guide' to the number of spaces for new development on page 458 of the plan. This is in recognition of existing Government policy aimed at promoting modal shift to

more sustainable forms of transport. The proposed quantum of car parking reflects standards in the Apartment Guidelines and I consider the application to be acceptable in this regard.

#### 12.7.9. Bicycle Parking

12.7.10. There are 716 cycle spaces proposed for residents and visitors as part of the development. This exceeds standards in both the County Development Plan and Apartment Guidelines.

#### 12.7.11. Pedestrian and Cycle Routes

12.7.12. The original entrance to the subject site is intended to form a pedestrian and cycle route, following the avenue and leading to Auburn House. This route will also be accessible to vehicles associated with Auburn House and the existing houses to the south of Auburn and situated outside of the redline boundary. A drop bollard is shown to control access along the route. As a result, there are no dedicated cycle routes included in the scheme. Further details could be sought by condition, should the Board be minded to grant permission for the development, to indicate the inclusion of cycle lanes and / or dedicated cycle routes through the site.

12.7.13. In relation to pedestrian access, footpaths are not shown along all routes through the site and only appear on one side of the road when they are included. Home zone / shared surface areas are shown, however not all of these areas are suitable, and the design of these spaces does not adequately account for the importance of pedestrian movements. This is insufficient provision in my view, and revised details should be required by condition in the event that the Board were minded to approve the application.

12.7.14. In terms of areas surrounding the site, it is clear that limited pedestrian infrastructure is available. Footpaths appear on one side of the road and are narrow for the most part. There are no cycle lanes on any surrounding roads and inadequate provision for pedestrians on Streamstown Lane. I note that the Planning Authority raises concern regarding increased traffic on Streamstown Lane with inadequate consideration of this in the applicant's submission. In my opinion, it would appear that greater consideration of necessary improvements to surrounding pedestrian and cycle infrastructure should be undertaken by the applicant.

#### 12.7.15. Public Transport

12.7.16. I note third party concerns regarding the capacity and adequacy of the surrounding public transport network to serve the proposed development. The proposed development is accessible to a Dublin Bus stop immediately adjacent to the site. No concerns have been raised by the Planning Authority and no response has been received from either the NTA or TFI, regarding capacity of the public transport network to support the future population of the development. Overall, I am content that the proposed development is acceptable in relation to public transport.

#### 12.8. **Material Contravention**

12.8.1. The applicant has submitted a Statement of Material Contravention with the application. The public notices make reference to a statement being submitted indicating why permission should be granted having regard to the provisions s.37(2)(b). The proposed development is identified by the applicant to materially contravene two objectives under the Fingal County Development Plan 2017-2022. Specifically Objective PM14 in relation to the preparation of statutory Masterplans for areas designated on Development Plan maps, and Objective MALAHIDE 11, which seeks to prepare and / or implement the Streamstown Masterplan with main elements listed. The applicant specifically identifies two items under this list in relation to the material contravention, namely:

- *'Facilitate low density residential development reflective of the character of the area'; and*
- *'The area for development north of Auburn House is considered a sensitive development zone, whereby a maximum ridge height of 6m should be applied.'*

12.8.2. The application is submitted in the absence of a statutory Masterplan for Streamstown and therefore represents a material contravention of Objective PM14 under the Fingal Development Plan. In relation to the detail of the submitted application, this includes a density and height in excess of that indicated in Objective MALAHIDE 11. The proposed density is 41.6 units per hectare and the proposed maximum ridge height is 20.1m as stated in the application documents. I also consider that the maximum height may increase by as much as a metre at some points over this specified height, due to level changes. The proposed development



therefore represents a material contravention of Objective MALAHIDE 11 with respect to height and density.

- 12.8.3. I note third party representations that the proposed development would also materially contravene remaining elements identified under Objective MALAHIDE 11. For the most part, the list of specifications would require a qualitative assessment to determine compliance, and such qualitative requirements would not normally be considered with respect to material contravention. Therefore, while I may not agree with the applicant regarding compliance with under some elements in the list for the objective, this does not necessarily represent a material contravention, and requires a subjective review. The elements identified by the applicant are more quantitative matters, and therefore I agree that the failure to comply with these two specifications as highlighted by the applicant relating to density and height, does represent a material contravention.
- 12.8.4. I note that the applicant suggests that there are conflicting objectives under the Development Plan and therefore objectives are not clearly stated with respect to the development site, however whether the site would be considered an appropriate location for increased density as specified under other objectives in the Development Plan, is a matter of judgement, and I therefore do not consider there to be a conflict in this regard. In addition, application of the settlement strategy would not conflict with the requirement for a masterplan for the area in my view. I therefore do not agree with the applicant's justification under section 37(2)(b)(ii) of the Act.
- 12.8.5. In relation to the matter of strategic or national importance, the current application has been lodged under the Strategic Housing legislation and the proposal for over 400 homes can be considered strategic in nature in my view. This is in the context of national planning policy documents and guidelines that focus on the need to increase housing delivery on appropriate sites, including Rebuilding Ireland, An Action Plan for Housing and Homelessness and Project Ireland 2040 – National Planning Framework. I am therefore satisfied that a material contravention of the County Development with respect to submission in the absence of a statutory Masterplan, as well as density and height, would be justified on this basis under section 37(2)(b)(i) of the Act, where it was concluded that the proposed development should be granted planning consent.

- 12.8.6. In relation to the requirement for a statutory Masterplan for Streamstown, I note that the applicant has submitted their own masterplan for the lands, however this would not satisfy the objectives under the Development Plan for a statutory Masterplan, which would be one adopted by the Planning Authority. In terms of the submission of the application in the absence of a statutory Masterplan for the lands, I note third party concern that the application is premature on this basis. The Planning Authority have not raised any objection to the proposed development on the basis of its submission prior to the adoption of a statutory Masterplan for the area. In my view, it would run the risk of the site remaining unavailable for development if an application was prevented from being considered in the absence of a Masterplan. In this sense, I consider development of the site in the absence of a Masterplan to be supported by objectives in Project Ireland 2040 - National Planning Policy Framework, which highlights the importance of housing delivery, and specifically objective 32 describing a target of 550,000 new households to 2040, and objective 33 stating that new homes should be prioritised in locations that can support sustainable development.
- 12.8.7. The production of this Masterplan is an obligation of the Planning Authority and therefore outside of the applicant's control. The Planning Authority has also granted planning permission on lands elsewhere within the designated masterplan area and in the absence of a statutory Masterplan being prepared (Reg. Ref. F17A/0208, F18A/0151, F17A/0177 and F19/0541). In consideration of these factors, I do not consider the application to be premature in this regard. Having regard to the above, I consider that a material contravention of the Fingal County Development Plan by the proposed development would be justified in my view, under both section 37(2)(b)(iv) and (iii) of the Act.
- 12.8.8. In relation to density, Objective MALAHIDE 11 specifies a low density, which would generally be considered to be 35 units per hectare or less, and a maximum height of 6m in the area to the north of Auburn House. The applicant contends that height and density are matters superseded by the progression of National Policy. I have considered the Statement of Material Contravention submitted with the application which describes the justification with respect to these matters.
- 12.8.9. The Planning Authority have confirmed support for the principle of a density level in the range described by the application documents. However, they remain concerned regarding the proposed height of some blocks, and link this to the density level

proposed. The Planning Authority recommend that the height and associated density of the development be reduced as a result. The applicant identifies the national planning context with respect to density, and specifically Sustainable Residential Development in Urban Areas & Urban Design Manual, which I have given detailed consideration of in section 12.3 of my report above with respect to density. I am satisfied that the subject site exhibits characteristics that support the density of development proposed in consideration of national planning policy guidance. As a result, a material contravention of the Fingal County Development Plan by the proposed development would be justified in my view, on this basis, with respect to the proposed density and under both section 37(2)(b)(iii) of the Act.

12.8.10. In relation to height, I have provided a comprehensive assessment of the development impacts in section 12.4 of this report. It is my view that SPPR 3 under the Building Height Guidelines does not apply in this case. This is because I do not concur with the applicants position in relation to the application of the Development Management criteria under section 3.2 of the Building Height Guidelines. I have described in detail in sections 12.3 why the proposed development does not fulfil these criteria. Particularly in relation to the negative impact upon the Protected Structure and its associated curtilage and attendant grounds, as well as in terms of legibility. I also note that the proposed development fails to adequately demonstrate potential impacts and conditions of the proposed development, with respect to daylight, sunlight and overshadowing. Having regard to the above, I do not consider that the provisions of section 37(2)(b)(iii) have been met in this instance.

## 12.9. **Other Issues**

### 12.9.1. Childcare

12.9.2. In terms of childcare, a creche is proposed alongside the residential use of the site. The Childcare Facilities Guidelines state a general requirement for 1 no. 20 space childcare facility per 75 no. units, however the guidelines also state that the geographic distribution of childcare facilities and emerging demographic profile for the area should be used to establish the childcare demand generated by a proposed development. The Apartment Guidelines also states that 1 bedroom (or studio) units should not be considered to contribute to the requirement for any childcare provision, and subject to location, this may also apply to larger units.

12.9.3. A Childcare Provision Assessment Report has been submitted with the application and describes existing childcare provision in the area surrounding the site alongside CSO population characteristic data. The applicant's submitted report has used demographic data and a survey of existing childcare provision in the area, alongside data from Tusla and Pobal websites regarding capacity, to calculate a requirement for 25 no. childcare spaces resulting from the proposed development. The proposed childcare facility in the development would accommodate 34 children and therefore adequate accounts for this demand. I am satisfied that the applicant's submitted report provides adequate data to support the proposed childcare provision as part of the development.

12.9.4. Aircraft Noise

12.9.5. Objective DA07 states that the Planning Authority will strictly control inappropriate development and require noise insulation where appropriate within the Outer Noise Zone, and actively resist new provision for new residential development in the Inner Noise Zone. The subject site is situated within the Outer Airport Noise Zone as designated under the zoning map for the Development Plan. The applicant has submitted an External Aircraft Noise Analysis Report to describe noise levels resulting from aircraft over the subject site. The report demonstrates that the noise levels are within an acceptable range, and therefore within the recommendations of relevant standards and guides. Therefore, specific mitigation is not identified, however it is confirmed that facades will have a noise reduction capability of  $\geq 35$ dB and any openings will have a noise reduction capability of  $\geq 37$ dB.

12.9.6. Conditions are recommended by Irish Aviation and DAA with respect to notification of crane operation and noise insulation within the proposed development and should be applied in the event that the Board determines to grant planning permission for the application.

12.9.7. Flood Risk and Water Infrastructure

12.9.8. This section should be read in conjunction with related considerations in section 14 and the Environmental Impact Assessment for the application. I note that criteria under section 3.2 of the Building Height Guidelines includes that proposals should be in line with the requirements of "The Planning System and Flood Risk Management – Guidelines for Planning Authorities" (2009) (the 'Guidelines'). I also note third party

concerns raised with respect to flooding and water infrastructure in the proposed development.

- 12.9.9. A Flood Risk Assessment and Flood Risk Review has been submitted with the application. I note that the Planning Authority Drainage Division has not raised any concerns regarding the submitted details and suggests a number of conditions related to SUDs, drainage, attenuation and flood risk. The subject site is located in Flood Zone C and therefore has a low probability of flooding. Historically works in the area have also reduced flood risk. Potential flood risk from Pluvial, Ground Water and Human / Mechanical Error is noted and mitigation incorporated into the design of the proposed development. As a result of the application of mitigation measures, residual risk of flooding from any source is low.
- 12.9.10. With respect to foul water infrastructure, Irish Water have confirmed intentions to provide expanded pumping station capacity, with a new Chapel Lane Pumping Station that would have capacity to cater for the proposed development. Extension of the Irish Water network is required east along Back Road and then south along Kinsealy Lane to then gravitate to the new Chapel Lane Pumping Station. This is accounted for in the application submission. In respect of water supply, a new connection to the existing network is feasible without upgrade.
- 12.9.11. The applicant has engaged with Irish Water in respect of design proposal and has been issued a Statement of Design Acceptance for the development. Irish Water request conditions to ensure appropriate connection to the network. I am satisfied that with the incorporation of conditions, the proposed development is acceptable in relation to drainage and water infrastructure.
- 12.9.12. In relation to the proposed pump station on the site, Objective WT12 of the Development Plan requires a buffer zone of at least 35m to avoid nuisance from odour and noise. The proposed development conforms with this requirement.
- 12.9.13. Trees
- 12.9.14. This section should be read in conjunction with related considerations in section 14 and the Environmental Impact Assessment for the application. Third parties and the Planning Authority have raised concern regarding the extent of tree loss as part of the proposed works, specifically along the frontage with Malahide Road / Dublin Road. I

note Objective MALAHIDE 11 and the specific elements expected to be incorporated in the Streamstown Masterplan as follows:

- *‘Protect and preserve trees, woodlands and hedgerow within the Masterplan area.*
- *‘Preserve the tree lined approach to Malahide along the Dublin Road.’*

12.9.15. An Arboricultural Report and associated tree survey / impact / protection plans have been submitted with the application. This identifies 60 category B, 125 Category C and 123 Category U trees or tree groups that would be removed as a result of the proposed development. This equates to a total of 308 of the existing 1,348 trees or tree groups, surveyed at the site. In addition, 225 metres of hedgerow would also be removed.

12.9.16. The woodland setting of Auburn House is a key characteristic of the Protected Structure and its grounds. The tree lined character of the avenue leading up to Auburn House and the sylvan character along Dublin Road and the associated entrance to the site, are also key components that contribute positively to the heritage characteristics of the site. Preservation and enhancement of this character is required in conjunction with objectives under the Development Plan, including Objective MALAHIDE 11 relating specifically to the subject site, Objective MALAHIDE 2 concerning retention of the tree-lined approach along Dublin Road, Objective CH20 concerning sensitivity to the setting and special character of Protected Structures and Objective CH21 relating to the relationship between the Protected Structure and designed landscape features, views or vistas. I also note Local Objective 57 in appendix 6 of the Development Plan, that states that new or widened entrances onto the Dublin Road between Streamstown Lane and the Swords Junction will be restricted, to ensure the protection of the mature tree-lined approach along the Dublin Road to Malahide.

12.9.17. The proposed development would necessitate the removal of 308 trees / tree groups on the basis of the current submitted details. This equates to circa 23% of the existing total tree / tree group number on the site. At almost a quarter of the existing tree coverage over the site, this is a significant loss in my opinion, on a site where the woodland character and tree lined roads, are specifically identified as being integral features to the character of the Protected Structure on the site.

- 12.9.18. The applicant's Arboricultural Report describes the existing condition of trees on the site. This includes identification of inappropriate species in the woodland area surrounding Auburn House, with only a small proportion of the woodland being contemporary with the main house. The report identifies Sycamore, Ash and Wych Elm in the woodland as replacing and outcompeting those species that would have historically been found in the woodland area. Inappropriate planting of Sitka Spruce and Lawson Cypress has also occurred to the north of the house and within the walled garden.
- 12.9.19. Tree removal is also identified in the report in conjunction with necessary site levelling works, compliance with DMURS, provision of underground services, alongside the built works proposed. For the main part, buildings are situated in the more open areas of the site and therefore reduce the need for tree removal, with the exception of apartment block 7. Drainage facilities, including storm water attenuation also comprise substantial earthworks and grading that result in the loss of existing trees and hedges on the site. I note that a large number of trees and hedges are proposed for removal along the stream in the site, and this would appear to be related to the drainage works described.
- 12.9.20. Proposed tree planting and landscape works are described in a submitted Landscape Plan and Landscape Design Rationale report with the application. While it is clear from the submitted details that extensive replacement planting is proposed, this proposed planting is not quantified clearly in my opinion.
- 12.9.21. I have discussed in detail the removal of trees at the new vehicular entrance to be created for the site from Dublin Road in section 12.4 of my report above. I also note that along this frontage, a limited number of additional trees are identified for removal and appear to be confined to Category U trees. As part of this, a series of Category U trees are identified for removal around the existing entrance to 'Little Auburn', an area that I have already queried in relation to whether potential exits to utilise this entrance and negate the need for the new entrance and its consequential impacts. Generally, it appears from the submitted Landscape Plan that replacement planting will be incorporated where trees are identified for removal along the Dublin Road frontage, however how replacement planting would compare in number and canopy coverage is not adequately described in my view.

12.9.22. I have already described why I consider the new vehicular entrance here to be unacceptable in terms of heritage impacts in section 12.4 of my report, in addition, I am not satisfied that tree loss is minimised as a result of this access. Local Objective 57 clearly indicates that new entrances should be avoided as a result of resulting tree loss, and the tree lined character of the Malahide Road / Dublin Road is clearly an important feature for the area. While the applicant has appeared to target a location that will minimise tree loss and focus this on Category U trees, there are Category C trees and two Category B trees that will also be removed to facilitate this new route prior to the point that it intercepts with the existing avenue. Regardless of formal categorisation, the loss of any trees / vegetation on this frontage will reduce the canopy coverage and have consequential harmful impacts on the established character of the road in my view. A character specifically recognised as requiring preservation under objectives in the Development Plan. I am also unclear of whether alternatives have been investigated, and as a result, I am not convinced this is the best solution for the site.

12.9.23. I note that proposed apartment block 7 would be situated in the southern woodland area for Auburn site, and therefore results in the removal of numerous trees. These are largely Category U and therefore are of particularly poor quality, with no realistic proposition of sustainability. However, removal of these trees does not automatically mean that space is revealed for a building, and where removal is unavoidable in the woodland area, replacement tree planting would be a more appropriate response in my view. I have already described why I consider proposed apartment block 7 to be unacceptable in section 12.4 of this report above. In addition, I question the degree of tree removal identified in this area, as well as at the north east access to the woodland. With the exception of these aforementioned areas, tree removal in the woodland in general has been avoided and confined to Category U trees. Where this removal is required, and replacement planting included that is of a maturity and species appropriate for the woodland, then these works would be acceptable in my view.

12.9.24. Generally, buildings do not conflict with the location of existing trees in the proposed development, and therefore tree removal has been minimised in this regard. However, there are locations (in addition to those areas identified above) where the removal of trees and hedgerows appears excessive in my view. Specifically, to the east of



apartment block 3 and to the north of duplex block 2. These established tree / hedge belts would provide very good screening of the proposed blocks beyond. While replacement planting is indicated, this does not appear to be to the same maturity or density as the existing tree / hedge belts on the site in these locations. This is a lost opportunity in my view, and it is not clear to me whether tree / hedge loss could have been avoided or reduced if greater effort had been made to preserve existing vegetation in these areas.

12.9.25. In terms of the Category B tree loss proposed as part of the development, where this occurs in the areas already considered above, I consider this to be regrettable, and further explanation and justification for the loss of these trees is required in my view. There are also other areas where Category B trees are lost on the site as a result of development works, specifically in association with new routes through the site. Such loss is unavoidable in the main part and required to facilitate appropriate access through the site, on lands designated for residential development. I am therefore satisfied that in these other areas, the loss of Category B trees is limited and therefore acceptable as an inevitable consequence of development of the site.

12.9.26. In many areas on the site, the applicant has sought to reduce impact on existing tree and hedge planting, but this care has not extended into all areas, or been to a sufficient degree in my view. I am also unclear whether alternatives have been investigated in a number of areas, including the entrance to the site. I have outlined those areas above, where I consider insufficient justification is provided concerning the loss of trees.

12.9.27. Overall, I do not consider that the proposed development has appropriately accounted for tree preservation on the site. While the efficient development of the site is supported by planning policy, this should not be to the detriment of the heritage character of the site or the sylvan character of Dublin Road / Malahide Road. Both of which are offered specific protection under the Development Plan. Therefore, in my opinion, the proposed development is contrary to Local Objective 57, Objective PM64, Objective CH20, Objective CH21, Objective MALAHIDE 2 and Objective MALAHIDE 11.

12.9.28. Invasive Species

12.9.29. This section of my report should be read in conjunction with the EIA in section 14 of this report, and specifically as it relates to Biodiversity. An Invasive Species Study is submitted with the application. This does not correspond with the findings in the submitted Environmental Impact Assessment Report (EIAR) with respect to invasive species on the site. The submitted EIAR identifies Spanish Bluebells and Three-cornered Garlic on the site, and that these are listed as alien invasive on Schedule 3 of SI No. 477 of 2011. The submitted Invasive Species Study concludes that there are no invasive species present on the site. As a result, the application is deficient in this regard. If the Board determined to grant planning permission, a condition could be used to resolve this matter.

12.9.30. Property Values

12.9.31. I note submission of third party representations relating to the impact of the proposed development upon property values in the area. I am not aware of any evidence to support the assertion that the proposed development would negatively impact property values in the area, and nothing has been submitted to demonstrate that this would be the case.

12.9.32. Part V

12.9.33. The applicant has submitted Part V proposals as part of the application documents. 41 no. units (10%) are identified in compliance with Part V of the Planning and Development Act 2000 (as amended). The applicant has confirmed engagement with the Housing Department and that they are aware of the Part V obligations pertaining to this site if permission is granted. A condition should be applied with respect to Part V in the event that the Board determines to grant planning permission.

12.9.34. Planning Authority Recommendation

12.9.35. Whilst I note the Planning Authority concludes in their Chief Executive Report that the application will provide for an appropriate standard of residential development, this is only with a series of significant amendments to the development form, to make it acceptable to the Planning Authority. This includes reduced height to all apartment blocks, consideration of height to courtyard blocks, removal of a block, redesigned open space, redesigned playspace, redesigned pump station, revised proposals for tree planting etc. As such, it is apparent that the proposed development as currently submitted, is not acceptable to the Planning Authority. The extent of amendments

recommended is significant and, in my opinion, would warrant proper consideration particularly in light of requirements under EIA and AA. I also note that there is not agreement between the Chief Executive Report and the Planning Authority's conservation officer, in relation to the extent of amendments required, particularly in relation to a reduction in the number of housing units proposed to the east of Auburn House. I concur with the conservation officer in this regard and consider that a reduction to the encroachment into this space to the east of Auburn House is required to reduce negative impact upon the Protected Structure and its attendant grounds. I have provided a detailed explanation of my recommendation in this regard in section 12.4 of this report above.

### **13.0 Appropriate Assessment**

13.1. This section of the report considers the likely significant effects of the proposal on European sites with each of the potential significant effects assessed in respect of each of the Natura 2000 sites considered to be at risk and the significance of same. The assessment is based on the submitted Natura Impact Statement (NIS) and Appropriate Assessment Screening submitted with the application.

13.2. I have had regard to the submissions of third parties in relation to the potential impacts on Natura 2000 sites.

#### **13.3. The Project and Its Characteristics**

13.4. See the detailed description of the proposed development in section 2.0 above.

#### **13.5. The European Sites Likely to be Affected (Stage I Screening)**

13.6. The development site is not within or directly adjacent to any Natura 2000 site. The site is located on the edge of existing residential housing estates and is currently formed of improved agricultural grassland (GA1), broadleaved woodland (WD1), hedgerows (WL1), treelines (WL2) and drainage ditches (FW4). Existing structures (BL3), including Auburn House a Protected Structure, are also situated on the site. Drainage ditches are located on field boundaries in two areas, which alongside surface water pathways, lead to Hazelbrook Stream. Hazelbrook Stream flows a short distance to the south (circa 130m) and leads to Baldoyle Bay.

13.7. I have had regard to the submitted Appropriate Assessment screening section of the applicant's report, which identifies that while the site is not located within or directly adjacent to any Natura 2000 areas, there are a number Natura 2000 sites sufficiently proximate or linked to the site to require consideration of potential effects. These are listed below with approximate distance to the application site indicated:

- Baldoyle Bay SAC and SPA (0199 and 4016) 4km;
- North Dublin Bay SAC (0206) / North Bull Island SPA (4006) 8km;
- South Dublin Bay and Tolka Estuary SPA (4024) 12km;
- South Dublin Bay SAC (0210) 12km;
- Malahide Estuary SPA and SAC (0205 and 4024) (RAMSAR Convention site 833 and Natural Heritage Area) 2km;
- Rogerstown Estuary SAC and SPA (0208 and 4015) 7km;
- Howth Head SAC and Howth Head Coast SPA (0202 and 4133) 11km;
- Rockabill to Dalkey Island SAC (0300) 20km;
- Ireland's Eye SAC and SPA (2193 and 4117) 9km;
- Lambay Island SAC and SPA (0204 and 4069) 11km;
- Skerries Island SPA (4122) 16km;
- Rockabill SPA (4014) 20km;

13.8. I note that the applicant's submitted AA Screening report refers interchangeably between North Dublin Bay SAC/SPA and North Bull Island SPA. I can confirm that the Natura Site at North Dublin Bay is a special area of conservation (SAC) and the special protection area (SPA) relates to North Bull Island. I have carried out my assessment accordingly.

13.9. The specific qualifying interests and conservation objectives of the above sites are described below. In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to Natura 2000 sites, and any potential pathways which may exist from the development site to a Natura 2000 site, aided in part by the EPA Appropriate Assessment Tool ([www.epa.ie](http://www.epa.ie)), as well as by the

information on file, including observations on the application made by prescribed bodies and Third Parties, and I have also visited the site.

- 13.10. I concur with the conclusions of the applicant's screening, in that the only Natura 2000 sites where there is potential for likely significant effects is the Baldoyle Bay SAC (0199) and SPA (4016) as a result of hydrological connectivity, and SPA/SAC areas at Dublin Bay due to wastewater links.
- 13.11. Significant impacts on the remaining SAC and SPA sites are considered unlikely, due to the distance and the lack of hydrological connectivity or any other connectivity with the application site in all cases. As such, it is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Sites: Malahide Estuary SPA and SAC (0205 and 4024); Rogerstown Estuary SAC and SPA (0208 and 4015); Howth Head SAC and Howth Head Coast SPA (0202 and 4133); Rockabill to Dalkey Island SAC (0300); Ireland's Eye SAC and SPA (2193 and 4117); Lambay Island SAC and SPA (0204 and 4069); Skerries Island SPA (4122); Rockabill SPA (4014).
- 13.12. The qualifying interests of all Natura 2000 Sites considered are listed below:

Table 13.1: European Sites/Location and Qualifying Interests

<b>Site (site code) and Conservation Objectives</b>	<b>Distance from site (approx.)*</b>	<b>Qualifying Interests/Species of Conservation Interest (Source: EPA / NPWS)</b>
Baldoyle Bay SAC (0199) To maintain or restore the favourable conservation condition of habitats as listed in Special Conservation Interests.	4km	Mudflats and sandflats not covered by seawater at low tide [1140] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows ( <i>Glaucopuccinellietalia maritimae</i> ) [1330] Mediterranean salt meadows ( <i>Juncetalia maritimi</i> ) [1410]
Baldoyle Bay SPA (4016)	4km	Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) [A046]

<p>To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests.</p>		<p>Shelduck (<i>Tadorna tadorna</i>) [A048]  Ringed Plover (<i>Charadrius hiaticula</i>) [A137]  Golden Plover (<i>Pluvialis apricaria</i>) [A140]  Grey Plover (<i>Pluvialis squatarola</i>) [A141]  Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]  Wetland and Waterbirds [A999]</p>
<p>North Dublin Bay SAC (0206)</p> <p>To maintain or restore the favourable conservation condition of habitats as listed in Special Conservation Interests.</p>	<p>8km</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]  Annual vegetation of drift lines [1210]  Salicornia and other annuals colonising mud and sand [1310]  Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330]  Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]  Embryonic shifting dunes [2110]  Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]  Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]  Humid dune slacks [2190]  <i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p>
<p>North Bull Island SPA (4006)</p> <p>To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests.</p>	<p>8km</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]  Shelduck (<i>Tadorna tadorna</i>) [A048]  Teal (<i>Anas crecca</i>) [A052]  Pintail (<i>Anas acuta</i>) [A054]  Shoveler (<i>Anas clypeata</i>) [A056]  Oystercatcher (<i>Haematopus ostralegus</i>) [A130]  Golden Plover (<i>Pluvialis apricaria</i>) [A140]  Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p>

		<p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>
<p>South Dublin Bay and River Tolka Estuary SPA (4024)</p> <p>To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests.</p>	12km	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Wetland and Waterbirds [A999]</p>

<p>South Dublin Bay SAC (0210)</p> <p>To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide.</p>	<p>12km</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p>
<p>Malahide Estuary SAC (0205)</p> <p>Conservation objective: To maintain the favourable conservation condition of mudflats and sandflats not covered by seawater at low tide.</p>	<p>2km</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p>
<p>Malahide Estuary SPA (4025)</p> <p>To maintain the favourable conservation condition of Great Crested Grebe.</p>	<p>2km</p>	<p>Great Crested Grebe (<i>Podiceps cristatus</i>) [A005]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Goldeneye (<i>Bucephala clangula</i>) [A067]</p> <p>Red-breasted Merganser (<i>Mergus serrator</i>) [A069]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p>



		<p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Wetland and Waterbirds [A999]</p>
<p>Rogerstown Estuary SAC (0208)</p> <p>To maintain the favourable conservation condition of Estuaries.</p>	7km	<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p>
<p>Rogerstown Estuary SPA (4015)</p> <p>To maintain the favourable conservation condition of Greylag Goose.</p>	7km	<p>Greylag Goose (<i>Anser anser</i>) [A043]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Wetland and Waterbirds [A999]</p>

Howth Head SAC (0202) To maintain the favourable conservation condition of European dry heaths and Vegetated sea cliffs of the Atlantic and Baltic coasts.	11km	Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] European dry heaths [4030]
Howth Head Coast SPA (4113)** To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests.	11km	Kittiwake ( <i>Rissa tridactyla</i> ) [A188]
Rockabill to Dalkey Island SAC (0300) To maintain the favourable conservation condition of Reefs and Harbour porpoise.	20km	Reefs [1170] <i>Phocoena phocoena</i> (Harbour Porpoise) [1351]
Ireland's Eye SAC (2193) To maintain the favourable conservation condition of Perennial vegetation of stony banks and Vegetated sea cliffs of the Atlantic and Baltic coasts.	9km	Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]
Ireland's Eye SPA (4117)	9KM	Cormorant ( <i>Phalacrocorax carbo</i> ) [A017] Herring Gull ( <i>Larus argentatus</i> ) [A184]

<p>To maintain or restore the favourable conservation condition of the bird species.</p>		<p>Kittiwake (<i>Rissa tridactyla</i>) [A188]  Guillemot (<i>Uria aalge</i>) [A199]  Razorbill (<i>Alca torda</i>) [A200]</p>
<p>Lambay Island SAC (0204)</p> <p>To maintain the favourable conservation condition of Reefs, Vegetated sea cliffs of the Atlantic and Baltic coasts, Grey Seal and Harbour Seal.</p>	<p>11km</p>	<p>Reefs [1170]  Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]  Halichoerus grypus (Grey Seal) [1364]  Phoca vitulina (Harbour Seal) [1365]</p>
<p>Lambay Island SPA (4069)</p> <p>To maintain or restore the favourable conservation condition of the bird species.</p>	<p>11km</p>	<p>Fulmar (<i>Fulmarus glacialis</i>) [A009]  Cormorant (<i>Phalacrocorax carbo</i>) [A017]  Shag (<i>Phalacrocorax aristotelis</i>) [A018]  Greylag Goose (<i>Anser anser</i>) [A043]  Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183]  Herring Gull (<i>Larus argentatus</i>) [A184]  Kittiwake (<i>Rissa tridactyla</i>) [A188]  Guillemot (<i>Uria aalge</i>) [A199]  Razorbill (<i>Alca torda</i>) [A200]  Puffin (<i>Fratercula arctica</i>) [A204]</p>
<p>Skerries Island SPA (4122)</p> <p>To maintain or restore the favourable conservation condition of the bird species.</p>	<p>16km</p>	<p>Cormorant (<i>Phalacrocorax carbo</i>) [A017]  Shag (<i>Phalacrocorax aristotelis</i>) [A018]  Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]  Purple Sandpiper (<i>Calidris maritima</i>) [A148]  Turnstone (<i>Arenaria interpres</i>) [A169]  Herring Gull (<i>Larus argentatus</i>) [A184]</p>

<p>Rockabill SPA (4014)</p> <p>To maintain the favourable conservation condition of Purple Sandpiper, Roseate Tern, Common Tern and Arctic Tern.</p>	<p>20km</p>	<p>Purple Sandpiper (<i>Calidris maritima</i>) [A148]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p>
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*\*I note that the applicants submitted AA Screening with the application includes distances to a number of the SAC / SPA areas which I consider to be incorrect. For example, the distance to the South Dublin Bay SAC is stated as 800m from the site. I have disregarded the distances stated in the submitted AA Screening as a result and undertaken my own calculation of approximate distance from the subject site as indicated above. As a result, my assessment is informed upon the distances described above.*

*\*\*I note that the applicant has the wrong site code in the submitted AA Screening, I have included the correct site code in my assessment.*

13.13. Table 13.1 above reflects the EPA and National Parks and Wildlife Service (NPWS) list of qualifying interests for the SAC/SPA areas requiring consideration.

#### 13.14. Potential Effects on Designated Sites

13.15. The subject site itself is not suitable for regularly occurring populations of wetland or wading birds which may be associated with Natura 2000 sites listed above, as these birds are associated with coastal and intertidal habitats. While there are some species that utilise inland amenity grassland sites for feeding, there is no amenity grassland on the subject site, and therefore no habitats suitable for such species associated with the proposed development.

13.16. The proposed development site has an indirect hydrologically connection to the Baldoyle Bay SAC (0199) and SPA (4016) via surface water drainage into the Hazelbrook Stream. There is also an indirect pathway from the site through the foul sewer to Dublin Bay via the Ringsend Wastewater Treatment Plant (WWTP), connecting to North Dublin Bay SAC (0206); North Bull Island SPA (4006); South Dublin Bay and Tolka Estuary SPA (4024); and South Dublin Bay SAC (0210).

13.17. The ecological status of Baldoyle Bay is failing to meet required standards with the exact cause unknown. In relation to the sites at Dublin Bay, sampling of water quality

indicates that the discharge from the wastewater treatment plant is having an observable effect in the 'near field' of the discharge. This includes the inner Liffey Estuary and the Tolka Estuary, but not the coastal waters of Dublin Bay.

- 13.18. The specific conservation objectives and qualifying interests of the potentially effected SAC sites relate to habitat area, community extent, community structure and community distribution within the qualifying interest. There are no objectives in relation to water quality. The specific conservation objectives for the bird species highlighted for the potentially effected SPA sites relate to maintaining a population trend that is stable or increasing, and maintaining the current distribution in time and space.
- 13.19. Surface water from the site will flow to drainage ditches following attenuation. The proposed drainage strategy is compliant with the Greater Dublin Strategic Drainage Study (SUDS). The SUDS measures to be incorporated are not included to avoid or reduce an effect to a Natura 2000 Site, and therefore they are not considered mitigation measures in an AA context. However, as a result of these measures, the risk to water quality during the construction phase on the Baldoyle Bay SAC/SPA is considered moderate. However, as extensive works are planned in association with the proposed development and in close proximity to open water courses, following a precautionary approach, the potential for large quantities of silt or other construction pollutants to be washed downstream means that significant effects to the Baldoyle Bay SAC/SPA cannot be ruled out.
- 13.20. Foul effluent from the proposed development will be sent to the Ringsend WWTP and currently emissions from the plant are not in compliance with the Urban Wastewater Treatment Directive. The Ringsend WWTP has been granted permission under section 37G of the Planning and Development Act 2000 (Board Order ABP-301798-18), 10-year permission for development comprising revisions and alterations to the existing and permitted development at the Ringsend Wastewater Treatment Plant and for a new Regional Biosolids Storage Facility, being two components of an integrated wastewater treatment facility. These works will bring the capacity of the Wastewater Treatment Plant from its current 1.9 million PE to 2.4 million PE. Evidence also suggests that in the current situation, some nutrient enrichment is benefiting wintering birds for which the SPAs have been designated in Dublin Bay. Overall, no negative impacts to the Natura 2000 sites can

arise from additional loading on the Ringsend WWTP as a result of the proposed development, as there is no evidence that negative effects are occurring to SACs or SPAs from water quality.

#### 13.21. AA Screening Conclusion

13.22. The site is situated approximately 4km away from the SAC and SPA Natura 2000 Sites at Baldoyle Bay. I conclude that the impacts as described above cannot be ruled out, and if they occurred, would be significant given the hydrological link and proximity to these Natura 2000 sites. As such likely effects on Baldoyle Bay SAC (0199) and SPA (4016), cannot be ruled out, having regard to the sites' conservation objectives, and a Stage 2 Appropriate Assessment is required.

13.23. In relation to SAC and SPA areas at Dublin Bay, taking into consideration the effluent discharge from the proposed development works, the distance between the proposed development site to these designated conservation sites at Dublin Bay, the lack of direct hydrological pathway or biodiversity corridor link to these conservation sites at Dublin Bay and the dilution effect with other effluent and surface runoff, it is concluded that this development that would not give rise to any significant effects to the designated sites at Dublin Bay. The construction and operation of the proposed development will therefore not impact on the conservation objectives of features of interest of North Dublin Bay SAC (0206); North Bull Island SPA (4006); South Dublin Bay and Tolka Estuary SPA (4024); and South Dublin Bay SAC (0210).

#### 13.24. Stage 2 – Appropriate Assessment

13.25. Baldoyle Bay is described in detail in the submitted AA Screening Report. It is an estuary of the Sluice and the Mayne Rivers that is largely enclosed by a sand spit that stretches from Portmarnock to Howth. At low tide it has large areas of exposed mud and sediment that support rich invertebrate communities. There are a number of habitats listed in the EU's Habitats Directive Annex I, and two plants recorded in the Bay that are protected under the Flora Protection Order, namely Borrer's Saltmarsh-grass (*Puccinellia fasciculata*) and Meadow Barley (*Hordeum secalinum*). The habitats at Baldoyle Bay are of great importance to the food chain.

13.26. The Qualifying Interests/Special Conservation Interests of the Baldoyle Bay SAC (0199) and SPA (4016) are described above in table 13.1 and paragraph 13.13. A Natura Impact Statement (NIS) submitted with the application provides a description

of the site-specific conservation objectives for the Baldoyle Bay SAC and SPA as follows:

- Salicornia mudflats (1310) and Atlantic/Mediterranean Salt Meadows (1330/1410): maintain habitat area and distribution including physical structure (sediment supply, creeks and pans, flooding regime). Maintain vegetation structure as measured by vegetation height, vegetation cover, typical species and sub-communities. Absences of the invasive *Spartina anglica*;
- Mudflats (1140): Permanent habitat area stable or increasing (estimated at 409 hectares); subject to natural processes.
- Birds: Long term population trend stable or increasing; there should be no significant decrease in the numbers of range of areas used by waterbird species, other than that occurring from natural patterns of variation.

13.27. The NIS considers the potential impacts of the proposed development upon the Qualifying Interest (QI) of the SAC and SPA areas considered. Effect to the habitats in the SAC may have consequential impact on the availability of food for birds using the SPA. There will be no direct habitat loss, fragmentation or direct impacts upon QI bird species arising from the development. However, as an indirect hydrological connection exists, potential for large quantities of sediment and other construction pollutants entering the Hazelbrook Stream resulting from works associated with construction of the proposed development, cannot be ruled out. This could increase deposition beyond normal levels, affecting the areas of habitat for which the SAC has been designated. The NIS also identifies that construction pollutants such as concrete or hydrocarbons could affect habitat functioning through toxic effects to invertebrate life. Effect on the availability of prey items would reduce the range of birds using the SPA. Following the precautionary principle, it is therefore considered appropriate to use specific mitigation measures as part of the proposed development.

13.28. I concur with the findings of the NIS in this regard, specifically in light of the proximity of the hydrological link from the subject site to the SAC and SPA area. The situation of the drainage ditches on field boundaries within the subject site, with subsequent run-off into the Hazelbrook Stream, and the proximity to Baldoyle Bay SAC (0199)

and SPA (4016) are particular characteristics that mean that likely significant effects cannot be ruled out. As such, specific mitigation measures during construction and operation are required to protect and maintain the integrity of the QI habitats and species supported in Baldoyle Bay in my view.

13.29. Mitigation measures are identified and set out in detail in 'Step 4' of the submitted NIS. These refer, for the most part, to best practice construction measures which seek to ensure *inter alia* the protection of water quality, during both the construction and operational stages. A robust silt curtain (or similar barrier) will be erected along open drainage ditches to prevent ingress of silt to the Hazelbrook Stream. Specific pollution prevention measures during the culverting of the drainage ditch to the north are also described and comprise the undertaking of works 'in the dry' to remove risk of scouring of silt or sediment. Training of on-site personnel will also be undertaken in the mitigation measures described. Inspection of these measures will be undertaken on a daily basis by the site manager and are incorporated into the preliminary Construction, Demolition and Waste Management Plan submitted with the application.

13.30. Following a review of the mitigation measures outlined in 'Step 4' of the submitted NIS, alongside consideration of the site specific conservation objectives and potential impacts upon these, I am confident that with the incorporation of the described mitigation, the project would not adversely affect the integrity of Baldoyle Bay SAC (0199) and SPA (4016). This is based on a complete assessment of all implications of the project.

13.31. In-Combination / Cumulative Impacts

13.32. The submitted NIS refers to the context of the proposed development, with the broader urbanisation of lands as part of the expansion of Dublin City and its hinterland. This is planned for under the Fingal County Development Plan 2017-2023. The County Development Plan was also subject to Appropriate Assessment prior to adoption with consideration of the impact of identifying sites suitable for development in the County, including in and around Malahide. Consideration is also undertaken in the submitted NIS of pressure on wastewater treatment facilities and planned wastewater upgrade / development at Swords and Clonsilla, which were



included as part of the County Development Plan and its associated AA screening, with no significant effects anticipated on Natura 2000 sites.

13.33. While the submitted NIS does not specifically identify other planned developments in the vicinity of the subject site, I note that these are highlighted in the submitted EIAR. In this regard, I consider that the submitted NIS should have had greater regard to the Broomfield masterplan lands. Nevertheless, I do not consider this to be a fundamental flaw of the NIS, as even with consideration of these nearby masterplan lands, there would not be potential for significant in-combination affect in my opinion. The NIS does give consideration of the increased risk of flooding and deterioration of water quality resulting from the cumulative effect of run-off from urban growth. Specific reference to the Greater Dublin Strategic Drainage Study is also provided, forming a set of universal standards to be complied with in development that incorporate SUDS techniques to maintain current levels of water quantity and quality. Future development under the Broomfield masterplan will also be subject to Appropriate Assessment Screening. As a result, and on balance, I am content with the submitted NIS in this regard.

13.34. With the implementation of the mitigation measures outlined in this report, I conclude that the proposed development is not likely to lead to any cumulative impacts on the integrity of the Baldoyle Bay SAC (0199) and SPA (4016), when considered in combination with other developments.

13.35. AA determination – Conclusion

13.36. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.

13.37. Having carried out screening for Appropriate Assessment of the proposed development, it was concluded that likely significant effects on the Baldoyle Bay SAC (0199) and SPA (4016) could not be ruled out, due to its hydrological link. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.

13.38. Following an Appropriate Assessment, it has been determined that the proposed development, individually or in combination with other plans or projects would not

adversely affect the integrity of the European sites, the Baldoyle Bay SAC (0199) and SPA (4016), or any other European site, in view of the sites Conservation Objectives.

13.39. This conclusion is based on a complete assessment of all aspects of the proposed project, both alone and in combination with other plans and projects, and there is no reasonable doubt as to the absence of adverse effects.

## 14.0 Environmental Impact Assessment

14.1. This section sets out an Environmental Impact Assessment (EIA) of the proposed project. The development provides for the preservation and protection of the existing Protected Structure of Auburn House as 1 no. residential dwelling; the conversion of existing stables of Auburn House to accommodate 4 no. dwellings; and the construction of 406 no. residential dwellings, apartments and duplexes providing for an overall total of 411 no. residential units; along with 1 no. childcare facility, on a site area of approximately 13.28 hectares. The site is located within the area of Fingal County Council. A number of topics and issues raised by observers that concern environmentally related matters have already been addressed in the wider planning assessment described above, and where relevant I have cross-referenced between sections to avoid unnecessary repetition.

14.2. Item 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:

- i) Construction of more than 500 dwelling units;*
- iv) 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.*

14.3. The current application site extends to circa 13.28 hectares in what can be considered a built-up area for the purposes of this legislation, and therefore an EIA is required in my view. The applicant has prepared an Environmental Impact

Assessment Report (EIAR) for the proposed development and submitted it with the application.

- 14.4. The EIAR comprises a non-technical summary, a main volume and supporting appendices. Chapter 16 of the main volume provides a summary of the mitigation measures described throughout the EIAR. The table at para. 1.7 and the introduction to each subsequent chapter describes the expertise of those involved in the preparation of the EIAR.
- 14.5. As is required under Article 3(1) of the amending Directive, the EIAR describes and assesses the direct and indirect significant effects of the project on the following factors: (a) population and human health; (b) biodiversity with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape. It also considers the interaction between the factors referred to in points (a) to (d). Article 3(2) includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and / or disasters that are relevant to the project concerned are considered.
- 14.6. I am satisfied that the information contained in the EIAR has been prepared by competent experts and complies with article 94 of the Planning and Development Regulations 2000, as amended. The EIAR would also comply with the provisions of Article 5 of the EIA Directive 2014. This EIA has had regard to the information submitted with the application, including the EIAR, and to the submissions received from the council, the prescribed bodies and members of the public which are summarised in sections 8, 9 and 10 of this report above.
- 14.7. Vulnerability of Project to Major Accidents and/or Disaster
- 14.8. The requirements of Article 3(2) of the Directive include the expected effect deriving from the vulnerability of the project to risks of major accidents and/or disaster that are relevant to the project concerned.
- 14.9. Chapter 2 'Site Location and Description of Development' of the submitted EIAR addresses this in section 2.9 entitled 'Risk of Major Accidents and/or Disasters'. I note that the subject site is not regulated, or connected to, or close to, any site regulated under the Control of Major Accident Hazards Involving Dangerous Substances Regulations i.e. SEVESO and so there is no potential for impacts from

this source. The vulnerability of the scheme to a major accident or disaster is considered to be low given the location of the proposed scheme and the existing built environment surrounding the site.

14.10. I am satisfied that the proposed use, i.e. residential, is unlikely to be a risk of itself. Having regard to the location of the site and the existing land use as well as the zoning of the site, I am satisfied that there are unlikely to be any effects deriving from major accidents and or disasters.

#### 14.11. Alternatives

14.12. Article 5(1)(d) of the 2014 EIA Directive requires:

*(d) a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment;*

14.13. Annex (IV) (Information for the EIAR) provides more detail on 'reasonable alternatives':

*2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.*

14.14. Chapter 2 of the EIAR provides a description of the main alternatives considered. A 'do-nothing' scenario was not considered to be viable or appropriate as it would leave a zoned site empty and this would be an inefficient use of the site contrary to the planning policies at national, regional and local level. Alternative locations were also not evaluated, as the site is zoned for the proposed uses and within the land ownership of the applicant, with no alternative site available to the applicant for the proposed development.

14.15. Three alternative layouts were considered, the first being an initially presented concept layout with a lower density form of development. This was not considered to be an efficient use of land and was therefore not pursued. The second and third alternative concept layouts comprised the evolution of the design following section

247 pre-planning meetings with the Planning Authority (PA) and incorporating amendments in response to PA comments. I consider the Directive requirements in relation to the consideration of alternatives to be satisfied.

14.16. Consultations

14.17. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions.

14.18. Likely Significant Direct and Indirect Effects

14.19. The likely significant indirect effects of the development are considered below and reflect the factors set out in Article 3 of the EIA Directive 2014/52/EU.

14.20. Population and Human Health

14.21. Population and Human Health is assessed in Chapter 4 of the submitted EIAR. In terms of impacts, after mitigation, there are no significant impacts anticipated during the construction phase, with impacts also being temporary in nature. During operational phase, it is predicted that there will be no adverse impact on human health including mental health or wellbeing, and there will be no adverse impact on social, economic or environmental living conditions as a result of the proposed development. Increased economic activity in the area is seen as a positive impact.

14.22. I note submissions from observers stating that local infrastructure is insufficient to support the expected needs of the future population of the development, with specific reference to schools being at capacity. Section 4.8 of the EIAR describes community infrastructure and social facilities in the vicinity of the application site, which cross references to a separate community and social infrastructure report submitted as part of the application. A range of community infrastructure, including schools, churches, library services and health services are identified within 2km of the site. Indoor recreational facilities and outdoor spaces are also highlighted within a 2km radius of the subject site. While an indication of existing educational capacity is not provided within the identified schools in the EIAR, I note that within the submitted community and social infrastructure report, the planning consultant for the application asserts that it is their opinion that there is sufficient capacity to

accommodate the proposed population of the development. There is however no evidence to support this statement.

14.23. I note the submissions on the application, include a representation from a local school regarding capacity problems. While I concur with the conclusions set out in the EIAR relating to the existence of infrastructure in the local area to accommodate the development, I recognise there is an absence of evidence regarding the capacity of educational facilities to meet the population demand of the development. However, given the timeframe for the construction, occupation and growth of the child population associated with the development, the capacity of schools in the area would be expected to change over that period. In any case, this is not a matter within the control of the applicant to resolve, and it is for the education authority to respond to growing educational demand in certain areas. Therefore, while it is possible that there could be a moderate negative effect from the development upon school capacity in the area, I do not foresee this as permanent, with changes to capacity levels occurring over time.

#### 14.24. Biodiversity

14.25. Chapter 5 of the submitted EIAR addresses biodiversity. It describes the desktop study and on-site surveys, of breeding birds, mammals and amphibians, undertaken in accordance with relevant best practice guidance. Separate studies were also carried out for bats and badgers and are presented in separate reports. A separate Nature Impact Statement is also provided as part of the application and an Appropriate Assessment is described in section 13 of this report above.

14.26. The site exhibits extensive flora in the form of improved grassland (GA1) and broadleaved woodland (WD1). Field boundaries on the subject site include a combination of hedgerows (WL1) and treelines (WL2). There are also drainage ditches (FW4) on field boundaries in two locations. Patches of the non-native Spanish Bluebell (*Hyacinthoides hispanica*) and Three-cornered Garlic (*Allium triquetrum*) were found and are listed as alien invasive on Schedule 3 of SI No. 477 of 2011. In relation to the categorisation of the woodland on the subject site, this is not a semi-natural, native woodland type as described in Fossitt or Annex I of the Habitats Directive. It is predominantly composed of non-native species, however the EIAR states that broadleaved woodland is rare in Ireland and provides habitat for a

range of species which may be important at a local or country level. This habitat is considered to be of high local value.

14.27. Site surveys were carried out in May, June, October and November 2019 and in February and August 2020, as the optimal months to observe bats, amphibians and birds. Separate surveys were undertaken on 31<sup>st</sup> July to 8<sup>th</sup> August, 8<sup>th</sup> October and 11<sup>th</sup> November 2019 for Badgers. Third party concerns are raised regarding a lack of a winter bird survey; however this is clearly referenced in the submitted EIAR. I note third party representations concerned that the layout of the proposed development in the submitted Bat and Badger Assessment differs to the submitted drawings, however I am satisfied that the layout is only marginally different and therefore does not alter the conclusions reached.

14.28. In terms of survey results, while there were no badgers recorded on the site and setts are considered to be inactive, it is possible that the site is still used for foraging. Bats were recorded on the site, and while other protected species of mammal were not recorded on the site, suitable habitat exists for Hedgehog, Pygmy Shrew and Irish Stoat. A range of non-protected mammals are also noted to be on the site and habitats exist to support various mammals. There is no evidence of otter or suitable habitat to support otter species on the site. I note that bat species protected under Annex IV of the Habitats Directive and Wildlife Amendment Act 2000 were evidence on the site. Badgers are also protected under Wildlife Amendment Act 2000. In terms of birds, no species of high concern were recorded on the site, however it is noted that some species were recorded in the Dublin area. Of these birds, only habitat suitable for Meadow Pipit exists on the site. Various low conservation concern bird species were recorded on the site during bird breeding season. During the winter survey (February 2020), garden and woodland birds were noted, but no wetland or wintering, wading birds. The EIAR states that habitats on the subject site are not suitable for regularly occurring birds which may be associated with the Malahide Estuary or Baldoyle Bay Special Protection Areas. In relation to amphibians, the ditches on the site may be suitable for spawning frogs, and both the Common Frog and Common Lizard are protected under the Wildlife Act 1976. There are no permanent ponds on the site which would be relied on by Smooth Newts. There is also no suitable habitat for fish. The EIAR also concludes that there are no protected invertebrates on the site.

14.29. Concerns are raised by third parties regarding the amount of time that has lapsed since the badger surveys were undertaken and submission of the current application. With reference to the 'Advice Note on the Lifespan of Ecological Reports and Surveys' produced by CIEEM, I am satisfied that as the survey is not more than 3 years old, the surveys can be relied upon given the robustness of the approach taken, with repeat visits and undertaken at various / appropriate times of the year. However, in recognition of the time that has lapsed since undertaking the badger survey and submission of the application, I consider that appropriate mitigation should be in place to require a pre-construction survey, to confirm that the badger setts have not been reoccupied, with appropriate measures to be taken in the event that they are.

14.30. In regard to potential impacts during construction of the proposed development and in the absence of mitigation, negative, moderate, likely and medium-term effects are expected as a result of habitat loss. Negative, significant, likely and permanent effects are expected to result from damage to trees to be retained and mortality of animals during construction. Pollution of water during construction is also considered negative, significant, likely and short-term. During operational phase and in the absence of mitigation, neutral, imperceptible, unlikely and permanent effects from wastewater pollution and surface water is expected. Negative, significant, likely and permanent effects from lighting, negatively, significant, likely and long-term effects from Spanish Bluebells and Three-cornered Garlic are predicted, and negative, significant, likely and short-term impact to protected areas in the Broadmeadow estuary.

14.31. Mitigation measures are described to reduce the effects of the development and resultant impact upon the aforementioned areas. These include, during the construction phase, preservation of planting cover for badgers along perimeter of the site; 12 bat boxes to be erected in the remaining woodland area; new planting; clearance of vegetation outside of bird nesting season, or where not possible, inspection for bird nesting activity prior to removal and removal under licence if necessary; checking of trees for bats prior to / during felling or surgery and where buildings are modified, a bat specialist shall ensure that bats are protected; erection of silt curtain (or similar barrier) along ditches to prevent ingress of silt into the Hazelbrook Stream and use of silt trap or settlement pond for run-off; storing of



dangerous substances in a banded zone; training of site personnel in preventing pollution and about the mitigation measures described; inspection of measures incorporated into the construction management plan; no disturbance or compaction of soil in root protection areas of trees to be retained with fencing to mark the buffer; controlled lighting to reduce impact on bats; and treatment of Spanish Bluebells and Three-cornered Garlic by standard herbicide by a professional during growing season.

14.32. The EIAR conclusion on biodiversity, states that there are habitats on the site that have been found to range from negligible to high local biodiversity value, and there is a hydrological link to both the Broadmeadow (Malahide) Estuary SAC/SPA/pNHA and Baldoyle Bay SAC/SPA/pNHA, which are areas designated as internationally important for nature conservation. With mitigation in place, as described above, it is not considered that significant effects will occur to biodiversity.

14.33. I have given consideration to third party objections, however overall, I concur with the conclusions described in the EIAR and consider impacts upon biodiversity to be locally significant, with suitable mitigation to reduce impact on high value receptors. I also note that the site is zoned residential and thus this zoning supports redevelopment of the lands which in any form, will invariably lead to some disturbance and clearance of habitats on the site.

14.34. Land, soil, water, air and climate

14.35. Land, soils and geology is described in Chapter 6 of the submitted EIAR. This identifies that during construction, works will expose subsoil to weathering and may result in the erosion of soils. Surface water runoff may also result in silt discharges to the Hazelbrook Stream and excavations will result in surplus subsoil which will be used in fill areas where applicable. Additional imported fill will also be required and must meet chemical and biological standards. Dust from the site and from soil spillages may also result in oil contamination of soils and underlying geological structures. There are no ongoing impacts on underlying soil identified as part of the operational phase.

14.36. Mitigation measures are outlined to reduce impacts and include the following: appropriate storage of topsoil to allow as much on-site reuse as possible; use of silt traps, silt fences and tailing ponds; provision of wheel wash areas; dampening down

measures with water sprays during dry periods; appropriate storage and bunding measures; soil samples to investigate potential contamination; and measures to protect groundwater. These are in accordance with the measures described in the submitted Preliminary Construction Demolition and Waste Management Plan and Traffic and Transport Assessment, to be implemented during construction phase. I note third party comments that the EIAR does not reference these associated submitted documents correctly, however I am satisfied that the remedial measures described are reflected in aforementioned documents, and the reference to additional / erroneous document titles in the EIAR is a non-consequential error.

- 14.37. Overall, the EIAR predicts that with mitigation in place, no significant adverse impacts are expected to soils and geology. During operational phase the planting programme is expected to reduce soil erosion. SUDS and filtration devices will also remove pollutants from rainwater runoff. The encouragement of surface water to ground water is also expected to replenish natural levels.
- 14.38. Water is assessed in Chapter 7 of the submitted EIAR. During construction phase, no significant impact to existing watermains is anticipated. Mitigation measures include a method statement to describe correct procedures when working in the vicinity of watermains, and that watermains be cleaned and tested in accordance with Irish Water guidelines prior to connection to the public watermain, under the supervision of Irish Water or the Design Engineer. With mitigation in place, potential negative impacts will be short term only. During the operational phase, water meters will be installed to assist with the identification of potential leakages and all plumbing fixtures / fittings will meet current best practice for water consumption minimisation.
- 14.39. As a result of these remedial measures, the EIAR concludes that no significant adverse impacts are expected to arise during the construction phase of the development on the water supply network. Irish Water have confirmed in their Confirmation of Feasibility Letter that the existing network has sufficient capacity to cater for the development in operation without the need for upgrades.
- 14.40. In relation to foul water, remedial measures are identified to reduce the risk of defective or leaking foul sewers. This includes during the construction phase, testing in accordance with Irish Waters Code of Practice and Standard Details, inspection by the design Engineer in accordance with Building Regulations, surveys for physical

defects, connection under supervision of Irish Water and the use of adequate protection measures during excavations in public areas in the vicinity of utilities and public services. During the operational phase, foul drains will be tested and surveyed prior to connection to public sewers. As a result of these mitigation measures, no significant long-term impacts will result from construction works. During the operational phases, the development will increase foul water flows in the existing drainage system, and it is noted that the existing Chapel Road Pumping Station will have capacity to cater for the development flows. Irish Water have assessed the proposed development and issued a confirmation of Feasibility Letter and Statement of Design Acceptance.

14.41. In terms of surface water, during construction there is a risk of rainfall washing silts and sediments into the surface water system and ultimately the Sluice River. During operational phase, runoff from roads and hardstanding areas will discharge contaminants to the surface water system. Remedial and reductive measures are outlined in the EIAR to mitigate against these potential pollutants of the water system, with implementation of measures in the Construction Management Plan forming the core mitigation during construction. During operational phase, the site will be attenuated and SUDS devices will reduce and slow the rate of surface water runoff, with treatment prior to discharge into the Hazelbrook Stream to remove pollutants and hydrocarbons. Maintenance measures will also be in place to ensure the longevity of this remediation. As a result, it is predicted in the EIAR that there will be some short term negative impacts during the construction phase, that with the implementation of reductive measures will be minimised, and no significant long term impact will result. During operational phase, with the implementation of the mitigation described above, no significant adverse impacts are envisaged.

14.42. Air Quality is assessed in Chapter 8 of the submitted EIAR. This chapter outlines the legislative context and baseline air quality for the area, with an assessment of potential impacts as a result of the proposed development. Key potential construction phase impacts are identified in relation to dust and construction traffic emissions, and potential operational phase impact in relation to traffic emissions. Mitigation measures are described in the EIAR to mitigate dust and air quality impacts during the construction phase, comprising the implementation of standard onsite mitigation measures to control emissions, including dust. During the

operational phase, it is not expected that the scale of emissions would have an adverse impact on local ambient air quality, and as a result, no specific mitigation is required. A Travel Plan is included with the application to promote sustainable transport forms, which aims to reduce future occupier's reliance on car travel, with a focus on rail and bus travel. With the implementation of mitigation during construction phase, impacts are predicted to be negligible. Similarly impact during operational phase is expected to be negligible and not significant.

14.43. Climate is assessed in Chapter 10 of the submitted EIAR. This chapter describes the climate policy context, receiving environment and potential CO<sub>2</sub> emissions resulting from the proposed development. During the construction phase, CO<sub>2</sub> emissions relate to material use, transport and machinery. During operational phase, CO<sub>2</sub> emissions relate to embodied CO<sub>2</sub>, energy use, efficiency of buildings and transport. In terms of mitigation, the application of EU and Government targets for reducing CO<sub>2</sub>, will inform reduction measures during both the construction and operation phases. During construction, mitigation includes sourcing materials locally, recycling material from excavation for reuse on site, implementation of a traffic management plan to reduce traffic emissions and maintenance of plant and equipment. During operation, mitigation includes the selection of efficient materials, measures to improve the efficiency of buildings, and low carbon and renewable energy technologies in the proposed development. Sustainable travel modes are also promoted through the design of the development. With the application of these remedial measures, CO<sub>2</sub> impact as a result of the proposed development will be marginal, when compared to the existing environment.

14.44. I note third party observations that include reference to potential pollution from the proposed development. In relation to air and water quality, I have highlighted the predicted impacts, mitigation and remedial effects of the proposed development above. I am satisfied that with the application of the mitigation measures described, there is no significant risk of pollution resulting to air or water quality. Overall, I concur with the EIAR conclusions and consider that impacts from the proposed development will be within acceptable parameters, with no significant impact upon land, soils, geology, water, air quality or climate.

14.45. Noise and vibrations

14.46. Chapter 9 of the submitted EIAR deals with noise and vibration. The EIAR describes the typical construction related activities that are expected to generate noise and vibration, including use of plant and machinery, both on, and travelling to, the subject site. Minor short-term vibrations impacts may occur during the construction phase as a result. During the operational phase potential noise could result from increased road traffic, alongside general maintenance activities on the site, while vibration is not expected to be a contributing factor during the operational phase. Remedial and reductive measures are described in the EIAR, with a focus on implementation on the control of construction activities to limit noise nuisance. Impact from noise during the construction phase will also be short term. The impact of increased traffic on increased noise levels is expected to be slight in the operational phase but predicted in the EIAR to decrease over the next decade as petrol and diesel cars are phased out and replaced by electrical vehicles. During construction, vibration will only have minor temporary increases, while operational vibration is deemed not to have any noticeable impacts.

14.47. I concur with the conclusions of the EIAR in relation to noise and vibration impacts from the proposed development during both construction and operational phases.

14.48. I have given consideration to the third party concerns raised in relation to construction impacts, including noise, dust and traffic. Overall, it is clear that there is likely to be disruption to users and occupiers of the area surrounding the subject site during the construction of the proposed development, however this will be temporary and incorporate mitigation to limit the degree of disturbance. In my view, it would be inappropriate to stifle development opportunity on this land zoned for residential, because of these temporary, managed, disturbances from construction activities. The application of mitigation measures can be secured through conditions, particularly through the application of a final Construction and Environmental Management Plan for the proposed development. With the application of these mitigation measures and in consideration of the temporary nature of the construction works, I am satisfied that construction impacts (or construction transport impacts) resulting from the proposed development are within acceptable limits.

14.49. Transportation

14.50. Chapter 13 of the submitted EIAR assesses traffic and transport impact. Observers have raised concerns in relation to the probable impact on the road network, car parking, the capacity of the existing public transport network and the adequacy of pedestrian and cycle infrastructure. From an environmental perspective, the EIAR addresses these aforementioned matters in detail alongside potential construction and cumulative impacts, and my assessment of Traffic and Transportation in section 12.7 above also considers these matters. In relation to the methodology described in the EIAR, the baseline traffic data has been increased by 14% at specific junctions, where traffic movements being recorded during a period of 'level 5 lockdown' as a result of the Covid-19 pandemic. This 14% increase is modelled on data produced by IDASO and is intended to reflect more normalised traffic flow levels through those junctions.

14.51. Potential impact during the construction phase of the development upon traffic, is described in the EIAR as a moderate effect on the surrounding environment over a short-term period. During operational phase, junctions 2, 3 and 4 as characterised in the EIAR, are shown to operate well within capacity during both peak hours, and are expected to continue to do so for the future assessed year 2038 with the proposed development in place. Junction 1 (R107 Malahide Road / Back Road) is shown to operate with satisfactory capacity for the future assessment year 2038 with the development in place. The results presented in the EIAR reflect the modelling carried out as part of the Traffic and Transport Assessment submitted with the application. This modelling accounts for committed and potential future developments, with reference to the Broomfield masterplan (specifically applications F13A/0459 and F13A/0460) alongside potential future development anticipated in the masterplan. Overall, the EIAR concludes that in the operational phase, junctions will operate within satisfactory capacity for the future 2038 year with both the development and anticipated surrounding development in place, and this would have a moderate impact on the surrounding roads network. The EIAR also concludes that the provision of linkages to public transport and adequate pedestrian and cyclist facilities as part of the proposed development, will result in a positive effect on sustainable transport modes.

14.52. I concur with the above conclusions described in the EIAR in relation to traffic and transport impact.

#### 14.53. Material assets – Archaeology and cultural heritage

14.54. Archaeology and cultural heritage are assessed in Chapter 14 of the submitted EIAR. This is informed by a Geophysical Survey Report and Archaeology & Cultural Heritage Report, both appended to Chapter 14 of the EIAR. There are no national monuments within or in the vicinity of the proposed development site. Desk-based archaeological assessment and archaeological test excavation were undertaken and did not reveal any features, finds or deposits of archaeological interest with the subject site boundary. As a result, archaeological potential is considered to be low. Nevertheless, the EIAR recommends measures to ensure the monitoring during construction works, to determine whether there are any archaeological features or deposits present. Archaeological monitoring will be carried out under licence to the DHLGH and the NMI, following proper excavation and recording procedures. The EIAR concludes that the proposed development could have a slight negative permanent impact on any archaeological features present, as a result of groundworks. No operational impacts are predicted. In terms of cultural heritage, I note that the site is occupied by a Protected Structure, curtilage features and grounds associated with the heritage value of that structure. I have given detailed consideration of the impacts upon the Protected Structure, curtilage features and its grounds in section 12.4 of this report above, as well as in the landscape and visual impact section of this EIA below. Overall, I consider that the impact of the proposed development would be significantly negative upon this aspect of cultural heritage – being the Protected Structure, curtilage features and grounds.

14.55. In conclusion, I concur with the EIAR predicted impacts on archaeology and I am satisfied that the proposed mitigation during construction phase, will ensure that the risk of potential impact upon archaeology is within acceptable parameters. However, in relation to cultural heritage, I consider that the proposed development would result in significant, negative and permanent impact upon the Protected Structure on the site.

#### 14.56. Material assets – Utilities

14.57. Chapter 11 of the submitted EIAR considers utilities and waste impacts associated with the proposed development. This chapter is informed by the site-specific preliminary Construction, Demolition and Waste Management Plan and Operational

Waste Management Plan submitted with the application. There is currently electricity, gas and telecommunications utilities available to the site.

14.58. During the construction phase, temporary impact is anticipated to the local traffic network. Temporary and slight impacts are envisaged as a result of temporary traffic restrictions to facilitate temporary dig out of the road as part of the new foul water line along Back Road and Kinsealy Lane. I note third party concern that the EIAR did not account for the site redline boundary extending into Back Road / Kinsealy Lane to facilitate water infrastructure connections, however it is clear that this is accounted for as described above, specifically in Chapter 14 of the EIAR. Neutral, slight and temporary impacts are predicted to electricity, gas and telecommunications as a result of potential disruption to local supply during construction works. The EIAR refers to the submitted Construction, Demolition and Waste Management Plan which describes how waste generated for will be managed, with potential effects considered to be short-term, not significant and neutral.

14.59. During the operational phase and as a result of increased demand on the network, impact upon electricity is predicted to be slight and long-term, impact on gas is predicted to be moderate and long term, and the impact on telecommunications is predicted to be neutral, imperceptible and long term. In terms of waste, measures to manage waste on site are outlined, with a management company identified to have responsibility, and collection intended to be through an appointed waste contractor. The potential effect of operational waste from the proposed development is expected to be long-term, not significant and negative.

14.60. The EIAR concludes in Chapter 14 that the predicted impacts during the construction phase are expected to include potential disruption to local natural and human material assets, resulting in both short-term and long-term impacts. With the implementation of mitigation measures, there is unlikely to be significant residual impacts, and any impact would be temporary and neutral as a result. During operational phase, the impact to services and utilities is predicted to be positive and permanent. While I generally concur with the predicted impacts set out in Chapter 14, it is not clearly set out in the EIAR why operational impact upon services and utilities is predicted to be positive. Neutral, slight, not significant and negative effects are described to utilities and waste, and therefore a positive effect does not flow from the assessment presented. In my opinion, there may be positive effect from the



provision of new and extended services and infrastructure. Particularly the water and foul sewage network that will include potential for wider connection. However overall, I am satisfied that there are no significant permanent adverse impacts upon utilities and services, with impact predicted to be within acceptable parameters.

#### 14.61. Landscape and visual

14.62. Chapter 12 of the submitted EIAR is a landscape and visual impact assessment of the proposed development and is accompanied by a CGI and verified views document with the application. The subject site is characterised in the EIAR as being a semi-rural landscape. The EIAR states that Auburn House was constructed in c.1779 and the location and setting of the house historically appears to have been a pastoral parkland landscape context, with features including woodland, a walled garden and orchard and ancillary structures. The woodlands, trees and hedgerows are identified as forming a function and aesthetic features in the landscape.

14.63. The overall impact on existing trees and hedgerows is predicted to be moderate and negative during the construction phase. During the operational phase, it is anticipated that impact on trees and hedgerows from the proposed development will be moderate and negative in the short-term, reducing to slight and negative in the long term. In relation to impact on landscape character, visual disturbances caused by construction activities are expected to have a significant and negative impact viewed from within the site, and slight and negative impact viewed from outside the site. Construction impacts are on a short to medium term. During the operational phase, impact of the proposed development upon landscape character is anticipated to be a moderate and negative impact when viewed from within the site, and slight and negative when viewed externally. The principal elements identified as giving rise to landscape and visual impact in the long term are the removal of existing trees and hedgerows, the height of proposed buildings, new structures / roads / lighting / pathways, change of character due to intensification of use, proposed tree and shrub planting. In relation to the vista from Auburn House looking east towards Malahide Demesne, this is expected to experience a significant and negative impact during construction and a moderate and negative impact during operational phase. This conclusion has been reached in light of the visibility of upper tree canopies, woodland, the inclusion of large specimen tree planting and the zoning of the site for residential development.

- 14.64. In relation to tree removal and resulting impact upon the landscape visual character, I have described in detail in sections 12.4 and 12.9 of my assessment of this. Specifically in relation to impacts upon the character of both the Protected Structure, its curtilage features and attendant grounds, as well as impact upon the sylvan character to Dublin Road. I do not concur with the submitted EIAR in relation to predicted impacts in this regard. I consider that the impact upon the character of the landscape as a result of tree removal associated with construction works, will be significant, negative and permanent. Particularly in relation to proposed apartment block 7 situated in the woodland setting surrounding Auburn House, the removal of trees on the northern boundary to Little Auburn, and the removal of trees associated with the construction of a new access from Dublin Road.
- 14.65. In relation to the landscape visual impact of proposed buildings, there are 39 verified views included of the proposed development taken from a range of locations within and around the subject site boundaries. Impact as a result of the proposed development on these views ranges from slight to significant and negative in the construction phase on a short-term basis; and from slight to moderate / significant and negative in the operational phase. Where impact is identified as moderate / significant and negative in the operational phase, this is anticipated to reduce to slight and negative in the long term, with the establishment of planting as part of the proposed development.
- 14.66. I note that while not all views are presented with the winter perspective, views 6 and 7 of the views from Auburn House are presented with a reduced leaf perspective. Overall, the views illustrate the largely obscured visibility of the proposed development when viewed from outside of the site, generally as a result of the dense boundary planting to be retained and planted as part of the development. This is with the exception of views 3 and 4 which show the visibility from Clareville Lodge and Carey's Lane respectively.
- 14.67. I set out in detail my assessment of heritage considerations and the impact of the design of the proposed development in section 12.4 above, and that should be read in conjunction with this section of my report. A number of long views are provided in the EIAR that are of little assistance, other than to demonstrate that as would be expected, the proposed development is not visible in these outskirt locations from the site. There are insufficient views presented of the relationship of proposed

apartment blocks 1, 2 and 3 with Auburn House in my opinion. The views provided are either not angled towards the apartment blocks or are taken from a distance that focuses on the relationship of the proposed housing units to the setting of the Protected Structure, rather than the apartment blocks. This is a significant failing in my view, with the most visually prominent blocks in the proposed development situated to the north of Auburn House, and therefore likely to be visible in the setting of the Protected Structure. While there is woodland area between Auburn House and the proposed apartment blocks, without presentation of views of this relationship, a comprehensive assessment of the potential impact cannot be undertaken. In addition, view no.37 demonstrates in my opinion, that the proposed housing units will intrude upon the open frontage setting of Auburn House, negatively impacting the attendant grounds of the Protected Structure. I consider that the appreciation of Auburn House will be adversely impacted as a result.

14.68. As a result of the foregoing and my detailed assessment set out in section 12.4 above, I cannot concur with all of the conclusions reached in the submitted landscape and visual impact assessment. However, I note that the assessment of visual impact has a subjective quality, and as such, the fact that I do not concur with all of the conclusions reached in the landscape and visual impact assessment is not to question the methodology of the assessment carried out, which in my view is EIAR compliant.

14.69. The interaction between the above factors

14.70. A specific section on interactions between the topic areas under the EIAR is included within each individual topic chapter. Chapter 15 of the submitted EIAR is entitled 'Interactions' and highlights those interactions which are considered to potentially be of a significant nature. The development is concluded in the EIAR to have no significant negative impact when mitigation measures are incorporated.

14.71. I have considered the interrelationships between factors and whether these might as a whole affect the environment, even though the effects may be acceptable on an individual basis. Having considered the mitigation measures in place, no residual risk of significant negative interaction between any of the disciplines was identified and no further mitigation measures were identified.

14.72. Cumulative impacts

14.73. I note third party responses that the cumulative impact of development in the area should be considered alongside the current application. The proposed development would occur in tandem with the development of other sites that are zoned in the area. Such development would be unlikely to differ from that envisaged under the county development and local area plans which have been subject to Strategic Environment Assessment. A number of developments in the surrounding area have been specifically identified as being considered in the submitted EIAR, namely the Broomfield Masterplan lands.

14.74. Each topic chapter in the submitted EIAR has considered cumulative impacts and I have highlighted these where most relevant to my assessment. The proposed land use of the development is in keeping with the zoning of the site, and the proposed development is generally within the provisions of the relevant plans, with the exception in my view, of height and scale. It is therefore concluded that the culmination of effects from the planned and permitted development and that currently proposed would not be likely to give rise to significant effects on the environment, other than those that have been described in the EIAR and considered in this EIA.

14.75. Reasoned Conclusion on the Significant Effects

14.76. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the developer, and the submissions from the planning authority, prescribed bodies and observers in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

14.77. **Population and human health** - positive impacts from economic impact during both construction and operational phases, as well from the provision of community use and green space. Increase in traffic and noise will have a slight permanent impact on human health. Implementation of a Construction and Environmental Management Plan will limit any likely adverse environmental impacts on population and human health during the construction phase.

14.78. **Biodiversity** - in the absence of mitigation, during the construction phase, negative, moderate, likely and medium-term effects are expected as a result of habitat loss. Negative, significant, likely and permanent effects are expected to result from damage to trees to be retained and mortality of animals during construction. Pollution

of water during construction is also considered negative, significant, likely and short-term. In the absence of mitigation, during operational phase, neutral, imperceptible, unlikely and permanent effects from wastewater pollution and surface water is expected. Negative, significant, likely and permanent effects from lighting, negatively, significant, likely and long-term effects from invasive species are predicted, and negative, significant, likely and short-term impact to protected areas in the Broadmeadow estuary. Mitigation measures include preservation of planting cover for badgers; bat boxes; new planting; clearance of vegetation outside of bird nesting season; checking of trees for bats prior to felling or surgery and where buildings are modified, a bat specialist shall ensure that bats are protected; erection of silt curtain and silt trap to prevent ingress of silt into the Hazelbrook Stream; storing of dangerous substances in a bunded zone; training of site personnel; inspection of measures; no disturbance in root protection areas of trees to be retained; controlled lighting; and treatment of alien invasive species identified on site. With mitigation in place, it is not considered that significant effects will occur to biodiversity.

14.79. **Land, soils, geology, water, air quality or climate** - with the implementation of mitigation through management measures in the Construction Demolition and Waste Management Plan, as well as surface water management, attenuation and drainage of foul waters, no significant adverse impacts are envisaged.

14.80. **Noise and vibration** - the main impact from would be during construction phase, which will be temporary, and mitigated through management measures flowing from the preliminary Construction, Demolition and Waste Management Plan, to be described in a final site-specific Construction Environmental Management Plan to limit potential impact.

14.81. **Material Assets - Archaeology and cultural heritage** - mitigation measures include archaeological test trenching, monitoring and recording. Ground-breaking works have potential for slight negative permanent impact on any archaeological features that may be present. No archaeological potential was identified on the subject site bounds / on Back Lane or Kinsaley Road (the route of the proposed foul sewer). In relation to cultural heritage, this EIA concludes there will be significant adverse permanent impact upon the Protected Structure, its curtilage features, setting and attendant grounds.

- 14.82. **Material Assets – Utilities and waste** - mitigation measures follow implementation of a Construction, Demolition and Waste Management Plan and Operational Waste Management Plan. As a result, there are no predicted significant residual impacts expected to occur upon the utilities and waste examined during either construction or operational phases.
- 14.83. **Transportation** – there is potential for temporary negative impacts to human health during the construction phase from traffic associated with the proposed development. Implementation of measures described in the Construction, Demolition and Waste Management Plan will mitigate these impacts. During the operational phase The Mobility Management Plan (Travel Plan) will encourage a shift toward sustainable transport options. Junctions will operate within satisfactory capacity and a moderate impact on the surrounding roads network is anticipated. The provision of linkages to public transport and pedestrian and cyclist facilities as part of the proposed development, will result in a positive effect on sustainable transport modes.
- 14.84. **Landscape and visual impacts** – this EIA concludes that the removal of trees will have a negative impact upon the character of the Protected Structure, its curtilage features, setting and associated landscape features of heritage significance. This EIA also considers that significant, negative and permanent impacts will result to the character and heritage value of the Protected Structure, its curtilage, setting and attendant grounds, as a result of the siting and height of proposed buildings in the development.
- 14.85. Having regard to the above, the likely significant environmental effects arising as a consequence of the proposed development have been satisfactorily identified, described and assessed in this EIA. I also consider that the EIAR is compliant with Article 94 of the Planning and Development Regulations, 2001, as amended.

## 15.0 **Conclusion**

- 15.1. Overall, I consider that the proposed development includes a combination of elements that would significantly adversely impact the appreciation of the Protected Structure in its attendant grounds, which are currently well-preserved.

- 15.2. This includes the creation of a new entrance from Dublin Road, both detracting from the visual prominence of the existing historical entrance to the site (a curtilage feature of the Protected Structure) and resulting in the removal of trees that contribute to the sylvan character of Dublin Road. In addition, the proposed development would encroach upon the attendant grounds to the Protected Structure to the east, south and north. Specifically, proposed houses will reduce the openness of the historic landscape setting to Auburn House to the east and consequently conflicting with the original alignment to the Malahide Castle Demesne; the location of apartment block 7 would harm the integrity of the woodland setting to the Protected Structure; and apartment blocks 1-3 have been inadequately tested visually and are of an inappropriate scale in the setting of this important and well preserved Protected Structure.
- 15.3. The proposed development also results in the significant loss of trees, tree groups and hedgerows, adversely impacting the integrity of woodland and canopy coverage on this site with special and historical woodland characteristics.
- 15.4. Furthermore, the proposed development has failed to adequately test the daylight, sunlight and overshadowing conditions as they relate to both the proposed accommodation and in terms of impacts upon adjacent residents. While impact is not anticipated to be significant, there is no evidence provided to support this conclusion.
- 15.5. The proposed development is therefore contrary to Objectives CH20, CH21, CH22, Local Objective 57, Objective PM64, Objective MALAHIDE 2, Objective MALAHIDE 11 and Objective DMS30 of the Fingal Development Plan 2017-2023; as well as The Architectural Heritage Protection Guidelines for Planning Authorities and the Urban Development and Building Heights Guidelines for Planning Authorities.

## **16.0 Recommended Order**

### **Planning and development Acts 2000 to 2019**

#### **Planning Authority: Fingal County Council**

- 16.1. 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 8<sup>th</sup> Day of April by Kinwest Limited care of Downey Planning, 1 Westland Square, Pearse Street, D2.

### **Proposed Development**

- Preservation of the existing Auburn House, conversion of existing stables and construction of 406 no. residential dwellings, to provide a total of 411 residential units as follows:
- The preservation of the existing three storey 11 bedroom residential dwelling of Auburn House a Protected Structure (RPS no.448). The main house is to remain in single residential use (i.e. 1 no. 11 bedroom, three storey over basement detached dwelling);
- The conversion of the existing stables to the rear of Auburn House into 4 no. two storey terraced residential dwellings (1 no. 1 bed, 2 no. 2 bed and 1 no. 3 bed units). Internal and external alterations to the stables of the Protected Structure including minor demolition works are proposed to accommodate same;
- The preservation and protection of the existing woodland of Auburn House;
- The preservation of existing follies and walls associated with the 'walled garden' with amendments to the garden proposed to accommodate the proposed development;
- The demolition of detached stable/shed building off Streamstown Lane;
- The construction of 97 no. residential dwellings (45 no. 3 bed, 39 no. 4 bed and 13 no. 5 bed units) in detached, semi-detached and terraced dwellings, ranging from 2, 2.5 and 3 storey in height;
- The construction of 309 no. apartments / duplex apartments (136 no. 1 bed, 161 no. 2 bed and 12 no. 3 bed units) all provided with balconies / terraces, ranging between 2 and 6 storeys in height;
- Single level basement below Apartment Blocks 1, 2 & 3 comprising car parking (164 no. spaces), bicycle parking (278 no. spaces), refuse storage, plant rooms, comms room, maintenance room, attenuation tank and services;



- The provision of 1 no. childcare facility (located within the ground floor of apartment Block 4);
- The provision of a 2 storey detached community building within the walled garden, for use as part of the overall ancillary residential facilities;
- 540 no. residential car parking spaces across surface, undercroft / podium and basement level, and 7 no. car parking spaces serving the childcare facility, providing an overall total of 547 no. car parking spaces and a total of 716 no. bicycle parking spaces across surface, undercroft / podium and basement level;
- The construction of 1 no. new vehicular entrance off Malahide Road (providing for a new signalised junction with Back Road and Malahide Road) and adoption of the existing vehicular entrance off Carey's Lane;
- Utilisation of existing vehicular entrance access and road for pedestrian and cycle route only with vehicular access retained solely for existing residential use;
- Landscaping including provision of public, communal and private open spaces, playground and boundary treatments;
- 4 no. ESB substations, 1 no. new foul pumping station, public lighting; proposed foul sewer works along Back Road and Kinsealy Lane and all associated engineering and site works necessary to facilitate the development.

The proposed apartment blocks are described in more detail below:

- Apartment Block 1 consisting of a total of 51 no. units in a 5-storey block (27 no. 1 bedroom units; 22 no. 2 bedroom units; 2 no. 3 bedroom units).
- Apartment Block 2 consisting of a total of 57 no. units in a 6-storey block (29 no. 1 bedroom units; 27 no. 2 bedroom units; 1 no. 3 bedroom units).
- Apartment Block 3 consisting of a total of 51 no. units in a 5-storey block (27 no. 1 bedroom units; 22 no. 2 bedroom units; 2 no. 3 bedroom units).
- Apartment Block 4 consisting of a total of 27 no. units in a 5-storey block (9 no. 1 bedroom units; 17 no. 2 bedroom units; 1 no. 3 bedroom units) along

with childcare facility, ancillary resident amenity facilities, plant, waste storage, ESB substation, car parking and bicycle parking at ground floor/undercroft level.

- Apartment Block 5 consisting of a total of 28 no. units in a 5-storey block (6 no. 1 bedroom units; 22 no. 2 bedroom units) along with plant, waste storage, car parking and bicycle parking at ground floor/undercroft level.
- Apartment Block 6 consisting of a total of 21 no. units in a 4-storey block (5 no. 1 bedroom units; 14 no. 2 bedroom units; 2 no. 3 bedroom units) along with plant, bin store, bicycle parking and maintenance/cleaner's stores at ground floor level.
- Apartment Block 7 consisting of a total of 6 no. units in a 4-storey block (6 no. 2 bedroom units) with bin store, bicycle and car parking at ground/undercroft level.
- Apartment Block 8 consisting of a total of 25 no. units in a 5-storey block (6 no. 1 bedroom units; 17 no. 2 bedroom units; 2 no. 3 bedroom units) along with bin store, plant, cleaning store and bicycle parking at ground floor level.
- Duplex Apartment Block 1 consisting of a total of 6 no. units in a 3-storey block (1 no. 1 bedroom units; 3 no. 2 bedroom units; 2 no. 3 bedroom units) along with bin store at ground floor level.
- Duplex Apartment Block 2A consisting of a total of 8 no. units in a 2-storey block (6 no. 1 bedroom units; 2 no. 2 bedroom units) along with bin store and car and bicycle parking at ground floor/undercroft level.
- Duplex Apartment Block 2B consisting of a total of 11 no. units in a 3-storey block (8 no. 1 bedroom units; 3 no. 2 bedroom units) along with bin store and bicycle and car parking at ground floor/undercroft level.
- Duplex Apartment Block 2C consisting of a total of 9 no. units in a 2-storey block (7 no. 1 bedroom units; 2 no. 2 bedroom units) along with bin store and bicycle and car parking at ground floor/undercroft level.
- Duplex Apartment Block 2D consisting of a total of 9 no. units in a 2-storey block (5 no. 1 bedroom units; 4 no. 2 bedroom units) along with bin store and bicycle parking at ground floor/undercroft level.

## **Decision**

**Refuse 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.

## **Reasons and Considerations**

1. The proposed development would situate a new entrance from Dublin Road, both detracting from the visual prominence of the existing historical entrance to the site (a curtilage feature of Auburn House a Protected Structure RPS No. 448) and resulting in the removal of trees that contribute to a special character that is recognised as worthy of preservation in the County Development Plan. In addition, the proposed development would encroach upon the attendant grounds to the Protected Structure to the east, south and north: The situation of houses to the east of Auburn House would reduce the openness of this historic landscape setting and conflict with the original alignment of the house to the Malahide Castle Demesne; the removal of trees in the south of the woodland surrounding to Auburn House and construction of apartment block 7 would harm the integrity of the woodland and its function, informing the setting of the Protected Structure; and the location of blocks up to 6 storeys in height to the north of Auburn House has not be adequately tested visually and is an inappropriate scale in the setting of this important and well preserved Protected Structure. The combination of these elements would significantly adversely impact the appreciation of the character and setting of the Protected Structure and its attendant grounds which are currently well-preserved. As a result, the proposed development would negatively impact Auburn House a Protected Structure (RPS No. 448). The proposed development is therefore contrary to Objectives CH20, CH21 and CH22 of the Fingal Development Plan 2017-2023, The Architectural Heritage

Protection Guidelines for Planning Authorities and the Urban Development and Building Heights Guidelines for Planning Authorities.

2. The proposed development is on a site characterised by woodland areas of heritage value and fronting onto the Dublin Road / Malahide Road which exhibits a sylvan character. These features are specifically identified under the Fingal Development Plan 2017-2023 as worthy of preservation. The proposed development will result in the loss of a significant number of trees, tree groups and hedgerows on the site, adversely impacting the integrity of woodland and canopy coverage across the site, to the detriment of the sites special and historical characteristics. As a result, the proposed development is contrary to Local Objective 57, Objective PM64, Objective CH20, Objective CH21, Objective MALAHIDE 2 and Objective MALAHIDE 11 of the Fingal Development Plan 2017-2023.
3. The proposed development fails to provide a comprehensive assessment of daylight and sunlight within the proposed development; and potential daylight, sunlight / overshadowing impact upon surrounding properties. Therefore, there is insufficient information to determine daylight, sunlight and overshadowing impacts as required under the Fingal County Development Plan 2017-2023 to be in accordance with the methodology in the BRE Site Layout Planning for Daylight and Sunlight: a guide to good practice. As a result, the proposed development is contrary to Objective DMS30 of the Fingal County Development Plan 2017-2023 and the criteria under 3.2 in the Building Height Guidelines.

**Note:**

The applicant should note that the Board considers that there is inadequate information submitted with the application in relation to the future use of Auburn house and the extent of its associated garden/grounds; the separation to windows in surrounding properties which may be less than 22m in some locations; the appropriateness of pedestrian / cycle infrastructure on the surrounding road network and any proposals to improve this; and the conclusions reached regarding invasive species within the site, which conflict in the submitted documentation for the application.

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Rachel Gleave O'Connor  
Planning Inspector

8<sup>th</sup> July 2021