



An
Bord
Pleanála

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

**Inspector's Report
ABP-310413-21**

Strategic Housing Development

162 no. apartments and associated
site works

Location

Deer Park, Howth, Co. Dublin.
(www.kenelmshdhowth.ie)

Planning Authority

Fingal County Council

Applicant

GLL PRS Holdco Limited

Prescribed Bodies

Irish Water

Department of Culture, Heritage and
the Gaeltacht

The Heritage Council

An Taisce

An Chomhairle Ealaíon

Fáilte Ireland

Observer(s)

1. Alan Downey
2. Albert and Ruth Harding
3. Anna Clifford
4. Anne Connell
5. Brendan Clifford
6. Caoimhin & Marie O'Loaigh
7. Christian Morris
8. Christopher Bishop
9. Cian O'Callaghan
10. Clara Ní Laoir
11. Conn Reardon
12. Cynthia Duignan
13. David Healy
14. Deerpark and Claremont Residents Association
(Jonathan Quinn, O'Neill Town Planning)
15. Des Gilroy
16. Donal Hughes
17. Douglas Cousins
18. Eamon Reid and Mary Sheehan
19. Eamonn McKiernan
20. Frank and Breda Dillon
21. Ger Doran
22. Gerard Doyle
23. Howard Mahon

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24. Howth Sutton Community Council (Charles Sargent)
25. Ian Sanders
26. Jacqueline Feeley
27. John Cronin
28. Johnathan and Grainne Quinn
29. Juergen Skwirbat & Daire Ní Laoi
30. Laura Dillon
31. Lee Hogan Kenigan
32. Maria Doyle
33. Mary Clarke
34. Maureen Phelan
35. Michael and Betty Mitchell
36. Michael Doyle
37. Offington Residence Association (Andrew J Smith)
38. Pdraig O'Snodaigh
39. Patricia Phelan
40. Patrick & Jeannette Brazel
41. Patrick O'Connell
42. Patrick Santini
43. Paul Flood
44. Ray and Grainne Fitzpatrick
45. Richard Roddy
46. Simon and Annemarie Russell
47. Siobhan and Alan Brown
48. Siobhan Clifford

49. Resident of 21 Woodcliff
Heights

50. Tom and Mary Fitzpatrick

51. William Morgan

Date of Site Inspection

1st September 2021

Inspector

Rachel Gleave O'Connor

DECISION QUASHED

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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 proposed development site is located to the south of the R105, Howth Road, and is approximately 500m west of the centre of Howth and 1.8kms east of Sutton Cross. The site is bound to the north by a stone demesne wall and to the east by a mixture of stone and concrete walls with significant tree planting. The southern edge of the site overlaps with Deer Park Golf Club. A low hedgerow forms the western site boundary and beyond it are residential dwellings on individual plots that form ribbon development in a westerly direction along the Howth Road. There is no existing access to the site from public roads.
- 2.2. Within the wider area the lands to the south are associated with Howth Castle, Deerpark Golf Club and the National Transport Museum. The entrance to Demesne lands and Howth Castle is provided to the east of the subject site through gates that are set back from the public road. The eastern site boundary is well screened by mature trees that line the avenue leading to Howth Castle and the wider Demesne. The southern portion of the site adjoins the surrounding mature landscape associated with Howth Castle and is located with the HA-High Amenity Zoning and Buffer Zone of the Howth SAAO.
- 2.3. The designated architectural heritage within the vicinity of the site includes RPS No. 556 Howth Castle (incl. wings, towers, stables and 19th Century entrance gates), RPS No. 557 Church (in ruins), Grounds of Howth Castle, RPS No. 695 St. Mary's Church or Ireland Church, Howth Road in addition to the Howth Castle Architectural Conservation Area (ACA). Howth Castle is deemed to be of national importance on the National Inventory of Architectural Heritage by reason of its architectural, historical, artistic and archaeological special interest. Similarly, there are a number of Recorded Monuments in the vicinity of the site including the Castle DU015-027001, Gate House DU015-027002 and Chapel DU015-026.

3.0 Proposed Strategic Housing Development

3.1. The proposed development comprises the following:

- 162 no. residential units distributed across 3 no. blocks (A, B & C) ranging in height from 5-6 storeys, with a cumulative gross floor area (GFA) of 13,337.10sqm comprising;
 - a) 29no. 1-bedroom units;
 - b) 104no. 2-bedroom units; and
 - c) 29no. 3-bedroom units.
- 3no. resident services and amenity rooms (1no. in each block A-C) to accommodate co-working space, a community room and a meeting room (combined GFA 108sqm);
- 132no. car parking spaces at basement level (underlying Blocks A&B) including 6no. accessible spaces, 13no. electric vehicle spaces and 4no. car sharing spaces;
- 325no. residents bicycle parking spaces (long-stay) at basement level, and 30no. visitor bicycle spaces (short-stay) at surface level;
- Communal amenity space in the form of courtyards and roof gardens (combined 2,192sqm);
- Public open space of 1,161sqm. Including botanic garden and pocket park;
- A single storey ESB sub-station and switch room (45.5sqm);
- Demolition of 2no. sections of the existing demesne northern boundary wall to provide a primary access (vehicular/pedestrian/cyclist) to the northwest and a separate pedestrian/cyclist access at the centre;
- Restoration and refurbishment of the remaining extant northern and eastern demesne boundary wall;
- Change of use and regrading of part of the Deer Park Golf Course from active recreation use to passive amenity parkland and planting of a woodland belt on the southern boundary;
- Undergrounding of existing ESB overhead lines, and relocation of the existing gas main; and

- All ancillary site development works including waste storage and plant rooms at basement level, drainage, landscaping/boundary treatment and lighting.

Key Figures

Site Area	1.7ha (formed of 1.16ha of RA zoned land, and 0.58ha of HA zoned land within Deer Park golf course)
No. of units	162
Density	140 units per hectare (based upon area of RA zoned land)
Plot Ratio	1.46
Site Coverage	32%
Height	5 to 6 storeys
Dual Aspect	61% (99 units)
Open Space	Total communal open space: 2,192sqm Total public open space: 1,161sqm
Part V	16no. units (9.8%)
Vehicular Access	Howth Road
Car Parking	132 (6no. accessible spaces, 13no. electric vehicle spaces and 4no. Go-Car spaces) 0.81 spaces per a unit
Bicycle Parking	355 (325no. basement long-term stay and 30no. ground short-term stay)
Creche	None.

Housing Type	1 bed	2 bed	3 bed	Total

No. of Apartments	29	104	29	162
Total (%)	17.9%	64.2%	17.9%	100%

4.0 Planning History

4.1. There are no records of previous / historical planning applications on the subject site itself. The southern portion of the site is currently in use as a golf course and was developed in the 1970's. Planning applications related to lands in the vicinity of the site are noted below:

- Howth Castle – F07A/1007 Planning permission to Protected Structure. The change of use of old kitchen in the castle to cookery school; rebuilding of old boot room to house, a lobby and toilets; and provision of carparking for pupils. Permission GRANTED.
- St Marys Church – F99A/1109 Provision of garden of remembrance for internment of ashes after cremation in the grounds. Permission GRANTED.
- Techrete Site, Garden Centre, Howth Road, Howth, D13 (Claremont) – 306102-19 Strategic Housing Development for the construction of 152 residential units. Permission GRANTED.

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 13th January 2021 in respect of a proposed development of 162no. 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 15th January 2021 ABP Ref. ABP-308497-21) 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:

- A design rationale report, as well as CGI's and visual assessment;
- Inclusion of all works within redline boundary;
- Heritage Assessment;
- Archaeological Impact Assessment;
- Landscape proposals, including Arboricultural Assessment, open space proposals, permeability plan and confirmation of treatment / connections
- Cross-sections;
- Site-Specific Flood Risk Assessment Report;
- Traffic and Transport Assessment;
- Road Safety Audit;
- DMURS Compliance Statement;
- Housing Quality Assessment;
- Building Life Cycle Report;
- Confirmation of Part V compliance;
- Childcare demand analysis;
- Social and Community Audit of the schools in the vicinity;
- Draft construction management plan;
- Draft waste management plan; and
- A Material Contravention Statement.

5.4. Applicant's Statement

5.5. The applicant includes a statement of response to the pre-application consultation (Response to An Bord Pleanála Pre-application Consultation Opinion Ref. 308497-20), as provided for under section 8(1)(iv) of the Act of 2016, which includes a description of how the application responds to each of the above specific items, including identification of specific documentation submitted where relevant.

6.0 Relevant Planning 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 designated under land use zoning objective: 'RS' - Provide for residential development and protect and improve residential amenity, and 'HA' – Protect and enhance high amenity areas. Indicative cycle / pedestrian routes are shown along the Howth Road to the north of the site.
- 6.5. The vision for RS lands is to ensure that any new development in existing residential areas has a minimal impact on existing amenity.
- 6.6. The vision for HA lands is to protect these highly sensitive and scenic locations from inappropriate development and reinforce their character, distinctiveness and sense of place. In recognition of the amenity potential of these areas opportunities to increase public access will be explored.
- 6.7. The core strategy and settlement strategy in section 2 of the plan identifies Howth as a 'Consolidation Area within a Gateway'. The core strategy is based on target populations for Dublin and Fingal set by the regional planning guidelines in force when the plan was made. The targets are that the population of the Dublin region in 2022 would be 1,464,000 while that of Fingal would be 309,285. This would require a housing stock of 142,144 in Fingal compared to the 105,392 that existed in 2015. Allowing for headroom in accordance with the method stipulated in guidelines from the minister, the current development plan zones enough land, 1,737ha, for the development of 49,511 homes in the county. 16ha of this land is in Howth. The strategy envisages that this 16ha could accommodate 498 homes. Adopted variation no.2 to the plan changes the remaining zoned area in Howth to 14ha which could accommodate 436 homes.
- 6.8. General objectives regarding the settlement strategy are set out in the plan including SS01 to "Consolidate the vast majority of the County's future growth into the strong and dynamic urban centres of the Metropolitan Area while directing development in the hinterland to towns and villages, as advocated by national and regional planning guidance", SS02 is to "Ensure that all proposals for residential development accord with the County's Settlement Strategy and are consistent with Fingal's identified hierarchy of settlement centres" and SS15 to " Strengthen and consolidate existing

urban areas adjoining Dublin City through infill and appropriate brownfield redevelopment in order to maximise the efficient use of existing infrastructure and services”.

- 6.9. Chapter 4 of the plan refers to urban Fingal. It includes a section about Howth. It lays out a strategy to develop the village in a manner that will protect its character and strengthen and promote the provision and range of facilities with future development will be strictly related to the indicated use zones including the infilling of existing developed areas rather than further extension of these areas. Objective HOWTH 1 is to “Ensure that development respects the special historic and architectural character of the area”, HOWTH 4 is to protect and manage the special amenity area.
- 6.10. Howth Castle and St. Mary’s Church are protected structures. The castle and the church are included in an Architectural Conservation Area and the buffer zone for the Special Amenity Area which extends to the Howth Road opposite the site. Those lands are zoned HA -Amenity. The southern portion of the site is located within the Buffer Zone of Howth Special Amenity Area Order. Part of the subject site, currently within the golf course is designed as ‘other areas’ within the SAAO. Specific Objective ‘To preserve views’ along the eastern boundary of the site.
- 6.11. Other objectives of the plan are PM33 “Enhance and develop the fabric of existing and developing rural and urban centres in accordance with the principles of good urban design, including the promotion of high quality well-designed visually attractive main entries into our towns and villages” ED85 “Ensure that settlements and locations within the Metropolitan Area pursue development policies of consolidation, and maximise their economic strengths and competitive advantages such as tourism and marine sectoral activities in Malahide and Howth, while the lands within the southern part of the County maximise their economic potential through the strong functional linkages to the M50”,
- 6.12. Objective NH09 – maintenance of favourable conservation status for the habitats and species in Fingal to which the Habitats Directive applies. Objective NH27 is to protect existing woodlands, trees and hedgerows, Objectives NH33, NH34 and NH36 – concerning the preservation of unique landscape character and ensuring new development does not impinge of the character integrity and distinctiveness of highly sensitive areas, Objective NH40 – to protect views and prospects. Objectives

NH51 and NH52 related to the protection of High Amenity areas from inappropriate development and retention of important features or characteristics. Objective DMS57, DMS57A and DMS57B – minimum of 10% of site area to be designated as public open space. Objective GI34 – integration of archaeological and architectural heritage into new developments. Objective GI36 – ensure green infrastructure responds and reflects landscape character including historic landscape character.

- 6.13. Objectives CH20, CH21, CH25 and CH46 refer to the protection of protected structures and their setting, curtilage, and designed landscapes in any development proposal.
- 6.14. 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.
- 6.15. Objective PM42 in Variation no.2: Implement the policies and objectives of the Minister in respect of Urban Development and Building Heights Guidelines (December 2018) and Sustainable Urban Housing: Design Standards for New Apartments (March 2018) issued under section 25 of the Planning and Development Act, as amended. Objective PM43 regard to 'Sustainable Urban Housing: Design Standards for New Apartments' (2007) (or any update or revision of these standards) when assessing apartment developments.
- 6.16. Objective PM64 Protect, preserve and ensure the effective management of trees and groups of trees.

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 number of units proposed / density of development, daylight and sunlight conditions within the development, the number of apartments per a core, the inclusion of children's play space and the loss of trees on the site. The submitted statement states that these

aspects of the proposal may be considered to materially contravene the following objectives in the Fingal Development Plan 2017-2023:

- i. The core strategy for Howth in the Fingal Development Plan indicates a figure of 498 potential residential units. Table 2.8 of the adopted Variation no.2 Alignment of the Fingal Development Plan with the National Planning Framework (NPF) and the Regional Spatial and Economic Strategy (RSES) indicates that there is 14 hectares of zoned land remaining in Howth, with a capacity to delivery 436 residential units. This represents a density of 31 units per hectare across the zoned available land. There is 1 no. permitted (ABP Ref. TA06F.306102) SHD scheme (Claremont) in Howth that along provides for 512 no. apartments and therefore the 498 target is breached. This subject proposal includes for 162 no. units and combined with Claremont this would amount to 674 no. units in Howth.
- ii. 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 for Buildings, Part 2 2008: Code of Practice for Daylighting or other updated relevant documents;
- iii. Objective DMS23 – Permits up to 8 apartments per individual stair/lift core within apartment schemes;
- iv. Qualitative requirements under the Fingal Development Plan for children’s play including DMS75; and
- v. Objectives DMS77 and NH27 that relate to protection of trees.

8.0 Third Party Submissions

8.1. 51no. responses were received from third parties in relation to the application and the main matters raised are summarised below:

8.2. General, nature, principal of the development

- The development exceeds the housing unit number identified for Howth in the Development Plan (498).
- Special amenity land is being developed in breach of policy objectives.
- Howth already overdeveloped.

- Total site area should be designated as a special amenity area.
- Proposal to rezone high amenity lands unacceptable.
- Change of use of part of Deerpark golf course to parkland and the planting of a woodland belt is unacceptable.
- Concerns raised by Fingal County Council.
- Query whether the development can be considered to be of strategic importance with reference to recent case law.
- Material contravention of the Development Plan on many fronts
- SHD applications should not be considered / determined, prior to a decision on the current High Court Challenge to the validity of SHD legislation.
- Application is premature pending preparation of the Howth Urban Centre Strategy and new statutory development plan, by FCC.

8.3. Infrastructure

- Local primary schools are at capacity, the submitted assessment is incorrect and does not take into account cumulative impact of other approved development. Scoil Mhuire, Burrow and St Fintan's are full to capacity. Killester Raheny ET is on a temporary site. Distances and drive times quoted are also incorrect.
- Additional pressure on services that are already at full capacity (water / sewage / schools / public transport).
- There is no available childcare capacity in the locality. Report is inaccurate as it doesn't acknowledge some facilities are sessional with term-time 3.5 hour slots for 3+ yr old children only.
- The Ringsend plant lacks capacity to treat wastewater to EU standard and the developer has failed to take this into account.
- Cumulative impact of development in the area upon local infrastructure requires consideration.
- Irish Water have raised water and sewage capacity concerns.
- Broadband infrastructure is very poor in the area.

8.4. Transport

- Not enough parking will lead to overspill parking in the surrounding area.
- Overspill parking will hinder access to the church.
- Exacerbate existing congestion at Sutton Cross.
- Public transport is not sufficient.
- Inadequate traffic analysis submitted.
- Dart already over capacity.
- Ongoing discussions since 2019 with regards to the possible loss of a direct route from Howth to City Centre as part of the new Bus plan for Dublin. There is no longer a 31, 31a or 31b.
- Concern that additional congestion will restrict road access into the area by emergency services.
- Proposed entrance is unsafe.
- Road infrastructure in the area needs improvement prior to more development. FCC should undertake a traffic study pursuant to this.
- Weekend congestion especially bad as a result of the number of tourists in the area. Transport Assessment submitted does not consider weekend traffic.
- Traffic assessment does not take into account school traffic.
- Additional cycle movements will be dangerous on the congested peninsular.
- No account for construction traffic / parking.
- Residents are already 'trapped' on the peninsular, or preventing from exiting their driveways as a result of congestion / overspill parking – particularly on weekends.
- Traffic entrance / egress to the site is next to a bungalow.

8.5. Amenity

- Overlooking of houses on Howth Road.
- The development will block the daylight of houses on Howth Road.

- Query accuracy of shadow analysis. Daylight and sunlight assessment defines 'imperceptible' impact, and this word is therefore used inaccurately in other documents in the application.
- Safety and security concerns, relating to opening of areas within boundary walls to surrounding properties.
- Concern regarding noise and overlooking from balconies / roof terrace.
- Noise, dust and pollution. Impact of development at this scale is a risk to public health.
- Overshadowing and overlooking of houses to the west of the site.
- Insufficient public space provided for in the scheme.
- Does not meet requirements for stairs/lifts/apartment ramps or for children's play.
- Overshadowing of solar panels in adjacent properties.
- Overshadowing will affect growth of fruit and vegetables grown in adjacent garden.

8.6. Design, height, density

- Density is not in keeping with the character of the area and is inconsistent with the advice set out in the Ministerial guidance.
- Density is 3 times the recommended amount in guidelines for lands close to public transport.
- Circular letter NRUP 02/2021 confirms densities less than 30 dwellings per hectare are not precluded.
- 2-3 storey would be more appropriate on the site.
- Development is ugly, at the entrance to historic village and iconic castle.
- Overbearing presence.
- Environmental quality of Howth will be compromised by the insertion of another large block of apartments at the entrance to Howth.

- Development too large in scale and out of proportion with neighbouring buildings.
- Howth has a Special Amenity Area Order in place. The development will detrimentally impact the objectives under the order.
- Main entrance should be adjacent to the triangle at the entrance to the Howth estates.
- Comparison to the Techrete site is not valid.
- Scale and height of the development is proportionally wrong for the site.
- Serious adverse effect on the views from the golf courses and the hill in general.
- Photomontages do not accurately show the visual impact of the development.
- Materials are not reflective of the area.
- Scale of 5-6 storeys at entrance to historic fishing village is excessive.
- High rise buildings on both sides of Howth Road will diminish the view and local / tourist appeal.
- Protected views from Aiden's Grave through the Historic Castle and beyond to the horizon and from Snelmartin Hill will no longer exist.
- The castle is visible from the site, therefore, the site and proposed buildings will be visible from the castle, contrary to submitted photomontages.
- The planning application ignores the transitional nature of the zoning and land uses around the site.
- Locating of large ESB station on boundary of adjoining residents garden is unsympathetic and unnecessary.
- The proposal does not conform with the section 3.2 criteria in the Building Height Guidelines.

8.7. Heritage

- Development goes against the Architectural Conservation Area for Howth Castle.

- Development will be visually detrimental to the entrance to the Castle grounds.
- Adversely impact the uniqueness, historical significance and beauty of the area.
- Size of the development will visually dominant historical buildings in the vicinity and the special character of the entrance to Howth Castle, formed of open areas and St Mary's Church.
- Castle entrance should not be used as part of construction works and should be restricted by condition.
- Inappropriate development within the grounds of Howth Castle / the demesne of the Castle.
- Removal of trees and hedgerows would have a significant and devastating impact on the landscape and contribute to negative impact upon the setting of the Protected Structure.
- That the wall has no statutory protection is an oversight.
- Approval would set a precedent for how sensitive and historic sites are treated.

8.8. Natural environment

- Curlews feed on the site.
- Adverse impact on animals and birds that visit the park (including curlews, buzzards, bats and geese).
- Undermines the preservation of amenity lands within the buffer zone of the Howth Special Amenity Area.
- No winter bird survey included with the planning application.
- Development compromises local flora and fauna.
- The EIAR states that cracks along the stone wall are suitable for bat roosts, by restoring the wall, these roosting sites will be lost. Bats are protected under national and EU legislation.
- Adverse impact on biodiversity of the area and within Howth Castle grounds.

- The proposal is in breach of the Habitat's Directive as the construction, noise, loss of trees, landscape, will add to the disruption of protected species. Protected birds use some of the green space earmarked for development. Curlews (a protected species) are recorded on the site, however the mitigation section of the submitted NIS states that there is no mitigation required for the protection of wintering birds during construction phase.
- Submitted NIS is inadequate in stating that no SCI species were recorded using the dry meadows grassland within the proposed development site. Limited time also taken in surveying bird activity. A lone goose is mentioned but brent geese fly in flocks.
- The submitted EIAR demonstrates the unacceptable environmental and visual damage of the development.

8.9. Mix

- The proportion of 1 and 2 bed units will not address the need for family housing in the area.
- Affordable housing should be provided as part of the development.

8.10. Other

- Lack of time to review documents and comment on the application.
- Concern site will be sold off for rental occupation.
- This development is premature pending the realisation of any impacts resulting from the Techrete development.
- Object to the name of the development, a more appropriate, local, historic, well known name should be found.
- Query archaeological findings submitted.
- Concern and dissatisfaction with SHD process and An Bord Pleanála.
- Contrary to Development Strategy for Howth, Objective Howth 1, Objective Howth 4, Objective PM33, Objective GI34, Objective GI36, Objective NH36, Objective NH09, Objective NH11, part ED85 and Objective DMS38 of the Fingal Development Plan.

- Query whether the required statement of compliance with Universal Design principles exists as part of the application and has been made available to the public.
- Loss of income from sale of electricity as a result of overshadowing of solar panels in adjacent property.
- Applicant states wrong zoning in their documents, as RA instead of the correct RS zoning.
- Recent decision from ABP to refuse an application contiguous to Sutton Dart Station (Ref. F18A/0387, ABP-304514-19) for reasons relevant to the current application.
- SPPRs that underpin arguments made by the applicant to justify material contraventions of the Development Plan, have not been complied with. The development does not pass any of the tests set out in s.37 of the Act that would allow the Board to grant permission.
- No engagement with local residents by the applicant.

8.11. Enclosures

- Extracts of photomontages and images of development from application; photo of The Hilton, Northern Cross; Extracts from Daylight, Sunlight and Overshadowing analysis submitted and associated photographs of adjacent home to illustrate access to light; Photo showing castle visible from the subject site; Photos of curlews feeding on the site in winter; Correspondence with Solicitors for ABP referring to current High Court Challenge to SHD legislation.

9.0 **Planning Authority Submission**

- 9.1. Fingal County Council has made a submission in accordance with the requirements of section 8(5)(a) of the Act 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 Planning Authority considers that the proposed development contravenes Objective SS02 of the Fingal Development Plan 2017-2023 and would in turn also be contrary to Objective PM41 by detracting from the established character of the area and would not be acceptable.

9.4. The Planning Authority does not accept the applicant's rationale for the use of a lower 1.5% ADF target for open plan living/kitchen/dining spaces. The Planning Authority does not consider the site to be impacted by constraints that would justify this lower target, or that the function of these rooms is predominantly for a living space. The mitigation proposed is not considered adequate and the proposal is contrary to objective PM41 in relation to good amenity and design.

9.5. Objective DMS23 permits 8 apartments per a core, this is increased in the Sustainable Urban Housing: Design Standards for New Apartments to 12 apartments per core.

9.6. The Planning Authority consider that the proposed play provision should be further considered and relocated to avoid noise nuisance in recognition of Objective DMS75.

9.7. The Planning Authority have substantial concerns regarding the proposed removal of the main arboriculture feature of the site in contravention of Objectives NH27 and DMS77 of the Fingal Development Plan 2017-2023.

9.8. Proposed Density, Layout and Height

9.9. The Architectural Heritage Guidelines for Planning Authorities are considered relevant for the site, given the potential of development on the subject site to impact on the character of the Howth Castle Demesne Architectural Conservation Area. The subject site is also considered to be a historical environment sensitive to scale for the purposes of the Urban Development and Building Heights Guidelines, given this relationship to the Howth Castle Demesne. Given this historic and environmental sensitivity, the Planning Authority has significant concerns regarding the way in which the density has been achieved in the proposed scale, height, depth, bulk and mass of the 3 proposed apartment buildings, and their location relative to Howth Castle and established lower density development to the west.

9.10. Notwithstanding the proximity to the train station, the proposed development is considered to dominate the area of the site zoned RS, with insufficient suitable public open space and substandard car parking, constituting overdevelopment and resulting in negative impact on the established character of the area. The scale of development is considered to be contrary to Objective PM41 of the Development Plan, the Urban Development and Building Heights Guidelines and the Architectural Heritage Guidelines for Planning Authorities.

9.11. Urban Design, Built Heritage, Architectural Expression

9.12. The subject site is highly sensitive being partially located within the Buffer Zone of the Howth SAAO, adjoining the HA lands to the south. The subject site forms lands that are part of the historic estate of Howth Castle and, while in separate ownership, share a contiguous boundary and are considered to be attendant grounds.

9.13. The Planning Authority consider that the proposed development by virtue of the excessive height and overall scale with deep plan, specifically on approach into the village represent a stark and abrupt difference with the established setting which results in buildings that would be unduly dominant and visually intrusive upon the setting of the site in relation to Howth Castle and that of the gateway into the village itself and if permitted would radically change the existing environment detrimentally.

9.14. Over reliance appears to be given to screening by mature trees which are on lands outside the applicant's control. While trees may aid integration or subordination of a building, such features should not be relied upon for screening and buildings should be of an appropriate scale / mass. The creation of an excessive hard urban edge adjoining the HA lands is not an acceptable interface between the sensitive zonings.

9.15. Do not accept comparisons with the Claremont development site, which is a development of a landmark building on a brownfield site in a town centre zoning.

9.16. The proposed development would fail to integrate appropriately and would be disproportionately incongruous to the established character, contrary to Objective Howth 1 and Objective CH20.

9.17. Unit Typologies and Mix

9.18. The proposed variety and mix of apartment typologies would provide a good choice for future residents and options to accommodate a broad range of needs and requirements.

9.19. Residential Amenity (Proposed Development)

9.20. The internal layout of units should avoid bedrooms being accessed off living areas. Consideration should be given to the internal adaptability of the units for other uses ancillary to residential use. Concerns regarding limited separation distance / overlooking between the front sections of the 3 apartment blocks separated by c.13m between balconies. Minimum amenity open space and substandard play space is provided. Play space should be located further away from apartments to ensure no undue noise nuisance. Bicycle storage areas which necessitate the carrying of a bicycle up-stairs would not be conducive to being readily accessible and could detract from the use of bicycles or give rise to ad hoc parking around blocks.

9.21. Impact on Surrounding Residential Amenity

9.22. The Planning Authority consider that the proposed development, by virtue of the scale, height and depth would be unduly overbearing on the immediately adjacent dwellings to the west. The perception of over-looking would be a significant issue given the scale of the western elevation.

9.23. Proposed access and utility services located along the western boundary would disturb an area known as 'Tig Bhride' and 'Windwood'.

9.24. Request that ABP consider the cumulative impact of developments on existing and future residential amenities in terms of access to services, including schools and childcare, as well as deficiencies in public transport, parking and constraints on Sutton Cross. The Planning Authority considers the development to be contrary to Objective PM41 of the Development Plan.

9.25. Green Infrastructure, Open Space, Tree Protection, Landscaping

9.26. The proposal generates a public open space requirements of 5,825sqm (minus the required minimum on site provision of 10% of the area, being 1,700sqm). The proposed scheme does not include any areas of open space that accord with the public open space standards set down in the Fingal Development Plan 2017-2023.

Areas to the rear of apartment blocks located in HA areas cannot be considered part of the developable site area. The area to the front of the site would not be readily accessible to the public and therefore is not acceptable as the 10% requirement. The lack of suitable public open space is a result of inappropriate over development of the site. In the event that ABP consider the proposal acceptable, it is recommended that the shortfall be compensated for by way of financial contribution.

- 9.27. The proposal includes the removal of a main arboricultural feature or characteristic of the site. The removal is not supported by the Planning Authority, and would have a likely knock on effect for the adjoining Nature Development Area to the east, and a detrimental impact upon this highly sensitive setting. The development of the subject site should include for a strong planted buffer along the eastern boundary with Howth Castle Entrance.
- 9.28. Connectivity
- 9.29. Accept that the proposed pedestrian entrance with the Domesne Wall would provide for connectivity for future occupants to the village, however connectivity through the site is not provided for.
- 9.30. Movement and Transport
- 9.31. The proposal generates a parking demand for 243 spaces according to Development Plan standards and 191 spaces from the perspective of minimum practical parking provision. The proposed 132 spaces equates to 0.81 spaces per unit and does not include allowance for visitor parking.
- 9.32. Bicycle parking exceeds the National and Planning Guideline requirements with 355 spaces. Access to the basement cycle store is via staircase which runs parallel to the vehicular ramp. Concerns regarding the usability of the storage area as a result.
- 9.33. Sightlines have been demonstrated to meet requirements of DMURS.
- 9.34. Lack of information concerns basement parking design, including ramp gradients and clearance height under the podium slab, as height may not account for insulation and services on the soffit of the podium slab. The ramp should allow for appropriate clearance height for cyclists. Also query gradient on the ramp on approach to the basement level as no transition ramp at surface level. Request condition that the basement car park be designed in accordance with the

requirements of the latest edition of the Design recommendations for multi-storey and underground car parks published by the IStructE.

- 9.35. Minimum 10% electric vehicle charging points recommended with all remaining spaces provided with ducting and services to facilitate future fitting of EV charging points.
- 9.36. Insufficient detail provided in swept path analysis, further detail requested by condition to ensure full access to fire trucks to blocks B and C.
- 9.37. The Planning Authority considers the largest constraint to development on the Frowth Peninsula to be Sutton Cross. Whilst cognisant of this being outside the control of the applicant, it is requested that ABP consider the potential cumulative impacts that may arise when considered in combination with other developments.
- 9.38. Archaeology
- 9.39. Conditions recommended to ensure further examination of the site.
- 9.40. Infrastructure and Services
- 9.41. Site-Specific Flood Risk Assessment submitted is acceptable and in accordance with the Flood Risk Management Guidelines.
- 9.42. The general strategy to surface water follows the natural characteristics and topography of the site and is acceptable. The proposed SuDS measures are noted in addition to the welcome inclusion of green roofs.
- 9.43. No concerns raised regarding foul water or water supply proposals.
- 9.44. AA (NIS submitted) and EIAR
- 9.45. ABP are the competent authority with regard to the assessment of these documents.
- 9.46. Public Lighting
- 9.47. Request condition requiring agreement of lighting prior to commencement of development and lighting should consider protection of bats.
- 9.48. Taking in Charge
- 9.49. Road network within the proposal is not suitable and not proposed to be taken in charge. Request condition requiring a management company.
- 9.50. Part V

9.51. Recommend condition to secure agreement of Part V provision.

9.52. Conclusion

9.53. The development as proposed fails to respond in a satisfactory manner to its setting and falls short with placemaking and a quality urban design response for the site. The imposition of conditions could not satisfactorily address these concerns, the proposed development is therefore not considered to be in accordance with the proper planning and sustainable development of the area and it is recommended that permission be refused.

9.54. The proposed development would not be acceptable given the excessive scale of development proposed within this extremely sensitive setting, which would have a detrimental impact on the setting of protected structures and would fail to integrate with the site context. The proposed development by virtue of the density and overall heights resulting in deficiencies in public open space and appropriate car parking represents over development of a constrained site which would cumulatively impact upon the visual and residential amenities of the area. Consequently, the development would be contrary to the proper planning and sustainable development of the area and it is recommended that permission be refused for the following reasons:

1. Having regard to its form, massing and overall height; the proposed development would fail to respond to the baseline environment and surrounding historical and natural environment of the site which is located within a designated Highly Sensitive Landscape, the Buffer Zone for the Howth Special Amenity Area Order, adjoins Howth Castle Architectural Conservation Area and lands zoned for High Amenity in the Fingal County Development Plan 2017-2023, is part of the historic demesne lands of Howth Castle, a Protected Structure, and is in the vicinity of a number of other Protected Structures. The proposed development would be wholly inconsistent with the established character of this area, would be seriously injurious to the visual amenities of the area and would be detrimental to the character, setting and special interest of a number of protected structures, including Howth Castle and St. Marys Church. The development would be contrary to Objectives Howth 1 and Objective CH20 of the Fingal County

Development Plan 2017-2023 and to the 'Urban Development and Building Heights Guidelines for Planning Authorities' and the 'Architectural Heritage Protection Guidelines for Planning Authorities' which were issued under Section 28 of the Planning and Development Act 2000, as amended. The proposed development would set a poor precedent for other similar development and would be contrary to the proper planning and sustainable development of the area.

2. The proposed development by virtue of the excessive density proposed would result in overlooking between opposing apartment blocks and of adjoining residential development, would be overbearing on adjacent dwellings and would fail to provide satisfactory standard of daylight to the proposed residential units, would be contrary to Objective PM41 of the Fingal Development Plan 2017-2023 which seeks to 'Encourage increased densities at appropriate locations whilst ensuring that the quality of place, residential accommodation and amenities for either existing or future residents are not compromised', would contravene materially the RS Zoning Objective which seeks to 'Provide for residential development and protect and improve residential amenity' and would therefore be contrary to the proper planning and sustainable development of the area.
3. The proposed removal of the main arboricultural feature within the site would be contrary to Objective DMS77 and Objective NH27 of the Fingal Development Plan 2017-2023 and Policy 1.3.1 of the Howth Special Amenity Area Order, each of which seek to ensure the protection and conservation of trees, hedges and natural habitats which contribute to the landscape character. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
4. Having regard to the scale and housing mix of the proposed development and lack of any childcare provision, the proposed development would be contrary to Objective PM76 of the Fingal County Development Plan 2017-2023 and the 'Childcare Facilities Guidelines for Planning Authorities' which were issued under Section 28 of the Planning and Development Act 2000, as amended, and would therefore be contrary to the proper planning and sustainable development of the area.

9.55. In the event that ABP grant planning permission, 22no. conditions are recommended. Conditions of note have been referenced in the summary of comments above.

9.56. **Departmental Reports**

9.57. Water Services Department

- No objections, conditions recommended with respect to detailed design of surface water infrastructure and compliance with codes of practice.

9.58. Transportation Division

- Proposed parking does not meet standards of the Development Plan. Visitor car parking should be provided.
- Access to cycle storage area is impractical.
- Further information concerning basement parking design required in relation to ramp gradients and height clearance.
- 10% EV charging points required and suitability for future retro fitting of remaining spaces.
- Further detail of fire truck swept path analysis required.
- The traffic and transport assessment is generally acceptable. Largest constraint to the development is Sutton Cross which is outside the control of the applicant. There are no mitigation measures that can be provided by the applicant to accommodate the proposed development.
- A Mobility Management Plan is not appropriate for residential development and consequently cannot be used as a mitigation measure.
- There are no roads to be taken in charge in the proposed development and this is acceptable to the Transportation Planning Section. Note open space areas to be taken in charge.
- Road Safety Audits should be carried out.
- A final Construction Management Plan should be agreed with the Operations Department prior to construction.

- Overall, the Transportation Planning Section is generally in favour of the proposed development. Parking remains a concern, although it is acknowledged that National Policy aims to reduce reliance on private vehicle ownership. Request conditions concerning basement car park design and access to cycle storage.

9.59. Parks and Green Infrastructure Division

- A minimum of 10% of the developable site area should be public open space. The proposed development incorporates public open space in HA zoned lands, which are not considered developable areas. In the event that permission is granted, request condition to secure financial contribution in lieu of shortfall of public open space provision. Calculation to be based on occupancy of 301 no. bed spaces (7,525sqm) minus the required minimum on-site provision of 10% site area (1,700sqm). In accordance with Section 48 of the Planning and Development Act. The contribution will be applied towards the continued upgrade of local class 1 open space facilities in the Howth Baldoyle area, namely Baldoyle Racecourse Park.
- Proposals for tree removal are contrary to the Principles of Development for Highly Sensitive Landscapes. Chapter 9 states 'Field and roadside hedgerows should be retained'. Request conditions for implementation of tree survey recommendations, appointment of arboricultural consultant, tree bond of 15,000 Euro and supervising by ecologist during tree / hedgerow removal / works.
- Request a final landscape plan to be agreed with Parks & Green Infrastructure, to including play provision. Request that all landscaping to communal open spaces be finished upon sustainable completion of works, details of a management company as open spaces are not suitable for taking in charge, the appointment of landscape architects to supervise works and the replacement of any landscape failures within a 3 year period post construction.
- Any proposed services including fire access road should be located outside of the HA land zoning (request condition requiring same).

9.60. Conservation Officer

- The proposed development site is on lands that are part of the historic estate of Howth Castle, the full extent of which covers a considerable area in Howth. The National Inventory of Architectural Heritage deems Howth Castle to be of National Importance due to its architectural, historical, artistic and archaeological special interest. The section of land that is the subject of the proposed SHD sites behind the estate boundary wall that fronts onto the Howth Road/Dublin Road on the western side of the current entrance to the castle, with its 19th century ornamental gate piers. It is likely that it functioned as the deer park for the estate. The lands have never been built on. Their open nature behind the estate wall facilitates views of the mature trees of Howth Castle demesne and Muck Rock on the Hill of Howth giving a distinctive character to the entry point to Howth village.
- It is likely that the original intention of the RS zoning on the site was for the continuation of the low scale individual plots that adjoin the site to the west.
- Sensitivity can be summarised as follows:
 - Lands are part of the nationally significant historic demesne of Howth Castle and were once within the deer park and then the former Howth Park Racecourse.
 - Greenfield site enclosed by historic estate / demesne wall with views southwards from Howth Road of mature trees of Howth Castle estate and Muck Rock.
 - Part of the setting and distinctive character of the main entrance to Howth Castle Site bounded by, and also contains in part, High Amenity zoned lands and also Howth Special Amenity Area Buffer Zone.
 - Howth Castle Demesne, like Malahide Demesne, Argillan Demesne or Marley Park, act as green lungs within their urban setting, giving respite from continuous urban expansion and development.
 - The site is at the entry point to Howth Village and to a national significant historic demesne which has a very localised distinctive character that is not a comparable environment to a town or city core (examples of which are put forward in the submitted documentation) or

to the lands on the opposite side of the road of the former industrial brownfield site of Techrete.

- The Architectural Conservation Officer and Area Planners have been clear from the outset of pre-planning consultation on this site that due to the sensitive setting and the historic environment that this is a location that large-scale and/or tall buildings are not appropriate.
- Principal concern is the proposed 5-6 storey over basement scale and deep plan of the western and eastern elevations, and how this radically changes the existing environment to the detriment rather than the benefit of this place.
- Full impact of the scale and depth of the proposal on the entrance to Howth Castle is demonstrated in some of the views provided (VVM 2, 3, 4, 5, 6, 7, 8, 9 & 10) and in the contiguous western and eastern elevations of the approach from the Howth Road. The orientation, height and length of the three blocks limits how much the gaps between visually break up the mass of development, and this is not sufficient to counteract the overbearing scale of the proposal.
- There are substantial differences with the Former Techrete site and it should not be used as a comparator for the current site.
- Although located outside of the AOA, the site forms part of the attendant land of Howth Castle. There is an over reliance on planting outside of the site to screen the development and address the considerable and domineering visual impact of the scheme. Visuals VVM 12 and VVM 18 suggest that the existing tree cover within the neighbouring lands may significantly screen the proposal. However, the owners of these adjoining lands have indicated they intend to carry out woodland management works in future. VVM18 is showing the existing planting being retained but this is being removed along the southern boundary of the development. New planting shown in the Landscape Masterplan presents a very stark and open elevation of the development onto the former parkland / current golf-course lands. Change of ownership of the adjoining Howth Castle and Demesne may lead to more public access to all parts of the estate or more open views from the outbuilding complex.

- The existing mature trees and planting along the main entrance avenue around the northern perimeter of the Howth Castle buildings have sections that are sparse in cover. Insufficient planting is included in the proposed scheme to sufficiently supplement the adjoining areas of the historic demesne.
- Should ABP be minded to grant planning permission, then the scale of the proposed blocks should be considerably reduced, omitting a number of storeys to both the front and rear blocks, so that its scale is more appropriate as a road frontage development within a sensitive historic setting. The level and depth of tree planting within the proposed developable section of the lands needs to be greatly increased, particularly along the eastern and southern perimeter.

Architects Department

- The proposed scheme is of merit and demonstrates a rigorous response to the site. The Architectural ambition of the scheme is well demonstrated with skill. Further consideration might be given to the following elements:
 - Scale and height in relation to the adjoining properties west of the site. Also, the joint and cumulative impact of the scheme with the proposed SHD development on the brownfield site north of the proposed development.
 - The issue of adaptability and how it is to be truly accommodated in the scheme.
 - The real variety of tenure proposed in the scheme – the layout of the apartments are what is standard in Ireland today but are not particularly designed for families. The landscape and public realm design further supports this.

The view to, and nature of the entrance to Howth Castle demesne requires further work and design development. The placing of the vehicle entrance to the scheme is correct, away from the gates, to the west. The proposal should further examine screening and planting at the entrance corner of the demesne so that the approach to the gates is a dense green corridor.

9.61. Economic, Enterprise, Tourism & Cultural Development

- Request condition requiring piece of public art or sculpture or architectural feature.

9.62. Archaeology

- No concerns raised. Recommend conditions.

9.63. Environmental Health Air & Noise Unit

- The development is acceptable to the Environmental Health Officer's Air Pollution & Noise Control Unit subject to conditions, concerning hours of construction works, control of noise, control of pile driving activities, noise and vibration monitoring, control of airborne pollutants, dust monitoring and prevention of emissions / odours.

9.64. **Elected Members**

9.65. A summary of the views of elected members as expressed at the area committee meeting on the 1st July 2021 is included in the Chief Executive Report and copied below:

- Howth Castle is unique. The proposed development would destroy the magnificent castle and facility;
- Design is not good particularly with proximity to Howth Castle and not acceptable in proposed format;
- Wants a lot of houses to be built but this building would be described as cultural and architectural vandalism and out of keeping;
- Considers that the proposal is too big and not in keeping with the area and would have a hard stance on this;
- Development should reflect the character of the area;
- The proposal to use the SAAO Buffer Zone as being Class 1 open space would not be acceptable.

10.0 **Prescribed Bodies**

10.1. Irish Water

- New connection(s) to the existing network, to service this development are feasible. The applicant has engaged with Irish Water in respect of design proposals within the redline boundary of their proposed development site and has been issued a Statement of Design Acceptance for the development. Request conditions requiring a connection agreement with Irish Water; that Irish Water does not permit building over of assets with separation distances as per the code of practice; and all development to be carried out in compliance with Irish Water Standards codes and practices.

10.2. An Taisce

- The entrance gateway to Howth Castle has been dated to c. 1835. The demesne walls are of a contemporaneous date. The extant section of the demesne walls, to the west of the entrance, is complemented by the wall lined avenue leading to St. Mary's Church. It should be noted that this avenue constitutes a section of the original road leading to the village of Howth. The combination of the stone walls and attendant mature trees creates a formal entrance landscaped approach to the castle.
- The proposed development would breach the demesne wall, which it is acknowledged in the application to be of 'architectural and historical significance', in two places. An Taisce considers that the proposed apartment blocks cannot be advanced as an enhancement to the historical landscape.
- The location of the cemetery associated with St. Mary's Church is proximate to the site and the full extent of the cemetery has never been determined. Previous excavations have found substantial human remains. The importance of this monument site has not been credited or addressed in the reports of the proposed development. The 'possible isolated pit-type responses' recorded in the Geophysical Survey conducted by the prospective developers should be noted. Secular Cemeteries of Early Medieval date are frequently associated with settlement features. There are no test excavations advanced for the proposed development site.
- The submitted EIAR argues that traffic generated by the development will not exacerbate the capacity traffic at Sutton Cross to any significant degree ('marginally') whilst noting traffic is at capacity. There is no allowance made

for the cumulative impact of other developments (Claremont, Bailycourt, Santa Sabina and Thormanby Hill). The number of cars associated with 1,000 new dwellings would undoubtedly cause the already operating 'at capacity' Sutton Cross to become permanently gridlocked.

- The cited notion that public transport would be a major alleviating factor to the current proposed development is unsubstantiated.

10.3. Department of Housing, Local Government and Heritage

- Archaeology – Recommend that the proposed archaeological mitigation measures for pre-development archaeological testing be carried out in advance of any construction works. Conditions recommended to secure this, under the supervision of an archaeologist and with the submission of a written report for approval. Any material to be preserved, recorded and monitored as required.
- Nature Conservation – Accept the conclusions in the submitted NIS. Recommend conditions with respect to a final Construction Environmental Management Plan to describe measures to prevent pollution of surface water runoff; that clearance of vegetation be undertaken outside of main bird breeding season; and that lighting be designed in accordance with ILP guidance, Bats and artificial lighting in the UK, and signed off on by a bat specialist.

11.0 Assessment

11.1. 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
- Planning Authority's Reasons for Refusal
- Ecology and Trees
- Other Issues

11.2. Principle of Development

11.2.1. Land use zoning

11.2.2. I note third party objections in relation to the compatibility of the development with the land use zoning of the site and the accuracy of the applicant's reference to land use zoning in the submitted documents for the application.

11.2.3. Under the Fingal County Development Plan 2017-2023 the northern section of the site is zoned 'RS' Residential – 'Provide for residential development and protect and improve residential amenity', while the southern portion is zoned 'HA' High Amenity – 'Protect and enhance high amenity areas'. I note that the applicant has erroneously referred to an 'RA' zoning for the site on page 12 of the Planning Statement and Statement of Consistency Report and within the submitted EIAR (as described in my EIA section of this report below). I do not consider this reference to be significant. It is clear from page 48 of the Planning Statement and Statement of Consistency Report that the applicant correctly understands the zoning of the site to be 'RS' (alongside a portion of 'HA' lands).

11.2.4. Zoning objective 'RS' Residential has the following vision:

"Provide for residential development and protect and improve residential amenity."

11.2.5. I note that third parties consider that the proposed form of development on the site is contrary to the vision for the RS zoning of the site. I also note that the Planning Authority similarly consider the proposal to be in material contravention of the RS zoning of the site. I consider material contravention matters in section 11.9 of this report below. However, there is nothing explicit within the zoning to define the scale of residential development. Residential is identified as a permitted in principle use for the site. I undertake a specific assessment of the form of the proposed development below in sections 11.4, 11.5, 11.6 and 11.7 including any potential impact upon residential amenity. In terms of land use, I am satisfied that the proposal for

residential development upon the residentially zoned portion of the site, is in accordance with the land use zoning 'RS' for that part of the site.

11.2.6. Zoning objective 'HA' High Amenity has the following vision:

"Protect these highly sensitive and scenic locations from inappropriate development and reinforce their character, distinctiveness and sense of place. In recognition of the amenity potential of these areas opportunities to increase public access will be explored."

11.2.7. Permitted in principle uses include residential (subject to compliance with the Rural Settlement Strategy) and open space. Other commercial, retail and office uses are also identified as permitted in principle, subject to specific caveats, many of which relate to existing uses/structures on a site. Overall, it is clear to me that the insertion of new structures within HA lands is not encouraged, however the use of such lands for open space, amenity, with increased public access (where appropriate), is encouraged.

11.2.8. The proposed development does not include any new buildings within the HA zoned portion of the site. Within the HA lands, landscape / levelling works, tree removal, tree / hedge retention, tree planting and relocating of overhead wires to underground, is proposed. The applicant describes the intended use of this area as 'passive amenity parkland use' although I note that public access is not highlighted. In my opinion, there is nothing inherent within the land use zoning of this HA portion of the site, to restrict the intended land use described by the applicant. Whether the form of works, including tree and hedge removal is appropriate, is part of a wider qualitative assessment of the proposed development which I undertake in sections 11.7 and 11.11 below.

11.2.9. In relation to the Howth Special Amenity Order, I note third party representations on this point and the Planning Authority's recommendation that the application be refused, in part, due to a failure to positively respond to the highly sensitive environment it is located in, including within the Howth Special Amenity Order Buffer Zone.

11.2.10. The southern portion of the site is zoned Howth SAA (Special Amenity Area) Buffer Zone, and this zoning overlaps the residential zoned lands within the site. The proposed development therefore includes the construction of new buildings within

this zoning, albeit only partly and forming the back portion, or edge of blocks. The change of use of part of Deer Park Golf Course is also proposed, within this HA part of the site. The Howth SAA Order was confirmed in 2000 and is in recognition of the exceptional character of the area of Howth. The Order protects special qualities of the area and aims to preserve and enhance the character and special features of Howth. The Order also designates 35 sites and areas of special natural, historical, architectural, archaeological and geological interest. Howth Castle and its defined grounds are also included within the Howth SAA Buffer Zone. A number of Objectives are described in the Development Plan relating to the preservation and protection of landscape character that are relevant to this zoning of the site, including Objectives NH33, NH34, NH35, NH36, NH37, NH38 and NH39. An assessment of the proposed development against these objectives is carried out in sections 11.5 and 11.11 below, which describes the necessary qualitative assessment of the proposed development and includes consideration of the change of use of part of the golf course lands in relation to potential impact on landscape character.

11.2.11. I note third party representation that the proposed development does not take into account the transitional zoning of the site. I note section 11.4 of the Development Plan in this regard and associated Objective Z04. I have already established above that the proposed use of the site is appropriate for the land use zoning. In terms of the proposed scale and density, I assess this in detail in sections 11.3, 11.4 and 11.5 below, with particular attention to the context surrounding the site, including historical and environmentally sensitive zonings.

11.2.12. Residential Capacity

11.2.13. I note third party objections relating to the number of units proposed on the site and the overall residential capacity identified in the Development Plan for Howth. I also note the Planning Authority's concerns regarding compliance with the settlement strategy under the Development Plan, however I deal with that more specifically in section 11.3 below.

11.2.14. The Fingal County Development Plan 2017-2023 includes on page 38, table 2.8 describing the total residential capacity provided for under the plan. This identifies a land supply of 16 hectares in Howth, with a potential residential unit capacity of 498. Table 2.8 is then updated in adopted Variation no.2 of the plan 'Alignment of the

Fingal Development Plan with the National Planning Framework and the Regional Spatial and Economic Strategy', indicating that there is 14 hectares of zoned land remaining in Howth, with capacity to deliver 436 residential units. There is a permitted SHD scheme 'Claremont' on the former Techrete site located opposite the proposed development site. This adjacent site has approval (and is currently under construction) for 512 units and therefore the proposed development combined with this approved SHD would amount to 674 units, which is in excess of the 436 units identified in variation no.2. The applicant has submitted a material contravention statement with respect to this matter, which I consider further in section 11.9 of this report below.

11.2.15. National policy as expressed within Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness and the National Planning Framework (NPF) – Ireland 2040 supports the delivery of new housing on appropriate sites. I note that the Inspector's assessment in relation to the nearby 'Claremont' SHD application, recognised the exceedance of the residential capacity figure under the Development Plan, but considered this to be in keeping with NPF and section 28 guidelines on building height and density. The Board determined to accept the Inspectors recommendation to approve that previous application.

11.2.16. I note that national and regional planning policy encourage the consolidation of housing growth in appropriate urban centres well served by public transport and employment opportunities. In recognition of a current lack of housing supply, the focus is on the compact growth of appropriate locations, instead of continued urban sprawl that encourages inefficient use of land and unsustainable living. Therefore, an overly constrained approach to housing capacity in suitable locations would be contrary to that overarching approach. The application site is in an existing residential settlement area, on the edge of the zoned town centre and proximate to cycle and rail infrastructure. As a result, I see no reason to reject the application in principle, on the basis of the exceedance or potential exceedance in residential capacity. In my opinion, a qualitative assessment is required first in relation to the suitability of the proposed density for the site and whether such an exceedance is justified with reference to the national and regional planning policy approach. I undertake this further in sections 11.3 and 11.19 below.

11.2.17. SHD Process and Prematurity

11.2.18. In relation to third parties and Elected Member representations regarding 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.

11.2.19. I note a third-party representation that the planning application is premature pending adoption of new development plans for Howth. I consider that the application can be appropriately assessed against all current adopted planning policies in local, regional and national plans, and I have considered these policies as part of my assessment.

11.3. Density

11.3.1. 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 that the proposed development is contrary to Objective SS02 relating to the Settlement Hierarchy under the Development Plan. The Planning Authority consider the proposal to constitute over development of the site, with insufficient open space, inadequate parking, and adverse impact upon residential amenity. The Planning Authority considers that the application should be refused, in part, on this basis. I consider the Planning Authority recommended reasons for refusal specifically in section 11.10 of this report below.

11.3.2. 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 seek 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' (Building Height Guidelines), 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (Apartment Guidelines) and Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (Sustainable Residential Development Guidelines) all support increases in density, at appropriate locations, in order to ensure the efficient use of zoned and serviced land.

11.3.3. The proposed development has a net density of 140 units per hectare. This net density is calculated on the developable area of the site, being the land zoned for

residential development (1.16 hectares). This approach follows guidance in Sustainable Residential Development Guidelines.

- 11.3.4. The subject site is situated approximately 5mins walk to Howth rail station, with access to mainline DART services. The site is also a short walking distance to the zoned town/district centre areas for Howth with access to the range of commercial, social and amenity infrastructure there, as well as the employment location designated at Howth Harbour. The site is therefore categorised as a 'Central and/or Accessible Urban Location' under the Apartment Guidelines. These include areas within walking distance of employment locations and/or walking distance (up to 10mins) of high-capacity public transport such as DART services. These locations are stated to be generally suitable for small to large scale and higher density development, that may wholly comprise apartments.
- 11.3.5. 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, as defined in the Apartment Guidelines. In terms of defining Howth in the context of settlement hierarchies and suitable densities, Howth is designated 'Dublin City and Suburbs Consolidation Area' under variation no.2 of the Development Plan and is not considered to be a 'village' in the context of the guidance.
- 11.3.6. Having regard to the Sustainable Residential Development in Urban Areas Planning Guidelines and Circular NRUP 02/2021, the subject site can be considered an Inner suburban / infill site. These are defined as lands within suburban areas of towns or cities, proximate to existing or due to be improved transport corridors. Infill residential development should strike a balance between the reasonable protection of amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. In such locations, the guidelines would encourage minimum densities of not less than 50 units per hectare.
- 11.3.7. I note the Fingal County Development Plan identified residential capacity for Howth, which would equate to a density of 31 units per hectare across zoned available land in Howth which would therefore be contrary to the guidelines. I have described above in section 11.2 why I do not consider this restrictive residential capacity to be a

barrier to considering the application, and that a qualitative assessment is required to determine the acceptability of the proposed form of development on the site, including the proposed scale and height of buildings. As described above, restricting the efficient development of zoned, serviced lands, in central / accessible locations, would be contrary to the overarching national planning policy approach to compact growth in my view.

11.3.8. Therefore, in my view, the proposed density is within the acceptable density ranges for the subject site, as described in the national guidelines set out above. However, a qualitative assessment is still required of the acceptability of the form of the development with particular consideration of potential impact upon amenity, and I set this out in further detail in sections 11.5, 11.6 and 11.7 below. I also note paragraph 5.6 of the Sustainable Residential Development Guidelines, which identifies the desirability of preserving protected buildings and their settings. I consider in detail below the impact of the proposed development upon the historic environment in section 11.4 below. Overall, given the accessible characteristics of the site, I am satisfied that there is nothing to preclude the proposed density level on the site with reference to the above national guidelines, which promote a qualitative assessment, as set out in this report.

11.4. Heritage Considerations

11.4.1. A number of objections have been raised by third parties in relation to the impact of the proposed development upon Howth Castle, a Protected Structure, and its demesne, including its entrance which is located proximate to the subject site, and the associated demesne walls which extend along the northern boundary of the site. The Planning Authority have also recommended that the application be refused, in part, because of detrimental impact upon the character, setting and special interest of protected structures, including Howth Castle and St. Marys Church. The Planning Authority consider the development to be contrary to Objectives Howth 1 and Objective CH20 of the Fingal County Development Plan 2017-2023 and to the Building Heights Guidelines and the Architectural Heritage Guidelines. The Planning Authority also notes that the subject site forms part of the historic demesne lands of Howth Castle.

11.4.2. The subject site historically formed part of Howth Castle demesne, and the historic estate walls on the northern boundary of the site are a remnant of this relationship. The site is a vacant, undeveloped greenfield area, and therefore the wall is the only built heritage situated upon the site. The immediate area surrounding the site has three Protected Structures listed in Fingal County Council's Record, as follows:

- Howth Castle (RPS no.0556) – Medieval castle (with later additions and alterations) including wings, towers, stables and 19th century entrance gates;
- Church (RPS no.0557) – Medieval chapel ruins in grounds of Howth Castle;
- St. Mary's Church (C of I) (RPS no.0594) – Howth Demesne, Gothic style mid-19th century Church of Ireland church with spire.

11.4.3. The National Inventory of Architectural Heritage Re. Ref. 11358027, refers to the Entrance Gateway, Walls and Railings to the Castle Demesne from Howth Road.

11.4.4. The Howth Castle and Demesne Architectural Conservation Area (ACA) extends around the Protected Structures, namely Howth Castle and its grounds, the chapel ruins and St Mary's Church. The subject site immediately adjoins the ACA on its eastern boundary but is situated outside of the ACA itself.

11.4.5. The applicant has submitted an Architectural Heritage Assessment Report for the application. This identifies the boundary wall on the northern boundary of the site as being a historic demesne wall of Howth Castle. The report also states that the wall is not included in the description of Howth Castle listing on the Record of Protected Structures, and it is not included within the boundary of the ACA. As the curtilage of Howth Castle is described in the ACA, the submitted report concludes that the historic demesne walls on the subject site are not part of the curtilage of the Protected Structure. It is however considered that the wall is part of the attendant grounds of Howth Castle, and the applicant identifies that there is no statutory protection for attendant grounds.

11.4.6. The report notes that the wall is of rubble stone construction, with areas that have been rebuilt and re-pointed in the past, in particular the upper section of the wall. There are some remnants of lime render on this wall and large areas of the wall are covered in ivy and cannot be seen.

- 11.4.7. The proposed development is for three apartment block buildings, 5 storeys in height as they are situated closest to Howth Road, increasing to 6 storeys in height towards the rear of the site. The top storey (at both 5th and 6th storey level) is set back by over 1.5m from the main elevation edge. Works are proposed to protect and retain the boundary wall as part of the development in accordance with conservation best practice. Openings are also proposed within the wall to facilitate new entrance / egress to the site as part of the development works and it is proposed to remove 2 sections of the northern historic boundary wall in order to facilitate this. The first being vehicular / cyclist / pedestrian access to the north-west, and a second separate pedestrian cyclist access closer to the middle of the northern boundary. I note An Taisce's comments that the proposed development cannot be considered an advancement of the historic landscape as a result of these breaches into this historically significant wall.
- 11.4.8. It is therefore clear to me, that the main heritage considerations in my assessment relate to the potential impact of the proposed development upon the setting of surrounding Protected Structures and the ACA and the proposed works to the historically significant wall.
- 11.4.9. Protected Structures and Howth Castle Architectural Conservation Area (ACA)
- 11.4.10. Turning first to the impact upon surrounding Protected Structures, the most important of these is Howth Castle, which The National Inventory of Architectural Heritage classifies to be of National Importance due to its architectural, historical, artistic and archaeological special interest. The main elements of potential impact upon this Protected Structure are in my view: the impact upon views of the castle within, and from its grounds and as part of this, its visual setting; the impact upon views of the entrance area to the castle; and the impact upon curtilage features and attendant grounds. I consider the boundary wall and its relationship to Howth Castle separately below. As the chapel ruins Protected Structure is situated to the north of the Castle, my assessment of potential impact upon Howth Castle, is inclusive of consideration of that associated Protected Structure as well.
- 11.4.11. Photomontages and verified views are provided as part of the application and accompany the associated assessment described in Chapter 5 of the submitted EIAR relating to landscape and visual impact. The applicant's Architectural Heritage

Assessment Report also describes the potential visual impact of the proposed development with reference to these photomontages and views.

11.4.12. The applicants Heritage report concludes that impacts would be neutral and of slight significance. The views considered are view 6, 7, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19. While the EIAR considers all views. I set out my EIA and full consideration of Chapter 5 in relation to landscape and visual impacts in section 13 of this report below, and this section of my report should be read in conjunction with that assessment.

11.4.13. In my assessment of views and potential impact upon Howth Castle, I am cognisant of the ACA description of important views. I consider that many of the views provided do illustrate that the proposed development would not have an overbearing visual impact when considered in the setting of Howth Castle. Views 12, 13, 14, 15, 16 and 17 particularly, illustrate that when considering views from within the Castle grounds towards the subject site, these will be extensively screened and obstructed by existing tree planting and structures on the Castle grounds.

11.4.14. However, I do consider there to be negative impact arising from the proposed development upon views at the entrance to Howth Castle. This is illustrated in views 5, 6 and 7. Views 3 and 4 also illustrate the change in character that would result to the corner of the subject site onto Howth Road at the entrance to Howth Demesne.

11.4.15. In considering the impact upon the entrance to Howth Castle Demesne, I have had close regard to The Architectural Heritage Guidelines, and note the statement on page 192 of that guidance, that:

“The attendant grounds of a structure are lands outside the curtilage of the structure, but which are associated with the structure and are intrinsic to its function, setting and/or appreciation. In many cases, the attendant grounds will incorporate a designed landscape deliberately laid out to complement the design of the building or to assist in its function.”

11.4.16. In my opinion, there are some areas of the subject site which can be considered to be the attendant grounds to the castle, and this is not limited to the boundary wall. I consider that particularly the eastern end of the subject site itself forms part of the setting of the entrance to the Castle.

11.4.17. In my opinion, the dense, green, planted character on the corners of the junction with Howth Road were an intentional landscape feature to add appreciation of the entrance to Howth Castle. As such, I agree with Fingal's Conservation Officer's comments relating to the site forming attendant grounds to the castle in that context. The eastern portion of the subject site (which forms the western side to the Castle entrance) clearly contributes to the character and setting to the entrance to Howth Castle, and therefore can be considered part of the attendant grounds to Howth Castle in my opinion. I also note the ACA description of important views on page 18, which identifies the view from the entrance gates, and states that negative impact or obstruction to this view should be avoided. However, I note that the view specified is looking out from the gates, rather than towards the site from Howth Road. In any case, the fringe areas to the entrance gates are an important feature, contributing to the character of the entrance and therefore the setting of Howth Castle itself.

11.4.18. View 6 shows the development in views from Howth Road in the context of the entrance gates to Howth Castle. I think that a wider perspective on this view would have been useful, however I appreciate that the applicant has focused on taking in as much of the development site as possible. What would have been apparent from a wider perspective, however, is the open and dense tree character of the eastern side to the entrance road where St Mary's Church is situated. The subject site forms the western side of the entrance, and its character should harmonise with that wider context in my view. In my opinion, the front portion of proposed apartment block C, is overly dominant in this view in the context of the entrance gates to the Castle. This part of the subject site should remain visually open in my view, save for tree planting and the boundary wall. A visually open view on this corner of the site would create a more harmonious context in consideration of the character of the western side of the access road in my opinion.

11.4.19. The character to the west is illustrated in part in View 7, and this again shows the intrusion of the front portion of proposed apartment block C to the open green character here. View 5 also demonstrates this in my opinion, while at the same time, demonstrating that the lower storeys to proposed apartment blocks A and B would not have the same adverse impact as apartment Block C. However, I am also of the view that the upper storeys to all proposed blocks A, B and C would have a negative visual effect.

11.4.20. In relation to the openness of the north-eastern corner of the site (forming the western side to the Castle entrance), I note Fingal's Conservation Officers comment in relation to the need to increase tree planting on the eastern end of the site, and I concur with this view in relation to the eastern corner of the site with Howth Road. For the foregoing reasons, I am therefore recommending that an increased setback be incorporated into proposed Block C. This would open up the eastern corner of the site onto Howth Road and create space for additional tree planting / densification of foliage / leafy green character. As part of this consideration, I note that the proposed basement area does not extend below apartment block C, and therefore additional tree planting could be successfully located here.

11.4.21. In my opinion, an appropriate set back can be achieved through the removal of units 02 and 05 on each floor in Block C (8 units in total over 4 storeys), facilitating an increased set back of at least 7m. These units (02 and 05) are located within the centre of the block, and therefore their removal and associated reduced floor plate of the building, allows a setback that preserves the elevation end as currently designed in the scheme. Within the resulting space, revised landscape details could then be provided to demonstrate increased tree planting within the north-eastern corner of the site. This would greatly improve the visual impact of the proposed development in my view and reduce associated negative impact upon the setting of the entrance to Howth Castle. For similar reasons, I consider it appropriate to also recommend removal of the top (5th and 6th) storey to the blocks. This would improve the visual impact and appropriateness of scale for this sensitive site in my view, and I expand upon this further in section 11.5 below.

11.4.22. In relation to St Mary's Church, views 3 and 4 demonstrate visual impact on the approach to the entrance to this Protected Structure. The views illustrate that the development will be visually prominent, however this change in character is not harmful to the entrance to St Mary's Church in my view. This Protected Structure is of Regional Importance and its entrance area is not highlighted to be of importance in either its listing or in the ACA. From my visit to the site, the prominence of St Mary's Church was evident and results from the elevation of that site. The proposals for the subject site would not interfere with views of St Mary's Church in my opinion, given its elevated position, the bend in Howth Road and the set back of the subject site from Howth Road, which combine to preserve the visual prominence of the church site.

11.4.23. From within the St Mary's Church site itself, view 11 in the submitted document demonstrates that the proposed development would have little visibility behind dense tree planting on the boundary of the site. I note that the Planning Authority considers that the proposed development relies too heavily on screening from planting. In my view the proposed development has a good quality appearance, is located a significant distance away from St Mary's Church, on an elevated position over 100m to the east of the subject site, and visibility of the proposed development will be restricted, if not, almost entirely obscured from the church site as a result. I also note that the approved development as part of the Claremont SHD is situated more proximate and opposite the church site and will already create a different character on this part of Howth Road. As a result, I do not consider there to be any negative impact upon the setting of this Protected Structure as a result of the proposed development.

11.4.24. The proposed development site is bounded to the east by the ACA area, which extends down the Howth Demesne entrance, Entrance Avenue to the Castle grounds, taking in the St Mary's Church to the east, the Castle and grounds, as well as the National Transport Museum and woodland to the west of the Castle. The Deer Park Golf Course forms part of the Demesne lands but is situated outside of the ACA area. The subject site overlaps with the golf course to the south and views from the Demesne to the subject site are afforded over the golf course area. The proposed development includes change of use of a small part of the golf course as a result, to form high amenity open space within the subject site boundary. There is no protection of golf course areas under the development plan, however the contribution of golf courses to landscape character and preservation of open views is a relevant consideration.

11.4.25. Page 16 of the ACA document describes important views as follows:

There are some views out of the ACA, namely from the entrance gates and from the castle over the golf course. These views contribute to the character of the area and it is important that potential new development within the ACA does not negatively impact on or obstruct these views.

11.4.26. Page 20 of the ACA includes an annotated map showing these views and page 19 states that it is not just the structures that contribute to the character of the ACA but

also designed landscape features, which are integral to the appeal and attraction of this area.

11.4.27. View 18 illustrates the clearest view from the Demesne towards the subject site over the golf course. It is apparent and acknowledged in the EIAR, that the upper storey of the proposed building will project above tree lines in some vantage points as represented by this view. The upper storey is also proposed to be finished in zinc cladding, which is more incongruous to the character of the area than the refined brick finish of the lower storeys. I consider the extent of visual intrusion into the backdrop of the ACA for a Nationally significant site of heritage importance to be unacceptable. The open and green backdrop and aspect to Howth Demesne is an integral feature of the character of Howth Castle which has endured and should be preserved in future. As part of this I think of comparable structures, such as Malahide Castle Demesne and Ardgillan Castle Demesne, and I note that Fingal's Conservation Officer also points to these comparable sites, in reference to the 'green lungs' of these types of historic estates. However, it is also important to note that the lands surrounding those comparable sites are public and not zoned for development, while the subject site is privately owned land, zoned for residential development. Nevertheless, it forms part of the visual backdrop to Howth Demesne.

11.4.28. I am not concerned about the impact of the lower storey levels in this view, as it is only the upper storey at 6th level that would be visible above the tree line. I also consider the material finish of the lower levels in brick to be more appropriate to the area. I note Fingal's Conservation Officers comments about the removal of trees on adjacent lands which are shown to be screening the buildings in this view. I agree with the Conservation Officer that increased tree planting is required along the southern edge of the site to adequately screen the buildings in views from the Demesne. This is as a result of the reliance of screening from trees outside of the subject site boundary. It is not appropriate, in my view, for the applicant to rely on tree planting outside of their site and their control, to mitigate potential visual impact. Therefore, it is appropriate as recommended by the Conservation Officer, that additional on-site tree planting be provided, and this can be maintained by the applicant. Based on increased and densified tree planting along the southern edge of the site, I consider that a reduced scale development would be adequately screened in views from the Demesne in the setting of Howth Castle, and I am recommending a

reduction in height to the proposed development, as well as additional on-site screen planting on this basis. I am recommending that the upper storeys (5th and 6th) be removed, and not a floor within the middle of the blocks, because in my view the material finish and appearance of the 5th and 6th storey is less successful than the lower levels in the block.

11.4.29. In summary, I have considered the applicant's photomontages and assessment of potential impact within the Architectural Heritage Report, alongside Chapter 5 in the EIAR. I have also studied these views in detail myself and visited the site to gain appreciation of the potential visibility of the proposed development. I have noted extensive objection to the development from third parties, An Taisce and the recommendation from the Planning Authority that permission be refused as a result, in part, of impacts upon Howth Castle and other Protected Structures, as well as the character of the ACA itself. Overall, I consider that the removal of the top 5th and 6th storey to blocks (comprising 24 units) and a reduced floor plan to block C facilitating an increased set back (minimum 7m) with increased tree planting, would significantly improve the visual impact of the development, reduce prominence in views from Howth Castle Demesne, and increase openness and opportunity for densification of tree planting along the eastern corner of the site, to the benefit to the character of the entrance to the Castle. The amendments I recommend would result in the removal of 33 units in total from the development.

11.4.30. I note third party reference to a planning appeal ref. ABP-304514-19 determined by the Board in 2019. That appeal was on a site situated closer to Sutton Rail Station and was refused on the basis of unacceptable impact of additional height and bulk in the context of protected structures and the architectural conservation area. There are clear distinctions between that site and the subject site in my view, and each planning application or appeal requires assessment on its own merits and considering the individual context to specific sites.

11.4.31. It is my view, that with the recommended alterations described above, the proposed development would be acceptable in the setting of Protected Structures in the vicinity of the site and in views from the ACA. The alterations would also improve the appearance of the development on a site that forms part of the attendant grounds to Howth Castle Nationally Significant Protected Structure and is zoned for residential development. As such, in my opinion the proposed development in an amended

form, would be compatible 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 attendant grounds of a Protected Structure.

11.4.32. Boundary Wall

11.4.33. In relation to the boundary wall, the applicant's report states that the age of the wall is unclear but that it appears to have been part of the enclosure of Deer Park, historically, which the subject site was part of in the past. I am satisfied from the evidence described in the applicant's report that the wall is a historic feature, dating to at least 1837. The applicant's report accepts that the wall is an attendant feature to the Castle.

11.4.34. The new vehicular / pedestrian / cycle entrance (7.7m wide) is located towards the north western corner of the site. This is the point furthest away from the entrance to Howth Castle. Locating the entrance at this end of the site is appropriately sensitive in my view. The access is necessary to facilitate future occupation of the lands in accordance with the zoning of the site and I consider it to be appropriately sized, limiting the extent of wall requiring removal as far as possible while accommodating a safe access / egress to the site.

11.4.35. The creation of a central access (2.2 m wide) for pedestrians and cyclists to access the public open space is similarly functional and a consequence of developing the site. In my view, it would not be appropriate to limit access to the first shared vehicular / pedestrian / cyclist point, as this second central access is clearly intended to encourage public use of the open space to the front of the site. Without this additional access, public visitors might be deterred.

11.4.36. While new openings in this historically significant feature should be avoided, the only option to create an access to this residentially zoned site, is to create a new opening in the wall. There are no existing openings onto Howth Road that can be utilised and therefore the removal of part of the wall to facilitate access is an unavoidable consequence of developing the site. This will be inevitable no matter what type, or scale of development, is proposed on the site.

11.4.37. In relation to An Taisce's comments that the proposed development cannot be considered an advancement of the historic landscape, as a result of these breaches into this historically significant wall, this is not compatible with the zoning of the site for residential development in my view. I consider these openings an inevitable consequence of developing this site zoned as residential land. I also note that the Planning Authority does not raise any objection to the proposed openings in the wall.

11.4.38. Overall, I consider the new openings to be a sensitive alteration to facilitate the functionality of the site for residential use. The openings have been sited and designed in such a manner to minimise their potential impact on the historic wall, and on balance, the approach taken is acceptable to facilitate the achievement of the RS objective on the lands and is not as a result of, or influenced by, the scale of the proposed development.

11.5. Height, Scale, Mass and Design

11.5.1. Concerns have been raised regarding the height, scale, mass and design of the proposed development by third parties. The Planning Authority has also recommended that the proposed development be refused, in part, due to its form, massing and overall height, which it considers to be unacceptable for the existing environment and character of the area.

11.5.2. 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.

11.5.3. I note that the Planning Authority considers the site to be a historical environment sensitive to scale for the purposes of the Urban Development and Building Heights

Guidelines, given this relationship to the Howth Castle Demesne. 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.”

11.5.4. The application is accompanied by an Architectural Heritage Assessment Report, photomontages and verified views, as well as Chapter 5 in the EIAR on landscape and visual impact. My assessment includes focused consideration of the sensitivities of the site and potential impact upon its historic character and contribution to surrounding historic environments / structures. As a result, I am satisfied that the Building Height Guidelines are satisfied in this regard, and I am able to continue with my assessment.

11.5.5. I am cognisant that the proposed development represents a change from the established scale to the area, with residential dwellings nearby and specifically to the west of the site exhibiting heights of mainly 2 storeys. I also note the HA zoning to the south of the site and the Howth SAA Buffer Area. As part of this, I am cognisant of the Development Plan requirements in relation to transitional zonal areas, and that

it is important to avoid abrupt transitions in scale and use in the boundary areas of adjoining land use zones, in particular more environmentally sensitive zones.

- 11.5.6. I also note SPP1 of the Building Height Guidelines, which states that it is Government policy to support increased building height and density in locations with good public transport accessibility. Section 3 of the guidelines confirm this, stating that in the assessment of individual planning applications, it is Government policy that building heights must be generally increased in appropriate urban locations, and that there is a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility. Development management criteria are then described to inform this assessment in section 3.2. This criteria allows consideration of landscape character, and I have considered the historical and environmental context of the site as part of my assessment below.
- 11.5.7. The first criteria under section 3.2 of the Building Height Guidelines relates to the accessibility of the site by public transport. I have already described in section 11.3 above, that the site has excellent public transport accessibility to the DART rail station. While I note third party concern regarding the capacity of the DART, rail services are considered to be high-capacity forms of public transport, although I recognise that capacity will vary across the day. I consider public transport capacity further as part of section 11.8 and my EIA in section 13 below. Overall, I consider the criteria under section 3.2 and SPPR 1 concerning links to public transport to be satisfied by the site, as it is located a 5min walk from the Howth rail station.
- 11.5.8. The second criterion relates to the character of the area in which the development is located. To the west of the site, the area is characterised by 1 and 2 storey residential housing on either side of Howth Road, with the coast and associated beach areas further to the north of this. To the south of these houses is green field areas. To the north of the subject site there is tree planting and park area on the opposite side of Howth Road, as well as the Claremont SHD site to the north east. To the south of the site, there is tree and hedge lined boundaries followed by the open grassland for Deer Park Golf Course, with Howth Castle Demesne beyond. To the east of the subject site is dense tree planting for the St Mary's Church site and the entrance road to Howth Castle grounds.

11.5.9. The proposed development is for 3 buildings arranged in a linear plan as they front onto Howth Road. The buildings sit in a diagonal formation with a staggered footprint creating a distinct front block and distinct back block arrangement. The materiality and height also differ to the front and rear blocks to exaggerate this distinction. Each of the proposed blocks are fairly uniform in appearance and quantum of accommodation. All of the proposed blocks are 5 storeys to the front closest to Howth Road, increasing to 6 storeys to the rear. Block A and B contain 52 apartment units each. Block C contains 58 apartment units. Each block contains 36sqm of residential amenity and 244sqm of roof garden area.

11.5.10. The applicant's submitted Architectural Design Statement emphasises the idea of an evolving gateway to the Town Centre and the entrance to Howth Castle, as being heavily influential on the design approach. The intention is that the proposed development accompanies the Claremont SHD scheme 'harmoniously', and balances 'the visual form on the south side of Howth Road'. Third parties and the Planning Authority have however suggested that this approach is not appropriate given that approved Claremont SHD scheme has a town centre zoning, compared to the RS residential zoning of the subject site.

11.5.11. I am not entirely convinced by the applicant's categorisation of the subject site as a 'gateway' to the town centre and that buildings on the subject site will have a role in marking the entrance to Howth Castle. I am on the view that the Claremont SHD site is the appropriate gateway site to the town centre, and the high quality design of that previously approved scheme suitability responds to that role. In my opinion, the current subject site is more sensitive than the Claremont SHD site, given the relationship that the subject site has with Howth Castle Demesne, forming part of the setting to the entrance to the Howth Castle grounds. As identified within the ACA, the setting of the entrance is sensitive and disruption to views out from the gates should be avoided.

11.5.12. I think that the distinction between the zoning of the two sites is also relevant, and that the town centre zoning of the Claremont SHD site does suggest that greater scope for density and height would exist than on the subject site which is zoned residential. However, national policy is clear that there is a focus on compact growth on sites with good accessibility to public transport and employment opportunities, which, as I have set out in section 11.3 above, the subject site does demonstrate. As

a result, scope for increase scale and height exist, which should respond to the character of the surrounding area. Consequently, I have already described above why I consider that proposed block C should be amended to allow for increased setback to Howth Road, and this ensures that the development appropriately responds to the character of the area of the site, in a sensitive position at the entrance to Howth Castle grounds.

11.5.13. To the immediate west of the site are a group of bungalow dwellings, including 'Tig Bhride' and 'Windwood' situated closest to the boundary. I note that there is a strong single storey character evident to the west of the site, and that the proposed development does not include any specific measures to respond to that low rise character to the west. While I note that parts of the subject site are situated at a lower level to some adjacent areas, and that the proposed development incorporates a setback top storey, in my view, there is no tailored response to the specific low rise residential setting to the west. I also consider that while the top storey is set back and I note the change in levels across the area, this would not disguise the overall scale of the proposed development when viewed in conjunction with the bungalows to the west, and this end of the site could have benefited from a more specific decrease in scale to address lower rise neighbouring properties.

11.5.14. I have already described in section 11.4 above, why I consider that the top storey should be removed from all blocks to reduce impact on the setting of the Howth Castle Demesne and ACA area. I also think that this reduction would benefit the impact of the development to the west of the site. With a maximum 4 and 5 storey development, this would be more appropriate to the residential zoning of this site, with excellent accessibility, but in a sensitive context, adjacent to existing single storey dwellings. The proposed buildings are situated a significant distance away from the bungalow dwellings and therefore I am satisfied that at a reduced height to 4 and 5 storeys the proposed blocks would not be overdominant. The proposed development at a reduce 4 and 5 storey height would then play a transition role between these lower rise houses to the west, and the increased scale on the Claremont SHD site as it announces the town centre area to the north east of the site. As part of this consideration, I note that the Claremont SHD has a maximum approved height of 7 and 8 storey height, which is set down to a 5 storey equivalent height where it is situated closest to adjoining residents.

11.5.15. In terms of an assessment of the contribution of the proposed development to the urban neighbourhood (a 3.2 criterion), I note Views 8 and 9 in the photomontage document, showing the development on Howth Road. I think these views are helpful to illustrate how the amendments I suggest above, will improve the visual appearance of the proposed development when viewed in context with the lower rise residential development to the west. With a reduction in height to maximum 4 and 5 storeys, the visibility of the development would not be harmful in my view, and impact would be consistent with this site in a sustainable and efficient manner in line with Government guidelines.

11.5.16. In terms of the detailed appearance of the blocks (3.2 criteria including avoidance of uninterrupted walls, contribution to space and materials), the proposed design incorporates variation in height and two distinct brick types. The front of the blocks is proposed to be finished with light buff brick, while a grey brick is proposed to the rear blocks. There is a solidity to the design approach to the blocks, with large windows and a staggered plan form breaking up the mass of blocks. The variation in brick finish also assists in breaking up the mass of the blocks. The inclusion of inset balconies to front blocks and projecting balconies to rear blocks, further distinguishes the front and rear portion of the blocks and the overall effect is of a good quality design in my view. I have previously outlined above why I consider the materiality to the top storey to be less effective, with a zinc finish. In my opinion, the removal of the top storey level will benefit the scheme and ensure that the design retains clarity and robustness with a simplified material palette. The amendments I recommend will further reduce the mass of the proposed blocks and the overall appearance of the development.

11.5.17. 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 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 11.6 and 11.7 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, photomontages and CGIs, architectural heritage assessment report, EIAR and NIS. In addition, I am satisfied that the applicant has addressed the issue of potential bird strikes and impact on bats and I consider the potential for the collision of birds with buildings as part of my Appropriate Assessment in section 12 below and potential impact upon bats as part of my EIA in section 13 below.

11.5.18. Overall, and following the above discussion, I do not consider that a maximum 5 and 6 storey development would satisfy the criteria under 3.2 of the Building Height Guidelines, due to the negative impact upon the character of the area, given the sensitivities of the subject site. However, I do think that with the amendments I have described above, and specifically the reduced foot print to block C and a reduced height of maximum 4 and 5 storeys to all blocks, the development would be appropriate under the section 3.2 criteria in the guidelines. I also consider for the reasons outlined above, that an amended scheme would be acceptable under Objective Howth 1 of the Development Plan and respect the special historic and architectural character of the area.

11.5.19. As outlined in section 11.2 of this report above, the southern portion of the site is zoned Howth SAA (Special Amenity Area) Buffer Zone, and this zoning overlaps the residential zoned lands within the site. The proposed development therefore includes back end of blocks within this zoning. There are a number of relevant Objectives under the Fingal Development Plan 2017-2023 relating to this zoning. Specifically Objective Howth 1 'Protect and manage the Special Amenity Area, having regard to the associated management plan and objectives for the buffer zone' and in relation to landscape character assessment Objectives NH33, NH34, NH35, NH36, NH37, NH38 and NH39. I note that the Planning Authority considers that the proposed development should be refused, in part, as a result of being contrary to Policy 1.3.1 of the Howth Special Amenity Order. I address the Planning Authority's recommendation specifically in section 11.10 below, as well as the impact upon the SAA as a result of tree loss from the site in section 11.11 below. In this section I consider the visual impact of the proposed buildings on the site upon the SAA.

11.5.20. Howth and the SAA is classified under a Coastal Character Type in the Development Plan. This recognises the importance of the demesne and woodland areas, and

states that the landscape value is exceptional. Policy 1.3.1 of the Howth SAA Order states that in considering planning applications within the buffer, policy is to preserve open views from the SAA.

11.5.21. I note that the vast majority of the site is not situated within the SAA zoning. The overlap of proposed buildings into the SAA zoning is also marginal, with proposed block C affected the most. In my opinion, with the incorporation of the amendments I recommend above, the proposed development would not result in harmful impacts upon the landscape character of SAA. The site represents a transition location in my view, between the lower rise character to the west, greenfield HA areas to the south and emerging increased scale and the town centre to the northeast. In this sense, it is my view that having transitional forms in the urban environment will benefit the landscape character. In relation to the preservation of open views from the SAA, the submitted photomontages demonstrate the visibility of the proposal in the surrounding area. I have already described why I consider the reduction in scale of the proposed buildings by a storey is required, in my view, given the sensitive historical context of the site. I also consider that this amendment would benefit views from the SAA. The arrangement of the proposed blocks on the site, also allows views between and around the buildings. Tree planting, including additional tree planting that I am including as part of my recommendation, would further soften views of the proposed buildings from the SAA. Overall, the open character of the SAA would not significantly alter or be adversely impacted by the proposed development in an amended form in my view.

11.5.22. Overall, I consider the proposed buildings to be acceptable in consideration of Policy 1.3.1 of the Howth SAA Order, and relevant aforementioned Objectives in of the Fingal Development Plan 2017-2023.

11.6. Neighbouring Residential Amenity

11.6.1. 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 bungalows to the west of the site, and I address potential impacts in detail below.

11.6.2. Daylight and Sunlight

- 11.6.3. 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. In relation to the definition of effect, I note a third-party response in relation to the use of the word 'imperceptible', however this is defined for purposes of the Daylight and Sunlight report only and relates to compliance with BRE criteria. For the purposes of my assessment of this matter, I focus on the BRE criteria described in the guidelines.
- 11.6.4. 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. The guidelines state that if with a new development in place, the VSC to an existing neighbouring property 'is both less than 27% and less than 0.8 times its former value, occupants of the existing building will notice the reduction in the amount of skylight.' Therefore, the preservation of a minimum VSC of 27% and reductions no more than 0.8 times the former value, illustrate acceptable daylight conditions to existing properties.
- 11.6.5. 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 submitted report considers potential effects upon the daylight to the following properties to the west of the site: Tig Bhríde; Windwood; Kincora Lodge; and Baltray. All other properties are located a significant distance from the site and proposed buildings, and following the BRE criteria, have no potential for reduced daylight as a result of the proposed development. I am

satisfied that the submitted report accurately follows the methodology in the BRE guidelines.

- 11.6.6. In terms of the results of the submitted assessment, this demonstrates that all windows within the properties tested to the west of the site, will comply with BRE daylight criteria in the proposed condition. Specifically, in the proposed condition the windows at Tig Bhríde and Windwood would all retain VSC levels over 30%. All windows tested at Baltray will retain a VSC over 27%. At Kincora Lodge, all windows with existing VSC levels of 27% and over, retain VSC levels of at least 27% in the proposed condition. One window at Kincora Lodge has an existing VSC level of 21.13% and this is reduced to 20.88% in the proposed condition and therefore within the 0.8 parameter described in the BRE guidelines. I agree with the conclusions of the submitted report and am satisfied that there is no significant impact upon adjacent occupiers daylight as a result of the proposed development.
- 11.6.7. In relation to sunlight to windows, the BRE guidelines refer to a test of Annual Probable Sunlight Hours (APSH) to windows. This checks main living rooms of dwellings, and conservatories, if they have a window facing within 90° of due south. If with the development in place, the centre of the window can receive more than one quarter APSH, including at least 5% of APSH in the winter months between 21st September and 21st March, then the room should still receive enough sunlight. Following BRE criteria, only windows at Tig Bhríde and Baltray require analysis in this regard. The submitted report demonstrates that BRE criteria for sunlight is comfortably satisfied for all windows tested. I agree with the conclusions of the submitted report and am satisfied that there is no significant impact upon adjacent occupiers sunlight as a result of the proposed development.
- 11.6.8. In relation to overshadowing, BRE guidelines recommend that at least 50% of existing properties rear gardens or other public / communal amenity areas, should receive at least 2 hours of sunlight on the 21st March. The submitted analysis demonstrates that the proposed development will comply with BRE criteria relating to overshadowing of proposed amenity areas, with very little change to overshadowing conditions to the rear gardens of Tig Bhríde, Windwood, Kincora Lodge and Baltray in the proposed condition. I note third party concerns regarding the overshadowing of solar panels and fruit / vegetable patches, however the applicant has adequately demonstrated that any increase in the overshadowing of surrounding houses and

their associated gardens will not be significant, with gardens retaining more than 2 hours of sunlight over 90% of the area following the proposed development. In my opinion, the evidence submitted by the applicant is accurate and I am satisfied that there is no significant impact upon adjacent occupiers from overshadowing by the proposed development.

11.6.9. Overall, I am satisfied that the proposed development will not have significant negative impacts upon surrounding existing properties daylight, sunlight or from overshadowing, and consider the proposal compliant with the BRE criteria, Building Height Guidelines and Fingal Development Plan in this regard.

11.6.10. Overlooking (Privacy)

11.6.11. 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 to the west of the site. Objections include concern regarding potential overlooking of existing private garden areas, which I have also considered. I also note that the Planning Authority recommend, in part, that the proposed development be refused as a result of overlooking of adjoining residential properties.

11.6.12. 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. All windows, balconies and roof terraces within the proposed development, are situated over 22m to surrounding properties. The distance between Windwood and proposed Block A is approximately 28m to the boundary, and over 39m to the building itself. Proposed Block A is also situated over 18m to the boundary, and over 22.5m to the building at Tig Bhríde at its closest point. The building is at an oblique angle to this existing property, and no directly opposing window relationships result. Overall, I am satisfied that the separation distances to existing properties and boundaries to the proposed development are acceptable and would not result in undue overlooking or adverse impacts upon privacy.

11.6.13. Noise and Security

11.6.14. I note third party concern relating to noise and disturbance generated from use of roof terrace areas in the proposed development, as well as security as a result of opening up boundary areas. Roof terrace areas are a raised amenity space and are used in the same way as any other communal garden area on the site. The proposed development will incorporate a management strategy for the maintenance and management of these spaces, and this is satisfactory to prevent potential for overt noise and disturbance in my view. In relation to boundary treatment, landscape details note the proposal to reinforce planting on the western boundary to existing residential properties. It is usual to condition the final detail of boundary treatment as part of a planning decision, and I have included a condition regarding the same in my recommended order below. There is nothing inherent in the proposed design of the development that would have potential to reduce security of adjacent properties in my view.

11.6.15. Lighting

11.6.16. A site 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 13 of this report below as part of my EIA for the application.

11.6.17. Construction

11.6.18. Representations have been received regarding the potential for noise, dust, pollution and traffic disruption as a result of construction works on the site. A Construction Environmental Management Plan (CEMP) 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 CEMP for approval. With the application of such mitigation measures, I am satisfied that potential impact from construction works (including construction transport impacts) will be within acceptable parameters.

11.6.19. I note third party concern that the entrance to Howth Castle could be used during construction works. This not proposed in the application and the approval of a final CEMP will ensure that proposed construction access points are satisfactory to the Planning Authority.

11.6.20. Substation

11.6.21. I note concern regarding the location of the proposed substation (with switchroom) as part of the development, in terms of proximity to the neighbouring residential property at Windwood. At the closest point, the substation is located 1.8m to the boundary and 14.9m to the property at Windwood. The substation itself is of a fairly standard brick rectangular appearance, 2.9m high and 13.7m wide. The elevation presented to Windwood to the west of the site would be entirely brick, set behind 1.2m high retaining wall. The effect of this is that the substation would essentially appear at a lower level to the Windwood site. Planting is also proposed to be retained in part, and reinforced with new planting, along this western boundary edge. There is also an existing wall to the boundary that is retained. Cross sections and other drawings have been submitted to illustrate the appearance of the substation. I am satisfied that given the change in levels between the site, the boundary treatment and the distance to the property on the Windwood site, the substation would not be overly visible or have any other negative amenity impacts upon this adjacent property.

11.7. **Proposed Residential Standards**

11.7.1. 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.

11.7.2. Daylight, Sunlight and Overshadowing

11.7.3. 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.'

- 11.7.4. 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. 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%. The applicant has included within their material contravention statement a justification in relation to this approach which I consider further in section 11.9 of this report.
- 11.7.5. The submitted daylight and sunlight report states that an ADF value of 1.5% has been applied to open plan living / kitchen / dining areas because the primary function of these rooms is as a living space. To reach a 2% ADF for these rooms in all units in the proposed development, the report states that design changes would be needed, such as the removal of balconies or a reduction in unit size.
- 11.7.6. The submitted report explains the approach to selecting rooms to be tested, which included analysis of all ground and first floor units. Where a room meets its recommended minimum value, it is assumed that the corresponding room on subsequent floors above will also meet the target value, as typically light increases in rooms located on higher levels. I agree with this approach to selecting rooms for testing. In undertaking my assessment, I have considered the results when applying both a 1.5% and 2% ADF to open plan living spaces, in order to describe a comprehensive assessment of this matter. I can also confirm that the applicant has provided results for upper levels until a minimum 2% ADF was demonstrated to open plan living / kitchen / dining rooms. Therefore, I have sufficient detail to assess the development against a 2% target, as well as describe what the compliance rate would change to with application of a 1.5% target ADF for living spaces.
- 11.7.7. Applying a minimum ADF target of 1% to bedrooms and 2% to open plan living / kitchen / dining rooms, the proposed development has a compliance rate of 93% to the BRE minimum standards. With the application of a 1% ADF to bedrooms and a 1.5% ADF target to open plan living / kitchen / dining rooms, this increases the

compliance rate to 96%. The submitted report explains that the primary reason for lower performing rooms on lower levels, is as a result of recessed balconies.

Balcony spaces are a beneficial amenity to units and have a functional relationship to the living rooms that they adjoin, as required under the Apartment Guidelines.

11.7.8. I am familiar with this constraint, and in my view, the provision of external private amenity in a development should not be overtly curtailed in order to achieve BRE targets relating to daylight and sunlight. The BRE guidelines describe the ways in which balconies and private amenity space might be designed to reduce potential obstructions, most notably by avoiding locating balconies above living rooms below. However, there are other design advantages that result from a 'stacked' balcony layout that require consideration. It is good practice for balconies to be attached to the main living space for a unit, as is the case in the proposed development. The floorplan in the proposed development is then generally a 'stacked' arrangement, with matching room uses reflected vertically through the scheme. Allowing for the necessary attachment of a private amenity space to the living space in each unit, it is inevitable that the balconies will then be located in a 'stacked' formation and above living rooms – thus reducing the available daylight (and sunlight) to these rooms. The external aesthetic and design of a building is also informed by the arrangement and design of balconies and a 'stacked' arrangement and recessed appearance can strongly inform the exterior visual design quality of the development. In the case of the current development, I consider that these design and amenity considerations, justify a slightly lower adherence to BRE minimum standards. With this in mind, the overall compliance rate at 98% applying 1% and 2% ADF to rooms, or a compliance of 96% applying a 1% and 1.5% ADF to rooms, is sufficient in my view.

11.7.9. In coming to this conclusion, I am mindful that the BRE guidelines state in paragraph 1.6 that:

"The advice given here is not mandatory and the guide should not be seen as an instrument of planning policy; its aim is to help rather than constrain the designer."

11.7.10. **And, specifically that:**

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

11.7.11. Therefore, the removal of these balcony spaces is not desirable and would impact the ability of the proposed development to fulfil required external amenity space and design quality standards in my view. I note that the Building Height Guidelines state that where a proposal is not able to fully meet all requirements of daylight provisions, compensatory design solutions should be set out. I have already identified the performance of the development against BRE criteria and a rationale regarding my acceptance of the proposed conditions. I also note that those units which do not meet minimum standards, benefit from views of communal garden areas, which is a desirable aspect, and along with private amenity to each unit, provides compensation for comparably lower light conditions within the unit.

11.7.12. In relation to sunlight to windows, the BRE guidelines refer to a test of Annual Probable Sunlight Hours (APSH) to windows. The APSH criteria involves an assessment of the level of sunlight that reaches the main living room window to determine the number of windows with an APSH level greater than 25% on an annual basis or 5% on a winter basis. 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'.

11.7.13. However, objective DMS30 of the Development Plan refers to the application of BRE criteria in general. While there is no analysis provided, I note the orientation of the site with many units in the proposed development facing south east or west, with associated access to sunlight. In my opinion, it is likely that the inclusion of balcony areas will have a similar effect as set out above in relation to daylight. But given the orientation of blocks and staggered plan form, I am satisfied that the acceptable levels of sunlight will be achieved to most living rooms in the proposed development, in recognition of BRE criteria.

11.7.14. In relation to overshadowing, the submitted analysis demonstrates that all proposed communal external amenity areas will comfortably exceed BRE minimum standards.

11.7.15. Overall, I am satisfied that the proposed development will experience acceptable daylight, sunlight and overshadowing conditions and that it does accord with criteria described in the BRE guidelines, albeit, in recognition that this guidance is flexible and requires a reasoned judgement to be made on all aspects of design. On this basis, and following the assessment I described above, I also consider Objective DMS30 of the Fingal Development Plan concerning compliance with BRE recommendations. As part of this, I note that the BRE guidelines recommend that numerical guidelines are applied flexibly and form only one of many aspects of site layout planning.

11.7.16. Dual Aspect

11.7.17. The Apartment Guidelines state that in central, accessible and some intermediate locations, at least 33% 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 set out in section 11.3 of my report why I consider the subject site to be an accessible location, specifically in light of its proximity to Howth Dart Station. As a result, I consider that the application site can accurately be described as a central / accessible location, as defined under the guidelines. Therefore, a minimum 33% for dual aspect units applies.

11.7.18. The applicant has stated that the number of dual aspect units is approximately 61%, which exceeds the policy requirement set out in the Apartment Guidelines. I have referred to the submitted drawings and concur with this conclusion. In relation to the amendments I recommend above, this would reduce the number of dual aspect units however the overall percentage of units that have a dual aspect would not be significantly altered (at 59%). Therefore, the development in an amended form would continue to comply with this requirement.

11.7.19. Private Amenity Space

11.7.20. All units within the proposed development have access to private amenity space in the form of a balcony or terrace and all of these amenity spaces meet minimum space standards described in the apartment guidelines and development plan.

11.7.21. Communal and Public Open Space

- 11.7.22. Communal amenity space is provided at the ground level in the form of courtyards between the blocks and as roof terrace spaces over the northern end of blocks as they front onto Howth Road. These areas exceed minimum requirements for the proposed development under the apartment guidelines. In relation to the provision of roof terrace spaces, I have recommended above that the 5th (& 6th) storeys be removed in the scheme. Therefore, I have included in my recommended order, a condition requiring roof terrace areas over the 4th storey to blocks as they front Howth Road, which would replace roof terrace provision that could otherwise be lost as part of the amendments I am suggesting. This would be a like-for-like replacement, and therefore there is no alteration in external communal amenity provision as I describe in this report, although that same area would be serving less units.
- 11.7.23. In relation to playspace, Objective DMS75 requires provision of children's playground facilities. A minimum requirement of 648sqm of play area would be required as part of the proposed development to comply with this objective. However, I consider that it would be reasonable to assume no play area requirement associated with the 1 bedroom units proposed, in a similar manner to the approach taken in childcare guidelines. The proposed development incorporates 350sqm of play area, and a material contravention statement has been submitted in relation to this matter which I address in detail in section 11.19 of this report below. The Apartment Guidelines state that play needs should be accommodated within individual apartment schemes, small toddler play areas (85-100sqm) and play areas (200-400sqm) for older children and teenagers. The proposed development incorporates playground area, table tennis area, exercise area and games areas, satisfying the Apartment Guidelines, which represents the primary standard with respect to play requirements in my view.
- 11.7.24. The proposed provision of play space is formed of a pocket park and play area to the north of Block C. The provision of play on the site is satisfactory and in accordance with the Apartment Guidelines in my view.
- 11.7.25. I note the Planning Authority suggestion that the play area should be relocated to avoid noise nuisance. I do not agree that the sound of children playing should necessarily be regarded as a nuisance, although I recognise that there might be different individual perspectives on that point. I note that the Apartment Guidelines identify that noise from courtyard play areas can diminish residential amenity.

Certainly, within an enclosed courtyard area, noise will reverberate on elevations and be amplified as a result, potentially creating a nuisance. That is not the case in the current application, with the play area situated close to the road and with open areas to the east and west. Therefore, in my view there is nothing inherent in the location of the proposed play space that would generate a nuisance to nearby occupiers. There are no existing residential properties close to the play space and future occupiers of the development will be aware of the location of the play space prior to choosing to occupy an apartment. As such, I do not see the need for any amendments in this regard.

11.7.26. In relation to public open space, the Planning Authority confirm that the development generates a public open space requirement of 5,825sqm, in addition to the minimum 10% of developable site area provision to be provided on site. Objectives DMS57A and DMS57B provide the detail around public open space requirements in the development plan. A minimum of 10% of the proposed development site area should be designated for use as public open space in accordance with the requirements of these objectives. I note that the Planning Authority state that this requirement equates to 1,700sqm of space, while the applicant state that 1,161sqm of space is required. The applicant explains that only the developable site area (i.e. the RS zoned land) has been used to calculate the required provision). However, the Planning Authority has included the MA zoned land, which is explicitly excluded from the development site area on page 76 of the Fingal Development Plan. Therefore, I concur with the applicant that only the developable site area should be used to calculate the requirement under this objective, and the requirement is for 1,161sqm of public open space on the site.

11.7.27. In terms of the remaining requirement for public open space to be generated by the proposed development, a financial contribution in lieu is offered by the applicant and the Planning Authority have indicated acceptance of this approach in the event that the Board are minded to grant planning consent. However, the Planning Authority confirm that they do not consider the provision of public open space on the site to meet qualitative requirements under the plan, and therefore they do not consider the development to comply with public open space requirements under the development plan.

11.7.28. The proposed development includes 1.161sqm of public open space along the front of the site closest to Howth Road. This includes soft landscape areas, planting and pocket part provision. Direct pedestrian and cycle access to this area is provided through a new access onto the site from Howth Road. As a result, I am satisfied that the proposed public open space provision is readily accessible to the wider public and conforms with requirements under the Development Plan for on site provision. In relation to the remaining requirement for open space, I accept the applicant's proposal for an in lieu payment and I have included a condition regarding the same in my recommended order below.

11.7.29. Mix

11.7.30. I note third party concerns regarding the mix of dwellings proposed, specifically in relation to a lack of family housing. SPPR1 of the Apartment Guidelines state that developments may include up to 50% one bedroom units, with no minimum requirement for apartments with 3 or more bedrooms.

11.7.31. The proposed development is formed of 29no. (18%) 1 bed, 104no. (64%) 2 bed and 29no. (18%) 3 bed units. With the amendments I proposed, the number of units would be reduced 129 in total. The resulting mix would be 21no. (16.2%) 1 bed, 90 no. (69.7%) 2 bed and 18no. (13.9%) 3 bed. Therefore, if the Board determine to grant planning permission with the amendments I recommend, the mix would still comply with SPPR1.

11.7.32. 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.

11.7.33. Floor Area

11.7.34. 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.

11.7.35. The proposed development incorporates residential amenity rooms in each block. These are not required to be provided but are a beneficial provision that can provide

additional space to residents for home working, entertaining/community or meeting space.

11.7.36. I note that the Planning Authority indicate dissatisfaction with the layout of some units, with bedrooms accessed from living room areas. There is no policy requirement in relation to this and I am satisfied with the quality of layouts to the proposed apartments in the development, as the inclusion of additional corridors space would reduce the floor area to living rooms where most time is spent.

11.7.37. Floor to Ceiling Height

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

11.7.39. Number of Apartments to a Core

11.7.40. Objective DMS23 of the Fingal Development Plan 2017-2025 permits 8 apartments per individual stair/lift core within apartment schemes. The proposed development includes between 4 and 10 units per a core. A material contravention statement has been submitted with respect to this matter which I consider in detail in section 11.9 below. I note however, that the proposed development does not exceed 12 apartments per core in accordance with policy standards described in the Apartment Guidelines, and these section 28 guidelines are the primary standard in relation to this matter.

11.7.41. Privacy

11.7.42. I note Objective DMS26 in relation to a separation distance of at least 22m between directly opposing rear first floor windows. This requirement is not applicable between apartments which do not have a 'rear'. Concerns have however been raised by the Planning Authority regarding limited separation distance / overlooking between the front sections of the 3 apartment blocks, which are separated by c.13m between balconies. Consequently, the Planning Authority recommends that the application be refused on the basis of overlooking.

11.7.43. Apartment blocks are a multi-residential unit development where the existing degree of privacy experienced by residents will be less than that experienced to the rear of self-contained dwelling houses. The separation distances demonstrated in the proposed development are reflective of standard design arrangements to be

expected in apartment developments. In my view, all separation distances are acceptable, and I have no concerns with respect to the privacy of future occupiers in the scheme.

11.8. Traffic and Transport

- 11.8.1. 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. Third parties also raise concern regarding the quality of submitted traffic surveys, which do not consider summer months, weekends or tourists visiting the area. As well as concerns around overspill parking. I also note that the Planning Authority has requested ABP to consider the cumulative impact of development on the Howth Peninsula as a result of congestion at Sutton Cross, however the Planning Authority does not recommend that the proposed development be refused in this regard. The Planning Authority Transportation Division states that the traffic and transport assessment is generally acceptable. They also state that the largest constraint to the development is Sutton Cross which is outside the control of the applicant and that there are no mitigation measures that can be provided by the applicant to accommodate the proposed development.
- 11.8.2. The applicant has submitted a Traffic and Transport Assessment, DMURS Compliance Statement and Road Safety Audit with the application. The Traffic and Transport Assessment includes traffic surveys undertaken in January and October 2019 which pre-date lockdowns during the Covid-19 pandemic. I do not think that additional surveys during summer, weekend or other usual tourist times would have been useful, given that the preparation of documents for submission as part of this application would have been at times when tourist movements were restricted due to the pandemic. In any case, I am satisfied that the traffic surveys submitted present a general picture of traffic in the area, which can be used to assist my assessment of potential effects arising from the proposed development. Overall, I am content to accept the submitted surveys as part of my assessment of the application.
- 11.8.3. The submitted Traffic and Transport Assessment concludes that of the junctions assessed, one would not work within capacity with the proposed development in place. This relates to the junction at Sutton Cross, which is at present, at capacity. The submitted assessment has also considered the impact of the Claremont

(Techcrete) SHD approved scheme, and quashed Balscadden SHD scheme in relation to potential increased traffic movement in the area, alongside the proposed development. These developments will cumulatively increase congestion upon Sutton Cross which would be over capacity. The proposed development's contribution to this congestion at Sutton Cross would, however, constitute a low proportion of overall flows upon that junction.

- 11.8.4. It is clear that the proposed development would contribute to congestion on an already congested road traffic environment on Howth Peninsula, however the degree to which the proposed development will increase this traffic congestion is predicted to be limited. The proposed development incorporates reduced car parking to discourage car ownership by future occupiers. Currently 132 spaces are proposed at part of the development, including 4 go-car spaces. The inclusion of go-car spaces also facilitates reduced private car ownership. The proposed parking provision equates to 0.81 spaces per a residential unit.
- 11.8.5. I have considered the impact of the proposed development upon traffic movements in the area alongside the combined impact of approved, or planned for, development. In my opinion, while it will contribute to an existing congested environment, it would not be accountable for a significant proportion of that congestion, and refusing this development would not relieve the congested environment there. In my view the applicant has done what might reasonably be expected, with the incorporation of reduced parking levels, increased cycle levels, and other measures to discourage car ownership such as the incorporation of car club bays. To refuse the development on the basis of congestion at Sutton Cross would be to effectively stymie any future development potential of this site (as well as other sites in Howth or east of Sutton), to what might be considered an efficient level, given the accessibility of the site. The subject site is approximately 5 minutes walking distance to Howth DART rail station, and future occupiers can, in my view, be reasonably be expected to rely more heavily upon public transport, cycle and walking options, particularly in a development that does not accommodate parking for every resident.
- 11.8.6. The site is zoned for residential development and situated in a highly accessible location, proximate to high capacity public transport, as well as to the town centre and employment opportunities at the harbour. While I recognise congestion

problems at Sutton Cross, I am satisfied that the proposed development would not significantly alter existing capacity issues. I have given due regard to the cumulative impact of developments in the area and remain satisfied that the development is acceptable from a traffic perspective.

11.8.7. Vehicle Access

11.8.8. Vehicle access to the site is proposed to the north west end. I note third party concern regarding the proximity of this entrance to the existing residential property to the west. The entrance is 7.3m wide and set in approximately 3.5m from the western boundary of the site. Tree and hedge planting is situated on this edge. While this certainly represents a change in character for the adjacent resident, currently located next to a vacant greenfield site, the impact is within acceptable parameters given the zoning of the site and its accessibility characteristics, in my opinion. The set back from the boundary and planted edge will also screen the vehicle access to an extent. It would not be appropriate to move this entrance further away from the western boundary in my view, as a result of heritage impact considerations that I have outline in section 11.4 above.

11.8.9. I note comments from the Planning Authority's Transport Division regarding the clearance height of the basement car park entrance and swept path analysis. These are matters that can be adequately resolved by condition and it is normal practice to do so. I am satisfied that there is ample room on the site to accommodate necessary access requirements without significant alteration to the scheme.

11.8.10. Car Parking

11.8.11. I note third party concern regarding the potential for overspill parking from the site and related impact on the access to St Mary's Church.

11.8.12. A total of 132 residential car parking spaces are proposed, including 6no. accessible spaces, 1 no. electric vehicle spaces and 4no. Go-Car spaces. This equates to a ratio of 0.81 spaces per a unit. 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. I consider that the proposed quantum of car parking, alongside inflated cycle parking provision, and incorporation

of car club spaces, is an acceptable approach to facilitated reduced private car ownership in reflection of standards in the Apartment Guidelines. I do not think that significant levels of overspill parking would be expected to arise, given the proximity of the site to the train station and the likelihood, in my view, that future occupiers will rely more heavily on sustainable modes of transport in preference to private car ownership.

11.8.13. I am cognisant that I have recommended amendments to the development that would result in a reduction in the number of units proposed. Without an associated reduction in the number of car parking spaces proposed, this would increase the ratio of spaces to residential units in the scheme. Therefore, as part of amendments I recommend, I have included a condition on my draft order below which requires a reduction in car parking spaces to preserve a 0.81 space per a unit ratio of car parking to apartment dwellings in the scheme.

11.8.14. Bicycle Parking

11.8.15. A total of 355 no. cycle parking spaces are proposed, representing provision of 182% compared to requirements under the Fingal Development Plan. The Apartment Guidelines do not include specific planning policy requirements for cycle storage, but provide general specifications. Consequently, cycle storage quanta is at the discretion of the planning authority and should be location specific. In my opinion, the provision of cycle storage is sufficient, and corresponds appropriately with the approach to reduce car parking on the site. The proximity to public transport and short walking distance to the town centre and harbour area, also facilitates a range of sustainable transportation modes alongside cycle parking. This therefore aligns with the overall approach described in the Apartment Guidelines in my view. Overall, I am satisfied that a sufficient quantum of cycle parking has been provided in the proposed development.

11.8.16. I note that the Planning Authority is concerned regarding the access to cycle storage areas. The proposed development includes some visitor surface cycle storage stands, alongside the main residential provision at basement level. Stairs are provided to the east of Block A to provide access to cyclists to the basement area.

11.8.17. I concur with the Planning Authority that designing a cycle store to be accessed via stairs is unacceptable. Access should be provided via a lift or dedicated ramp. There

may be space within the proposed stairwell to accommodate a lift for cyclists, or a dedicated, segregated cycle route is required on the basement access ramp currently indicated for car use. As part of amendments I suggest above, the number of car parking spaces would be reduced in the application, and this would allow space for provision of a new access solution for cyclists into the basement area. I have therefore included a condition requiring the same, in my draft recommended order below.

11.8.18. For clarity, I am not recommending a reduction in the number of cycle parking spaces as part of suggested amendments to the application, as I consider that the extensive cycle parking storage at the site would provide some compensation towards the vehicle congestion experienced in the area.

11.8.19. Connectivity

11.8.20. I note that the Planning Authority consider that connectivity is not provided through the site. Public pedestrian and cycle access is facilitated into the proposed public open space adjacent to Howth Road within the site. Residents of the development can also utilise that access, or the resident vehicle / pedestrian / cycle access to the north west of the site. It is not clear to me what further connectivity could be accommodated by the development. To the rear of the site is the Golf Club, and to the west are private residential dwellings. To the east is the entrance and Howth Castle Demesne lands. Connectivity through this site is not indicated as desirable in the development plan and there are no public through routes that should be accommodated in my view.

11.8.21. However, in relation to the high amenity area lands to the south of the site, in my opinion these should be publicly accessible and form a benefit arising from the development to be utilised by the wider community, alongside future residents of the scheme. Therefore, I have incorporated a condition in my draft recommended order below to require details of, and to secure, public access to that part of the site.

11.8.22. Public Transport

11.8.23. I note third party concerns regarding the capacity and adequacy of the surrounding public transport network to serve the proposed development. 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. I also address public transport capacity and potential impacts arising from the development in my EIA in section 13 below. While the proposed development will result in a marginal increase in demand on DART services, future improvements to the line will counteract any perceived negative effect. Overall, I am content that the proposed development is acceptable in relation to public transport.

11.9. Material Contravention

- 11.9.1. I note that the Planning Authority has stated that the proposed development materially contravenes the RS Zoning Objective in their recommendation that the development be refused. Specifically, the Planning Authority suggest that the proposed development 'would contravene materially' the zoning objective, which is to "Provide for residential development and protect and improve residential amenity".
- 11.9.2. Section 9(6)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 states that subjective to paragraph (a), the Board may decide to grant a permission for strategic housing development in respect of an application under section 4, even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned. Paragraph (b) of same states 'The Board shall not grant permission under paragraph (a) where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land'.
- 11.9.3. Paragraph (c) states 'Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development'.
- 11.9.4. Section 10(1) of the Section 10(2) of the Planning and Development Act 2000 (as amended) states that '10.—(1) A development plan shall set out an overall strategy for the proper planning and sustainable development of the area of the development plan and shall consist of a written statement and a plan or plans indicating the development objectives for the area in question'. Section 10(2) of the Planning and

Development Act 2000 (as amended) states that 'without prejudice to the generality of sub-section (1), a Development Plan shall include objectives for (a) the zoning of land for the use solely or primarily of particular area for particular purposes (whether residential, commercial, industrial, agricultural, recreational, as open space or otherwise, or a mixture of those uses), where and to such extent as the proper planning and sustainable development of the area, in the opinion of the planning authority, requires the uses to be indicated'.

- 11.9.5. In my view, the Planning and Development Act 2000 (as amended) is clear that the zoning of land relates to the use of that land only. The term 'to such extent', to my mind, refers to a geographical area, rather than a reference to the scale of development allowed and associated amenity impact. This is supported, in my view, by the fact that separate provision is made under the Act for objectives relating to the density of structures (First Schedule Part II 'Control of Areas and Structures which refers to 'Regulating and controlling the layout of areas and structures, including density, spacing, grouping and orientation of structures in relation to roads, open spaces and other structures').
- 11.9.6. It is my view therefore that the proposed residential development is not a material contravention of the residential zoning of the lands.
- 11.9.7. The applicant has however, submitted a Statement of Material Contravention with the application identifying a number of potential areas that may be considered material contraventions of the Development Plan. 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) of the Act. I note third party representations that the proposed development would not satisfactorily meet tests under national policy relating to material contraventions of the development plan, and I set out my assessment of the application in relation to this below.
- 11.9.8. The proposed development is identified by the applicant as potentially materially contravening the following objectives in the Fingal Development Plan 2017-2023:
- i. The core strategy for Howth in the Fingal Development Plan indicates a figure of 498 potential residential units. Table 2.8 of the adopted Variation no.2 Alignment of the Fingal Development Plan with the National Planning Framework (NPF) and the Regional Spatial and Economic Strategy (RSES)

indicates that there is 14 hectares of zoned land remaining in Howth, with a capacity to delivery 436 residential units. This represents a density of 31 units per hectare across the zoned available land. There is 1 no. permitted (ABP Ref. TA06F.306102) SHD scheme (Claremont) in Howth that along provides for 512 no. apartments and therefore the 498 target is breached. This subject proposal includes for 162 no. units and combined with Claremont this would amount to 674 no. units in Howth.

- ii. 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 for Buildings, Part 2 2008: Code of Practice for Daylighting or other updated relevant documents;
- iii. Objective DMS23 – Permits up to 8 apartments per individual stair/lift core within apartment schemes;
- iv. Qualitative requirements under the Fingal Development Plan for children’s play including DMS75; and
- v. Objectives DMS77 and NH27 that relate to protection of trees.

11.9.9. In relation to the number of units proposed, the applicant identifies that the Core Strategy includes a potential residential unit number of 498 under the Fingal Development Plan 2017-2023. I also note that adopted Variation no.2 of the plan ‘Alignment of the Fingal Development Plan with the National Planning Framework and the Regional Spatial and Economic Strategy’, indicates that there is 14 hectares of zoned land remaining in Howth, with potential to deliver 436 residential units. The previously approved Claremont SHD already exceeds this potential unit number figure, with 512 units permitted. Therefore, the proposed development would bring the total unit number for the area to 674 units, and significantly in excess of the identified potential unit figure in the plan. I agree with the applicant that the proposed development therefore represents a material contravention of the Development Plan in this regard.

11.9.10. The applicant contends that the proposed development can be considered to be of strategic or national importance, and therefore a material contravention of the plan would be justified having regard to section 37(2)(b)(i) of the Act. The Core Strategy potential unit number is already fulfilled (and exceeded) by the previously approved

Claremont SHD scheme and was reasonably considered strategic given its scale. The number of units proposed under this SHD is not particularly large in that context, and therefore, I am not convinced that the scheme can be considered to be national important on that basis.

11.9.11. However, the site is one of only a few vacant sites identified for residential development, and with excellent accessibility in Howth. In this sense, the site is strategically important for the delivery of housing in Howth in the context of national planning policy documents and guidelines. These 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. Equally Housing for All, recently published continues to support and encourage PAs to facilitate and advance development to meet the housing needs of the country. As identified in section 11.3 above, the site characteristics align with national principles underpinning sustainable compact growth in urban areas, being situated a short walking distance to Howth Dart Station, the zoned town centre and harbour employment area. In addition, I have described in detail in sections 11.4, 11.5 and 11.7 that the proposed development (with amendments that I recommend) is also in accordance with SPPR1 and development management criteria in the Building Height Guidelines, as well as SPPR's and associated guidance in the Apartment Guidelines. I am therefore satisfied that the exceedance in the potential unit number identified under the Fingal Development Plan is justified. In my view, with respect to the potential unit number identified for Howth under the Fingal Development Plan 2016-2023, a material contravention of the plan is justified as follows:

11.9.12. In relation to section 37(2)(b) (i) of the Planning and Development Act 2000 (as amended):

The strategic nature of the site for the delivery of housing, as one of only a few remaining vacant sites identified for residential development, and with excellent accessibility, in Howth. In this sense, the site is strategically important for the delivery of housing in Howth, in the context of national planning policy documents and guidelines which promote compact growth.

11.9.13. In relation to section 37(2)(b) (iii) of the Planning and Development Act 2000 (as amended):

Permission for the development should be granted having regard to national planning policy guidelines that promote increased housing delivery on appropriate sites, including Rebuilding Ireland, An Action Plan for Housing and Homelessness and Project Ireland 2040 – National Planning Framework. The site characteristics align with national principles underpinning sustainable compact growth in urban areas, being situated a short walking distance to Howth Dart Station, the town centre and harbour employment area. In addition, the proposed development (with amendments that I recommend) is also in accordance with SPPR1 and development management criteria (under section 3.2) in the Building Height Guidelines, as well as SPPR1s and associated guidance in the Apartment Guidelines.

11.9.14. In relation to section 37(2)(b) (iv) of the Planning and Development Act 2000 (as amended):

The pattern of development in the area, specifically being the permission for the Claremont SHD development (ref. 306102-19), which exceeds the potential unit number for Howth set out in the Development Plan and therefore indicates that a material contravention would therefore similarly be justified for the proposed development.

11.9.15. In relation to Objective DMS30 concerning compliance with the recommendations of the BRE guidelines. I have outlined in section 11.7 above, why I consider that the proposed development has complied with the recommendations of the BRE guidelines, in recognition that this guidance is flexible and requires a reasoned judgement to be made on all aspects of design. The recommendations within the BRE guidelines are in paragraph 1.6 that:

*“Although it gives **numerical guidelines**, these **should be interpreted flexibly** since natural lighting is only one of many factors in site layout design.” (My emphasis).*

11.9.16. Therefore, my detailed analysis and deductions relating to the scheme design alongside consideration of the target values described in the BRE guidelines, is in accordance with the recommendations of that document. The proposed development has a 93% compliance rate with minimum ADF values (of 1% and 2%) described in the BRE guidelines, overshadowing of communal areas is also well within the standards described. While sunlight (APSH) is not assessed in the applicant's documents, I have described my judgement on this, based upon my professional

experience and knowledge of the BRE guidelines. On this basis, and following the assessment I described above, I consider Objective DMS30 of the Fingal Development Plan concerning compliance with BRE standards, to be satisfied. Therefore, in my opinion a material contravention does not arise.

11.9.17. In relation to Objective DMS23 and the requirement for 8 apartments per core, I have described in section 11.7 of this report above, that the proposed development complies with SPPR 6 in this regard. The Apartment Guidelines set out the national planning policy approach to this standard, specifying that development should not exceed 12 apartments per core. These section 28 guidelines supersede Objective DMS23. Therefore, while the proposed development represents a contravention of this standard in the Development Plan, the applicant contends that this is not material. I concur with this argument, and in my opinion, the proposed development does not represent a material contravention of the plan in this regard. The proposed development complies with the most up to date standard set out in the Apartment Guidelines. As part of this I note Objective PM43 of the Development Plan which states that in relation to apartment development, regard should be had to the design standards for new apartments or any update or revision of those standards, and Objective PM42 of Variation 2 of the Development Plan which reconfirms this and specifically states that in relation to apartment development '*Implement the policies and objectives of the Minister in respect of Urban Development and Building Heights Guidelines (December 2016) and Sustainable Urban Housing: Design Standards for New Apartments (March 2018) issued under section 28 of the Planning and Development Act, as amended*'. As such, a material contravention does not arise in my view.

11.9.18. In relation to qualitative requirements for children's play, a minimum requirement of 648sqm of play area would be required as part of the proposed development to comply with this Objective DMS75. The proposed development incorporates 350sqm of play area. I have already described in section 11.7 above that the proposed development complies with the Apartment Guidelines recommendations for play and Objectives PM43 and PM42 of the plan which identify that the Apartment Guideline standards should be applied to development. As a result, no material contravention arises in my view.

11.9.19. In relation to Objectives DMS77 and NH27, these relate to the protection of trees. I assess the impact of the proposed development upon trees in section 11.11 below. I have also described in sections 11.4 and 11.5 how the proposed development should be amended in my view, to accommodate greater tree planting on the site. In my opinion, the application of these objectives requires a qualitative assessment, with a reasoned judgement made based upon how the proposed development responds the principles described in the objectives. The proposed development does not remove all trees or woodland features from the site. The proposed development also incorporates replacement planting to preserve the hedgerow and tree lined character to the boundaries of the site. I do not consider the extent of tree and hedge removal in this application to constitute a material contravention of the plan. While a qualitative assessment might determine a contravention of these objectives, that would not be a material contravention in my view. I am suggesting that additional tree planting is required to satisfy these objectives, but in the absence of this planting, I do not consider a material contravention would arise.

11.9.20. However, should the Board consider that the aforementioned aspects of the proposal do represent material contraventions of the plan, these would be justified under section 37(2)(iii) and (iv) of the Act in my view, as follows:

11.9.21. With respect to part (iii), I have described in detail above in section 11.5, why I consider that an amended scheme would comply with the section 3.2 criteria in the Building Height Guidelines. As part of this, I have identified in section 11.7 of my report why design and amenity considerations, justify a slightly lower adherence to BRE targets and the compensatory measures, including views of communal garden areas, that are relevant to this assessment. As part of this assessment, I also had consideration of the character of the area (including tree lined boundaries and SAO buffer zoning), alongside the results of specific assessments, such as the ecological reports submitted with the application and described in sections 12 and 13 below. In addition, I note SPPR 6 concerning the number of apartments per core and separate recommendations for play space, both within the Apartment Guidelines, which the proposed development complies with as described in section 11.7 above. In relation to housing delivery, Project Ireland 2040 - National Planning Policy Framework, highlights the importance of this, 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. Having regard to the foregoing, a material contravention of the Fingal County Development Plan by the proposed development would be justified under section 37(2)(b)(iii) of the Act, should the Board consider it arises with respect to Objectives DMS30, DMS23, DMS75, DMS77 and NH27.

11.9.22. In relation to part (iv), the Claremont SHD scheme situated opposite the site has been approved, and as part of the assessment of daylight and sunlight conditions within that development, an ADF target value of 1.5% (for living/kitchen/dining rooms) was accepted on that site. In addition, that scheme included more than 8 apartments per a core. Therefore, the pattern of development in the area, specifically being the permission for the Claremont SHD development, indicates that a material contravention would be justified under section 37(2)(iv) of the Act, should the Board consider it arises in relation to Objectives DMS30 and DMS23.

11.9.23. In summary, I consider that the only material contravention that arises with respect to this application relates to the exceedance in potential unit number identified for Howth under the Fingal Development Plan 2017-2023, and that this would be justified for the reasons described above. However, should the Board conclude that other material contraventions arise with respect to those matters outlined above, I have set out the justifications that would support a material contravention for those matters in the preceding paragraphs.

11.10. Planning Authority Reasons for Refusal

11.10.1. The Planning Authority have recommended that the application be refused for 4 reasons. I have addressed each of these reasons throughout my assessment, both above and below. Here I will provide an overview and cross reference to relevant sections of my report, to explain my assessment in relation to each of the reasons raised.

11.10.2. First, with respect to the form, massing and overall height of the proposed development, and the associated impact on the baseline environment, including historical and natural environment. I have set out in detail in sections 11.4 and 11.5 my assessment of both heritage and design considerations, including impact upon visual amenity and the landscape character of the area. I have suggested amendments to the development to reduce its height (by a single storey over all

blocks) and mass (through the reduced footprint to block C and associated set back from Howth Road). With the incorporation of these measures, alongside additional tree planting, particularly to the northeast corner and southern boundary of the site, I am satisfied that the proposed development would not generate significant harm in terms of its form, mass and height, and that it would be appropriate for the location in a designated Highly Sensitive Landscape, the Buffer Zone for the Howth Special Amenity Area Order, adjoining Howth Castle Architectural Conservation Area, Protected Structures (including Howth Castle Protected Structure and St. Mary's Church) and with lands zoned for High Amenity in the Fingal County Development Plan 2017-2023. As a result of the amendments I recommend, I do not consider the proposal to be injurious to visual amenity, and in my view, the development would comply with Objectives Howth 1 and Objective CH20 of the Fingal County Development Plan 2017-2023, the 'Urban Development and Building Heights Guidelines for Planning Authorities' and the 'Architectural Heritage Protection Guidelines for Planning Authorities'. This also follows my assessment of landscape visual impact in section 13 as part of my EIA below.

11.10.3. In relation to the density of the proposal, I have addressed this in detail in section 11.3 above. The site is located in a highly accessible area, a short walking distance to high-capacity rail services, as well as to facilities in the town centre and the harbour employment area. This makes the site suitable for the density level proposed. In relation to the potential for overlooking between opposing apartment blocks, I have assessed this in section 11.7 above and I am satisfied that the proposed development does not include insufficient separation between proposed blocks. In relation to potential overlooking of adjoining residential development, I have assessed this in section 11.6 above and I am satisfied that suitable separation to existing properties and their gardens is preserved in the design of the development. I have addressed the visual impact of the proposed development in section 11.5 and I am satisfied that with the amendments I describe, it would not have an overbearing impact on adjacent dwellings and would form a transitional feature in the urban environment between the lower rise housing to the west and the emerging town centre buildings on the Claremont SHD site to the northeast. I have also assessed the daylight conditions for proposed residential units in section 11.7 above and am satisfied that this is in accordance with the recommendations set out

in BRE guidelines, and specifically the recommendation that numerical guidelines are applied flexibly and as part of a wider assessment of site layout planning. As such, I am satisfied that the proposed development would comply with Objective PM41 of the Fingal Development Plan 2017-2023. I am also satisfied that the proposed development would not contravene materially the RS Zoning Objective which for the site, and I describe my assessment of this above.

11.10.4. I have assessed the arboricultural impacts of the proposed development in both section 11.11 and my EIA in section 13 below. I consider that with the additional tree planting I recommend; the proposed development would comply with Objective DMS77 and Objective NH27 of the Fingal Development Plan 2017-2023 and Policy 1.3.1 of the Howth Special Amenity Area Order.

11.10.5. I assess the childcare demands arising from the development, both alone, and in the context of wider development in the area, in section 11.12 below. I am satisfied that adequate capacity is identified as part of existing and emerging provision in the area. As such, in my opinion the development complies with Objective PM76 of the Fingal County Development Plan 2017-2023 and the 'Childcare Facilities Guidelines for Planning Authorities'.

11.11. Ecology

11.11.1. Ecology and Trees

11.11.2. Third parties have raised objection to the extent of tree and hedgerow loss on the site, and the Planning Authority also recommend that the development be refused on this basis. The Planning Authority states that the removal of the main arboricultural feature on the site is contrary to Objective DMS77 and Objective NH27 of the Fingal Development Plan 2017-2023 and Policy 1.3.1 of the Howth Special Amenity Area Order.

11.11.3. I undertake an assessment of biodiversity impacts as part of my EIA of the proposed development in section 13 below, including consideration of protected species such as bats. That assessment should be read in conjunction with this section of my report. In relation to ecology generally, the results of both my AA (in section 12 below) and EIA (in section 13 below), demonstrate that there is no significant adverse impact resulting from the proposed development, following the application of specific mitigation measures to prevent and limit potential impacts. I also note that there were no invasive

species recorded within the proposed development site and this is confirmed in the submitted EIAR.

- 11.11.4. In relation to trees specifically, the application includes an Arboricultural Impact and Method Statement. This describes a tree survey of the site, with associated plans illustrating the location, categorisation and proposed impact upon all trees and hedgerows on the site. The tree survey found there to be 121 trees on the site, formed of 42 category B, 70 category C and 9 category U, trees, groups and hedges.
- 11.11.5. The submitted report identifies that the main arboricultural features of the site include a mature avenue of trees to the east located along the entrance road to Howth Castle (outside the application area), and a younger woodland shelter belt to the south that forms a boundary to the Deer Park Golf Course. A mature linear hedgerow also wraps around the western boundary of the site. Trees to the east of the site are collectively identified as an important arboricultural feature in the local landscape.
- 11.11.6. The proposal includes the removal of 21 individual trees, part removal of two groups of trees and part removal of a single hedge/area of vegetation. Specifically, proposals for removal include the majority of the woodland shelter belt to the south, which is described as a boundary to the golf course (although I note that the site overlaps the golf course) and is identified as a main arboricultural feature to the site (category B); with a number of trees also requiring removal along this area, east to west to accommodate reprofiling of the site (category C); the western boundary hedge (category U) and tree (category B); and two trees located at the point of the proposed vehicular access (category C).
- 11.11.7. Objective NH27 asks for the protection of existing woodlands, trees and hedgerows which are of amenity or biodiversity value and/or contribute to landscape character. Objective DM S77 similarly asks for the protection, preservation and management of trees / groups of trees. In addition I note policy 1.3.1 to preserve views from the SAA and natural habitats, objective 2.6 to preserve the wooded character of existing residential areas and objective 2.7 to conserve existing hedgerows of the Howth SAA. Although, I also note that the site is not identified as containing hedgerows which are 'important features of the landscape' as defined in Map B of the SAA Order.
- 11.11.8. The policy framework described above, asks for 'protection' but does not prohibit the removal of any trees or hedgerows from sites under any circumstances. In my view, it

is clear that objectives in the Development Plan outline a default approach to retention and preservation, in favour of removal, but the degree of protection first needs to be determined. Therefore, in my opinion, a qualitative assessment is required to determine the quality of features intended for removal, their associated amenity value, whether removal can reasonably be avoided, and whether mitigation can adequately compensate for removal of trees / groups / hedges.

11.11.9. In relation to the proposed development, the removal of trees is avoided unless there is conflict with development works. The proposed buildings have been focused on parts of the site that require the least intervention into vegetation, however as a result of the current landscape conditions on the site, reprofiling works are necessary to accommodate future practical utilisation of the grounds and as part of redirecting utilities. In this regard, I am satisfied that the developer has attempted to balance the efficient development of the site while minimising tree / hedge removal.

11.11.10. There are no category A arboricultural features on the site. There are 9 category B trees (moderate value and conservation) and the majority of 2 category B tree groupings proposed for removal as part of the development works. These arboricultural features are situated within the site and away from public street boundaries. Currently, they are not visible from either Howth Road or the entrance area to Howth Castle. However, it is likely that one of these category B trees identified for removal (on the western boundary), is visible from the residential garden areas of Tig Bhríde and Windwood. The tree groups and 8 associated trees on the boundary with the golf course are also visible as a dense belt, from the golf course and Howth Demesne area.

11.11.11. In relation to the single category B tree identified for removal on the western boundary (labelled tree no.68), this is a consequence of the footprint of the proposed ESB substation. A new tree is proposed to replace it on the boundary. It appears to me, that the retention of this tree could be possible, with a slight realignment of the substation, to move it out of root protection zone to the tree. Moving the proposed substation to the south slightly (without encroachment into the HA zoned area), and / or incorporating a footprint on a diagonal and set in further away from the western boundary, could potentially allow retention of this tree. While I do not consider removal of the tree to be particularly significant given the lack of visibility of it from public areas, I do think that retention of this category B tree warrants further investigation given the

amenity value it has for residents to the west. Therefore, I have included a condition requiring the same. In the event that it is not possible to retain this tree (labelled no.68 and categorised as 'early mature'), then I consider replacement planting to be sufficient mitigation.

11.11.12. In relation to the trees / groups (no.G103, G104 and 113-120) these require removal as a result of reprofiling works to the site and the footprint to proposed block C. These are categorised as 'early mature' meaning 'the stage before maturity'. Although forming one of the main arboricultural features of the site, the visibility of these trees is limited to views across the golf course, as such, the visual amenity value of these trees is not as important as the tree belt lines to the east or on the street to the north of the site. These trees do form an important function in creating a woodland character in views around Howth Demesne, and for this reason, they have some heritage value. However, I do not think that any meaningful, efficient redevelopment of the site for much needed housing, could be achieved practically, whilst retaining this dense belt of trees through the site. However, it is possible in my view, to adequately replace the role of these trees in shaping the landscape character of the area, through mitigation planting. While I do not currently consider the proposed planting strategy to be ambitious enough to replace and screen the development in views from Howth Demesne from the south, I do think that a condition can ensure suitable planting with an appropriate coverage and with adequate maturity, to replace these trees / groups. As such, I have included a condition requiring the same.

11.11.13. There are also 10 category C trees identified for removal, the majority of these form part of the tree belt on the boundary with the golf course, and therefore the assessment set out in the previous paragraph would similarly apply. There are also 2 category C (low value and conservation) trees situated at the proposed vehicular entrance to the site that would consequently require removal. These trees have some visual amenity value, being situated on the front boundary to the site and visible from Howth Road. However, as described in section 11.4 above, I consider the location of this entrance to be most appropriate, in terms of reducing impact upon the wall as a heritage asset and in seeking to ensure significant distance to Howth Castle entrance which is part of a site of national heritage value. In this context, I accept that removal of these trees is acceptable, and would be adequately mitigated by the replacement

planting shown in the plans, which will include two trees adjacent to the proposed vehicular entrance.

11.11.14. The remaining trees for removal are category U and therefore not suitable for retention. I note that some of these trees for removal are located outside of the site, on Howth Road (as well as one of the category C trees assessed in the previous paragraph). There also appears to be a drafting error on drawing no. DN1912-CD-11 Rev.4, showing repetition of some trees on Howth Road, as well as showing a tree that is identified for removal on other plans. In relation to the drafting error, I am unclear what trees exist on Howth Road and within the site, and what trees are for removal or replacement, and this has not impacted my assessment. In relation to the trees located on street, permission would be required separately from Fingal County Council (or any other landowner) for their removal. Adequate replacement should also be provided, and I have included a condition in this regard.

11.11.15. Overall, I am satisfied that with the enhanced mitigation tree planting that I suggest above, the proposed development would not have such significant adverse impact upon arboricultural features that it would warrant refusal of the scheme. I am satisfied that the protection of trees has informed the development intentions for the site, however the efficient development of this accessible site for much needed housing, will invariably result in the loss of trees. I have described my assessment of the value and relative importance of these trees above, which I am satisfied can be replaced, through replacement mitigation planting. As such, I am satisfied that the proposal is in accordance with Objective DM577 and Objective NH27 of the Fingal Development Plan 2017-2023 and the Howth Special Amenity Area Order.

11.12. Other Matters

11.12.1. Childcare

11.12.2. I note third party representations regarding the lack of childcare provision as part of the proposed development. The Planning Authority also ask that ABP consider the cumulative impact of the proposed development upon residential amenities in terms of access to services and infrastructure, including childcare and public transport. The Planning Authority recommend that the application be refused, in part, as a result of the scale and housing mix of the proposed development, and associated lack of

childcare provision, contrary to Objective PM76 of the Fingal County Development Plan 2017-2023 and the 'Childcare Facilities Guidelines for Planning Authorities'.

11.12.3. I have including transport considerations in section 11.8 above and my EIA in section 13 below, I also consider wider social infrastructure capacity as part of that EIA. In relation to childcare, the applicant has submitted a Childcare Demand Report.

11.12.4. Objective PM76 requires the inclusion of childcare facilities in new development where provision is deemed necessary by the Planning Authority. The Guidelines for Childcare Facilities requires the provision of childcare facilities for new housing for 75 or more dwellings unless there is justification to exclude such provision. This may include the existing provision of childcare facilities in the area and the demographic profile of the area. The Apartment Guidelines reiterate these provisions and also state that the exclusion of 1 bedroom units is accepted, given that they are unlikely to generate significant child yield.

11.12.5. The applicant has submitted a Childcare Demand Report. This describes the demographic profile of the Howth area and the expected future demand for childcare arising from the proposed development. Existing childcare facilities within the Howth area are also identified. Alongside the 7 existing childcare facilities identified in the area, 2 future facilities are identified as part of developments at St. Dominick's School (Seafield SHD) and the Claremont SHD, both of which are a short or reasonable walking distance from the subject site.

11.12.6. The submitted report concludes that the proposed development can be reasonably predicted to generate a requirement for 18no. childcare spaces. In relation to the cumulative impact of other approved developments in the area, it is estimated that the permitted creches at Claremont and Seafield would create 89no. childcare spaces, with 64no. childcare spaces required by the populations generated in those developments. As a result, 25no. spaces are identified in that future provision. There is also capacity identified within existing childcare facilities in Howth (on either a sessional or full-time basis), with a total capacity of at least 30no. childcare spaces in the existing provision plus future planned provision, in the area.

11.12.7. From my visit to the site, it was apparent that construction works are underway on the Claremont SHD site. The childcare facility at Claremont will cater for 57no. children and that scheme would generate a demand for 42no. spaces. Therefore

15no. childcare spaces can be reasonably expected to arise as part of that development alone in future.

11.12.8. I note third party concern that the submitted report does not distinguish clearly between the childcare service providers that cater for babies as well as older pre-school children. Certainly, the Montessori and pre-school playgroups listed would not be expected to cater for children much younger than 3 years old. In my opinion, of the services listed by the applicant, most would appear to cater for the older pre-school groups and not younger children and babies. I therefore acknowledge third party concern regarding capacity in the area for younger children and babies. The sessional provision of these services is also suggested to be a constraint by third parties, that the applicant has not taken into account. However, the report does clearly identify capacity in the area as part of future childcare facilities, and the Claremont SHD is located opposite the site with a future childcare facility that could accommodate a further 15 children on top of its own estimated population. It is not yet clear what age group that future childcare facility will cater too, but I see no reason why it wouldn't not cater for younger children and babies on a full time basis. That development is currently underway and is only a 2 min walk from the subject site.

11.12.9. The proposed development can be expected to generate a demand for 18 childcare spaces, taking a robust approach in the applicant's methodology, that assumes the upper parameters in a number of areas. It can also be reasonably assumed that not all children residing at the development will require full time childcare spaces, it being established that sessional spaces (term-time only) are taken up by some parents in the County. I am therefore satisfied that a maximum childcare demand has been assumed as part of the proposed development and this can be accommodated, by and large, by the Claremont SHD. While some older 3+ pre-school children that might occupy the development can be accommodated within existing capacity in the area. I also note that should the Board accept the amendments to the scheme that I recommend, this would further reduce the number of 3 bedroom units and associated childcare requirements for the proposed development as a result.

11.12.10. Overall, I am satisfied that there is capacity within existing and future childcare facilities in Howth to accommodate the proposed development and that no childcare

facility is required as part of the proposal. My assessment has included consideration of cumulative impact from nearby development, as described above.

11.12.11. Water Infrastructure and Flood Risk

11.12.12. I note third party representations on the capacity of water infrastructure in the area for both wastewater and supply. This section of my report should be read in conjunction with my AA in section 12 and EIA in section 13 below.

11.12.13. An Infrastructure Report has been submitted with the application describing the civil engineering infrastructure for the development, including foul, surface water drainage and water supply. It is proposed to serve the development through a gravity foul network, with connection from the site drainage system into the existing public wastewater network. In terms of water supply, connection to the existing water main is proposed. All connections are to existing systems on Howth Road immediately adjacent to the site. I address reliance upon the Ringsend Wastewater Treatment Plant as part of my AA in section 12 below.

11.12.14. Irish Water have confirmed that new connections to the site are feasible and has issued a Statement of Design Acceptance for the development. Conditions are requested by Irish Water to require a connection agreement; confirming that there is no permission to build over assets, with separation distances as per the code of practice; and that all development to be carried out in compliance with Irish Water Standards codes and practices. I have included a condition regarding the same in my recommended draft order below.

11.12.15. A Flood Risk Assessment Report is also submitted with the application. This identifies that the subject site is in Zone C with a low probability of flooding and appropriate for residential development. While the Irish Sea is situated approximately 150m to the north, the site is protected by existing DART sea defence wall with the promenade. There is no risk of flooding affecting the site from the 1 in 1000 year fluvial flood zone mapping and coastal flood map extent. The surface water attenuation system has been designed for a 1 in 100 year storm with allowance of 20% for climate change. The overall likelihood of flooding on the site is low from all sources, tidal, fluvial, pluvial surface water or groundwater.

11.12.16. I am satisfied that the proposals are in line with the requirements of the flood risk management guidelines and that the future occupiers of the scheme will not be at risk

from flooding, and the proposal will not increase the risk of flooding elsewhere. I have incorporated conditions to secure appropriate mitigation in relation to flood risk and drainage in my recommended draft order below.

11.12.17. Energy

11.12.18. An Energy Statement is submitted with the application. This describes the incorporation of passive design measures to reduce energy use, and low carbon energy sources into the development. Air source heat pumps are included and will reduce the potential carbon output from the proposed development.

11.12.19. Part V

11.12.20. The applicant has submitted Part V proposals as part of the application documents. 16 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.

11.12.21. Estate Name

11.12.22. I note third party concern regarding the developer's current chosen name for the site and its lack of historic or local relevance and I note Objective DMS38 of the Development Plan in this regard. The name of the development can be subject to a standard condition, requiring agreement from the Planning Authority and that the chosen name be of local relevance. I have included a condition regarding the same in my recommended order below.

11.12.23. Design principles

11.12.24. I note a third party response querying the submission of a 'statement of compliance with Universal Design principles'. I can confirm that the submitted Architectural Design Statement, includes in chapter 4, an explanation of how universal access to all members of society has been considered in the design of the development. I can also confirm that the documentation submitted with the application confirms that the proposed development complies with Building Regulations in this regard.

12.0 Appropriate Assessment

- 12.1. 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.
- 12.2. I have had regard to the submissions of third parties in relation to the potential impacts on Natura 2000 sites.
- 12.3. The Project and Its Characteristics
- 12.4. See the detailed description of the proposed development in section 3.2 above.
- 12.5. The European Sites Likely to be Affected (Stage I Screening)
- 12.6. The development site is not within or directly adjacent to any Natura 2000 site. The site is located adjacent to existing residential development to the west, Deer Park golf course with amenity grassland and woodland to the south and east. Howth Road is immediately to the north, with Claremont Strand circa 130m to the north. The site is currently formed of dry meadow grassland, with boundary hedgerows and treelines and small areas of scrub. There are no existing structures on the site.
- 12.7. I have had regard to the submitted Appropriate Assessment screening 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:
- Bandon Bay SAC and SPA (0199 and 4016) 170m;
 - Howth Head SAC and Howth Head Coast SPA (0202 and 4133) 675m;
 - North Dublin Bay SAC (0206) 1.3km;
 - North Bull Island SPA (4006) 1.3km;
 - Rockabill to Dalkey Island SAC (0300) 1.8km;
 - Ireland's Eye SAC and SPA (2193 and 4117) 1.6km;
 - Malahide Estuary SPA and SAC (0205 and 4024) 5.7km;

- South Dublin Bay SAC (0210) 7.8km
- South Dublin Bay and Tolka Estuary SPA (4024) 6.9km;
- Lambay Island SAC and SPA (0204 and 4069) 10.7km;
- Rogerstown Estuary SAC and SPA (0208 and 4015) 11.2km;
- Dalkey Islands SPA (4172) 12km;
- Rockabill SPA (4014) 19.8km;
- Skerries Island SPA (4122) 19.9km.

12.8. 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), 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.

12.9. I concur with the conclusions of the applicant's screening, in that there is the possibility for significant effects on the following European sites (associated with impact to species of conservation interest), as a result of disturbance during construction, habitat degradation (resulting from both hydrological links and increased human presence) and bird mortality resulting from collision risk: Baldoyle Bay SAC, Howth Head SAC, Baldoyle Bay SPA, North Bull Island SPA, Ireland's Eye SPA, Malahide Estuary SPA, South Dublin Bay and River Tolka Estuary SPA, Lambay Island SPA, Rogerstown Estuary SPA, and Skerries Islands SPA.

12.10. 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: Howth Head Coast SPA; North Dublin Bay SAC; Ireland's Eye SAC; Malahide Estuary SAC; South Dublin Bay SAC; Lambay Island SAC;

Rogerstown Estuary SAC; Dalkey Islands SPA; Rockabill SPA and Rockabill to Dalkey Island SAC.

12.11. The qualifying interests of all Natura 2000 Sites considered are listed below:

Table 12.1: European Sites/Location and Qualifying Interests

Site (site code) and Conservation Objectives	Distance from site (approx.)*	Qualifying Interests/Species of Conservation Interest (Source: EPA / NPWS)
<p>Baldoyle Bay SAC (0199)</p> <p>To maintain or restore the favourable conservation condition of habitats as listed in Special Conservation Interests.</p>	<p>170m</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>Gruco-Puccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p>
<p>Baldoyle Bay SPA (4016)</p> <p>To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests.</p>	<p>1.7km</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hutchinsoni</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Wetland and Waterbirds [A999]</p>
<p>Howth Heath SAC (0202)</p> <p>To maintain the favourable conservation condition of European dry heaths and Vegetated sea cliffs of the Atlantic and Baltic coasts.</p>	<p>675m</p>	<p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p>

<p>Howth Head Coast SPA (4113)**</p> <p>To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests.</p>	<p>1.7km</p>	<p>Kittiwake (<i>Rissa tridactyla</i>) [A188]</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>1.3km</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>Atlantic salt meadows (<i>Clauco-Puccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Embryonic shifting dunes [2110]</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>Humid dune slacks [2190]</p> <p><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>1.3km</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</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>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>Rockabill to Dalkey Island SAC (0300)</p> <p>To maintain the favourable conservation condition of Reefs and Harbour porpoise.</p>	1.8km	<p>Reefs [1170]</p> <p>Phocoena phocoena (Harbour Porpoise) [1251]</p>
<p>Ireland's Eye SAC (2193)</p> <p>To maintain the favourable conservation condition of Perennial vegetation of stony banks and Vegetated sea cliffs of the Atlantic and Baltic coasts.</p>	1.8km	<p>Perennial vegetation of stony banks [1220]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p>
<p>Ireland's Eye SPA (4117)</p> <p>To maintain or restore the favourable conservation</p>	1.6km	<p>Cormorant (<i>Phalacrocorax carbo</i>) [A017]</p> <p>Herring Gull (<i>Larus argentatus</i>) [A184]</p> <p>Kittiwake (<i>Rissa tridactyla</i>) [A188]</p> <p>Guillemot (<i>Uria aalge</i>) [A199]</p>

condition of the bird species.		Razorbill (<i>Alca torda</i>) [A200]
<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>	6.3km	<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>	5.7km	<p>Great Crested Grebe (<i>Podiceps cristatus</i>) [A005]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A043]</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>

		Wetland and Waterbirds [A999]
<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>	7.8km	<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>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>	6.9km	<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>Lambay Island SAC (0204)</p> <p>To maintain the favourable conservation condition of Reefs,</p>	11km	<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>

Vegetated sea cliffs of the Atlantic and Baltic coasts, Grey Seal and Harbour Seal.		Embryonic shifting dunes [2110]
Lambay Island SPA (4069) To maintain or restore the favourable conservation condition of the bird species.	10.7km	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]
Rogerstown Estuary SAC (0208) To maintain the favourable conservation condition of Estuaries.	11.6km	Estuaries [1130] 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 maritima</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]
Rogerstown Estuary SPA (4015) To maintain the favourable conservation	11.2km	Greylag Goose (<i>Anser anser</i>) [A043] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Shoveler (<i>Anas clypeata</i>) [A056]

condition of Greylag Goose.		Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Redshank (<i>Tringa totanus</i>) [A162] Wetland and Waterbirds [A995]
Dalkey Islands SPA (4172)	12km	Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194]
Rockabill to Dalkey Island SAC (0300) To maintain the favourable conservation condition of Reefs and Harbour porpoise.	1.8km	Reefs [1170] <i>Phocoena phocoena</i> (Harbour Porpoise) [1351]
Rockabill SPA (4014) To maintain the favourable conservation condition of Purple Sandpiper, Roseate Tern, Common Tern and Arctic Tern.	19.8km	Purple Sandpiper (<i>Calidris maritima</i>) [A148] Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194]
Skerries Island SPA (4122) To maintain or restore the favourable conservation	19.9km	Cormorant (<i>Phalacrocorax carbo</i>) [A017] Shag (<i>Phalacrocorax aristotelis</i>) [A018] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]

condition of the bird species.		Purple Sandpiper (<i>Calidris maritima</i>) [A148] Turnstone (<i>Arenaria interpres</i>) [A169] Herring Gull (<i>Larus argentatus</i>) [A184]
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12.12. Table 12.1 above reflects the EPA and National Parks and Wildlife Service (NPWS) list of qualifying interests for the SAC/SPA areas requiring consideration.

12.13. Potential Effects on Designated Sites

12.14. The subject site itself does not support significant populations of any fauna species linked with the qualifying interests or species of conservation interest populations of any European sites. However, as the site is formed of existing amenity grassland and in light of its proximity to SPA areas, it represents suitable in-land feeding area for light-bellied brent goose and other wintering bird species which may forage inland. Winter bird surveys were carried out from October 2019 to March 2020 and November 2020 to March 2021. Limitations of these surveys are acknowledged and I address this as part of my EIA in section 13 below. I am satisfied that the submitted data is sufficient for the purposes of my assessment of potential impact. No sightings of brent geese or signs of use by geese, such as droppings, were recorded within the site redline boundary area. However, light-bellied brent geese were frequently recorded within the adjacent lands at Deer Park and a number of bird species of conservation interest were recorded in the surrounding golf course area and Claremont Strand. The winter bird surveys did record eight other bird species of conservation interest including oystercatcher and curlew using the amenity grassland area to the south of the site. No species of conservation interest were recorded on the dry meadow area on the site where structures are proposed to be located. Flight activity surveys were undertaken in November 2020-March 2021, with the results indicating those birds that use the airspace over the proposed development site. The only bird species of conservation interest recorded within the subject site were curlew and oystercatcher.

12.15. The table below is extracted from the submitted report and summarises the winter bird survey recordings within the subject site itself and within 300m of the site area,

with a comparison to the SPA SCI baseline population, national population and international population.

Table 12.2: Winter bird survey results with comparison to baseline population

Species	Peak Count	SPA SCI baseline population	1% National	1% International
Within the proposed development site – amenity grassland (GA2)				
Oystercatcher	13	<p>North Bull Island SPA – 1,784 Peak count recorded is <1% of SPA population</p> <p>Malahide Estuary SPA – 1,360 Peak count recorded is <1% of SPA population</p> <p>South Dublin Bay and River Tolka Estuary SPA – 1,363 Peak count recorded is >1% of SPA population</p> <p>Rogerstown Estuary SPA – 1,345 Peak count recorded is <1% of SPA population</p>	690	8,200
Curlew	1	<p>North Bull Island SPA – 937 Peak count recorded is <1%</p>	350	7,600
Within 300m of the proposed development site				
Brent Goose (Light-bellied)	65	<p>North Bull Island SPA – 1,548 Peak count recorded is >4% of SPA population</p> <p>Baldoyle Bay SPA – 726 Peak count recorded is >8% of SPA population.</p>	360	400

		<p>Malahid Estuary SPA – 1,104 Peak count recorded is >5% of SPA population</p> <p>South Dublin Bay and River Tolka Estuary SPA – 525 Peak count recorded is >12% of SPA population</p> <p>Rogerstown Estuary SPA – 1,069 Peak count recorded is >6% of SPA population</p> <p>Skerries Islands SPA – 242 Peak count recorded is >26% of SPA population</p>		
Black-headed gull	40	<p>North Bull Island SPA – 2,196 Peak count recorded is >1% of SPA population</p> <p>South Dublin Bay and River Tolka Estuary SPA – 3,040 Peak count recorded is >1% of SPA population</p>	-	31,000
Curlew	128	<p>North Bull Island SPA – 937 Peak count recorded is >1% of SPA population</p>	350	7,600
Herring Gull	596	<p>Ireland's Eye SPA – 530 Peak count recorded exceeds the SPA population</p> <p>Lambay Island SPA – 1806 Peak count recorded is >33% of SPA population</p>	-	10,200

		Skerries Island SPA – 250 Peak count recorded exceeds the SPA population		
Dunlin	35	North Bull Island SPA – 4,146 Peak count recorded is <1% of SPA population Malahide Estuary SPA – 1,594 Peak count recorded is >2% of SPA population South Dublin Bay and River Tolka Estuary SPA – 2,753	570	13,300

12.16. In addition to the in person survey results set out above, the submitted report also describes the results of 8no. cameras installed in areas around the site which have been used by brent geese in the past, and are known to continue to be used by brent geese and other wintering wetland bird species associated with protected sites. Data was collected between December 2019 and March 2020. The table below is extracted from the submitted report and shows the results from these camera surveys.

Table 12.3: Camera winter bird survey with comparison to baseline population

Species	Peak Count	SPA SCI baseline population	1% National	1% International
Camera 1 within the proposed development site – amenity grassland (GA2)				
Brent Geese (Light-bellied)	0	North Bull Island SPA – 1,548 Baldoye Bay SPA – 726 Malahid Estuary SPA – 1,104 South Dublin Bay and River Tolka Estuary SPA – 525	360	400

		Rogerstown Estuary SPA – 1,069 Skerries Islands SPA – 242		
Cameras 2,3 and 4 within 300m of the proposed development site				
Brent Goose (Light-bellied)	100	North Bull Island SPA – 1,548 Peak count recorded is >6% of SPA population Baldoye Bay SPA – 726 Peak count recorded is >13% of SPA population. Malahid Estuary SPA – 1,104 Peak count recorded is >9% of SPA population South Dublin Bay and River Tolka Estuary SPA – 525 Peak count recorded is >19% of SPA population Rogerstown Estuary SPA – 1,069 Peak count recorded is >13% of SPA population Skerries Islands SPA – 242 Peak count recorded is >41% of SPA population	360	400
Cameras 5,6,7 and 8 outside the 300m buffer of the proposed development site				
Brent Goose (Light-bellied)	180	North Bull Island SPA – 1,548 Peak count recorded is >11% of SPA population Baldoye Bay SPA – 726 Peak count recorded is >24% of SPA population.	360	400

		<p>Malahid Estuary SPA – 1,104 Peak count recorded is >16% of SPA population</p> <p>South Dublin Bay and River Tolka Estuary SPA – 525 Peak count recorded is >34% of SPA population</p> <p>Rogerstown Estuary SPA – 1,069 Peak count recorded is >16% of SPA population</p> <p>Skerries Islands SPA – 242 Peak count recorded is >74% of SPA population</p>		
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12.17. Flight activity surveys were also undertaken between November 2020 and March 2021 over 9 days, recording species of conservation interest flying over the proposed development site. As the proposed building height is 19.57m, any flights recorded at 20m or below were considered to be at risk of collision. The results are summarised in the table below.

Table 12.4: Winter bird flight activity survey results

SCI Bird Species	Flights	Observed at collision risk
Black-headed gull	2	Yes (all)
Herring gull	174 (582 passes)	Yes (67.3%)
Light-bellied Brent goose	1	No
Curlew	11 (70 passes)	Yes (88.9%)
Oystercatcher	6 (19 passes)	Yes (all)
Cormorant	1	Yes

12.18. There were no species of conservation interest recorded within the proposed development site singing, foraging or roosting. In June 2020, 6 herring gull flights were recorded, 2 individual cormorant flights and 1 great black-backed gull were recorded flying over the site.

12.19. The submitted AA Screening report states that as such a small number of SPA species of conservation interest were recorded within the proposed development site (i.e. less than, or circa, 1% of SPA populations), this indicates that the site is not used by significant numbers of this species of conservation interest associated with those SPAs sufficiently proximate to the site to warrant concern. In addition, use of the site by species of conservation interest was only recorded on an infrequent basis. This demonstrates that the proposed development would not affect the conservation objectives of the Natura 2000 sites associated with those species recorded (specifically North Bull Island SPA, Malahide Estuary SPA, South Dublin Bay and River Tolka Estuary SPA and Rogerstown Estuary SPA). Suitable inland feeding habitat is also identified for species of conservation interest associated with the SPAs in the Deer Park golf club and surrounding area. As a result, the proposed development would not result in habitat loss or fragmentation within any European site or any supporting ex-situ site associated with SPA populations of species of conservation interest, and there is no potential for in combination effects in this regard.

12.20. In terms of disturbance and displacement impact, the submitted report states that construction related noise could disturb birds foraging within 300m of the proposed development site. This would be on a temporary basis. There is therefore potential for in-combination effects in association with the following construction works in the vicinity of the site.

- Ref.F1L06F.306102 (Atlas GP Ltd) SHD application for 512 apartments, creche, café and restaurant on the former Techrete site, Claremont, Howth Road;
- Ref.F20A/0294 (Marine Engineering Division) 374sqm of workshop / offices / canteen (amendment of previous application F18A/0633);
- Ref.F20A/0412 (Downey) extension and alteration to Baltray, 92 Howth Road;

- Ref.F18A/0267 (Dept. of Agriculture, Food & Marine) two industrial buildings containing 5 units at Claremont, West Pier, Howth;
- Ref.F18A/0074 (Minister for Agriculture, Food & Marine) 130m long quay wall, road access, deck area, hard standing, dredging to facilitate works, Middle Pier, Howth Fishery Harbour Centre;
- Proposed land reclamation at Howth Harbour – currently at public consultation phase.

12.21. In terms of habitat degradation as a result of increased recreational pressures, the submitted report states that as the site is in close proximity to Howth Head SAC, there will be potential for increased use by circa 425 inhabitants associated with the proposed development. Howth Head SAC contains walking routes such as the Howth Cliff Path Loop. The proximity of Baldoyle Bay SAC is also noted. The erosion of habitats associated with the Howth Head SAC cannot be excluded given its strong recreational attraction.

12.22. In relation to bird mortality as a result of collision risk impacts, the submitted report concludes that potential impact from the proposed development cannot be ruled out, affecting birds (either alone or in combination with other disturbance and displacement pressures) to an extent that undermines the conservation objectives of the following Natura 2000 sites: Baldoyle Bay SPA, North Bull Island SPA, Ireland's Eye SPA, Malahide Estuary SPA, South Dublin Bay and River Tolka Estuary SPA, Lambay Island SPA, Rogerstown Estuary SPA and Skerries Islands SPA.

12.23. In terms of hydrology risks, the submitted report confirms that there are no watercourses within the proposed site or within close proximity to the site, with the nearest watercourse being the Bloody Stream 50m to the east of the site. This outfalls into the Irish Sea Dublin at Claremont Strand. The proposed development site is in the Liffey and Dublin Bay catchment, the Mayne_SC_010 sub-catchment and the Howth_010 sub-basin. The Irish Sea Dublin (HA 09) coastal waters have a 'good' status and are classified as 'not at risk' of failing to meet its objectives under the Water Framework Directive, it is classified as 'unpolluted'.

12.24. The submitted report describes the potential effects of a pollution event of sufficient magnitude. This could occur from surface water runoff during construction, accidental oil or fuel spillages or leaks, which could transfer via surface water

drainage networks to Baldoyle Bay, having potential effects on the receiving environments (alone, or in combination with other pressures on water quality) to an extent that undermines the conservation objectives of Baldoyle Bay SAC and Baldoyle Bay SPA.

12.25. There is also an indirect pathway from the site through the foul sewer to Dublin Bay via the Ringsend Wastewater Treatment Plant, connecting to North Dublin Bay SAC; North Bull Island SPA; South Dublin Bay and Tolka Estuary SPA; and South Dublin Bay SAC. 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. Foul effluent from the proposed development will also be sent to the Ringsend Waste Water Treatment Plant (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 either alone or in combination, as there is no evidence that negative effects are occurring to SACs or SPAs from water quality.

12.26. The underlying groundwater body to the proposed development site is 'Dublin' and is described as 'poorly productive bedrock'. The submitted report confirms that the site is located above a 'locally important aquifer – Bedrock which is Moderately Productive only in Local Zones'. Geological Survey of Ireland data indicates that the site is located in an area of 'High' vulnerability with regards to the ease with which groundwater may be contaminated by human activities. Groundwater body

underlying the site is classified as having a 'good' status. Groundwater flow from the site is towards the coast and also towards the River Liffey and Dublin City. There are no links direct or indirect from the proposed development site to any European Sites within the Dublin ground water body designated for groundwater dependant habitats and/or species. The submitted report concludes that there is no possibility of the proposed development undermining the conservation objectives of any Natura 2000 Sites, either alone or in combination, as a result of hydrogeological effects.

12.27. AA Screening Conclusion

12.28. 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. 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. Potential effect on habitat degradation as a result of hydrological impacts, disturbance and displacement effects, habitat degradation as a result of increased recreational pressures and bird mortality as a result of collision risk impacts are highlighted above and have the potential to affect the conservation objectives supporting the qualifying interest / special conservation interests of European Sites. As such, likely effects on Baldoyle Bay SAC, Howth Head SAC, Baldoyle Bay SPA, North Bull Island SPA, Ireland's Eye SPA, Malahide Estuary SPA, South Dublin Bay and River Tolka Estuary SPA, Lambay Island SPA, Rogerstown Estuary SPA and Skerries Islands SPA cannot be ruled out, having regard to the sites' conservation objectives, and a Stage 2 Appropriate Assessment is required.

12.29. In relation to the remaining SAC and SPA areas considered, taking into consideration the bird species recorded in association with the site, the effluent discharge from the proposed development works, the distance between the proposed development site to these designated conservation sites, the lack of direct hydrological pathway or biodiversity corridor link to these conservation sites and the dilution effect with other effluent and surface runoff, it is concluded that this development would not give rise to any significant effects to those designated sites. The construction and operation of the proposed development will therefore not impact on the conservation objectives of features of interest of Howth Head Coast

SPA; North Dublin Bay SAC; Ireland's Eye SAC; Malahide Estuary SAC; South Dublin Bay SAC; Lambay Island SAC; Rogerstown Estuary SAC; Dalkey Islands SPA; Rockabill SPA and Rockabill to Dalkey Island SAC.

12.30. Stage 2 – Appropriate Assessment

12.31. The receiving environments at Baldoyle Bay SAC, Howth Head SAC, Baldoyle Bay SPA, North Bull Island SPA, Ireland's Eye SPA, Malahide Estuary SPA, South Dublin Bay and River Tolka Estuary SPA, Lambay Island SPA, Rogerstown Estuary SPA, and Skerries Islands SPA, are described in detail in the submitted Natura Impact Statement (NIS) report.

12.32. The site-specific conservation objectives and qualifying interests / species of conservation interests of the aforementioned Natura 2000 sites are described above in table 12.1. The NIS also provides a detailed description of the site-specific conservation objectives of these European Sites with potential effects outlined, alongside any required mitigation. A conclusion on residual impact is then provided. A summary of this assessment is set out for each Natura 2000 site below:

12.33. **Baldoyle Bay SAC (0199):** A range of coastal habitats, with good diversity in sediment types and supporting *Zostera* sp., two Red Data Book species and also of importance to wintering waterfowl. Habitats include sand dunes, muds and muddy sands with high organic content, brackish marshes, salt marshes and sandy beaches. The release of contaminated surface water runoff/or accidental spillage or pollution event during construction, or operation, has potential to affect water quality which could have implications for the conservation objectives of Baldoyle Bay SAC. The conservation objectives relate to maintaining the favourable conservation condition of mudflats and sandflats not covered by water at low tide (1140), Atlantic salt meadows (1330) and Mediterranean salt meadows (1410); and restoring the favourable conservation condition of *Salicornia* and other colonising mud and sand (1310) in the SAC. Mitigation measures are identified in section 7.1.4 of the NIS and relate to measures outlined in a site-specific Construction Environmental Management Plan (CEMP), which is submitted as part of the planning application. Specific measures include preventing the release of sediment, through the use of silt fences, curtains and settlement lagoons as well as the appropriate delivery, storage and controlled use of substances on the site. SUDs measures will also be

implemented as part of the development to prevent in operation pollution events, and include green roofs, permeable paving, rain gardens, bioretention systems and tree pits and attenuation tanks. Following adoption of the mitigation measures outlined in the NIS, no residual direct or indirect impacts associated with the proposed development could adversely affect the integrity of Baldoyle Bay SAC.

12.34. **Howth Head SAC (0202):** A rocky headland situated on the northern side of Dublin Bay. Designated for vegetated sea cliffs (1230) and dry heath (4030) Annex I habitats, the flora within the SAC is diverse with record of several Red data book species and species of very restricted Irish distribution. Threats to the site including walking, horse riding and non-motorised vehicles, burning vegetation, mining and quarrying. There will be a potential increase of circa 425 inhabitants in the vicinity of Howth Head as a result of the proposed development, giving rise to risk of further erosion of the SAC and its associated habitats. The conservation objectives relate to maintaining the favourable conservation condition of vegetated sea cliffs of the Atlantic and Baltic coasts, and European Dry Heaths in Howth Head SAC. Mitigation measures are identified in 7.2.4 of the NIS. These are formed of existing mitigation in the form of recreational management such as the fencing around protected habitats. No project specific mitigation for impacts associated with the proposed development are identified, as the existing mitigation is considered to be sufficient. As a result, no residual direct or indirect impacts associated with the proposed development could adversely affect the integrity of Howth Head SAC.

12.35. **Baldoyle Bay SPA:** The site supports wintering waterfowl, most notably an internationally important population of light-bellied brent goose. It also supports nationally important populations of shelduck, pintail, ringed plover, golden plover, grey plover and bar-tailed godwit. It has extensive mud and sand flats with high organic content and salt marsh habitat. At high tide, the shallow waters attract species such as great-crested grebe and red-breasted merganser. Threats include hunting, eutrophication, bait-digging and human habitation / urbanisation. The proposed development presents potential risk to habitat degradation as a result of surface water hydrological impacts (arising from release of contaminated surface water runoff/or accidental spillage or pollution event during construction, or operation), disturbance and displacement impacts (arising during temporary construction works from noise and vibration, and human activity during both

construction and operation), and bird mortality as a result of collision risk impacts with new development built form on the site. The conservation objectives relate to maintaining / restoring the favourable conservation condition of light-bellied brent goose, shelduck, ringed plover, golden plover, grey plover, bar-tailed godwit and wetlands. Mitigation is described in section 7.3.4 of the NIS and comprises implementation of measures within the CEMP and SUDs to be implemented as part of the development. The results of the winter bird survey demonstrate the low number of SPA birds and infrequency of use of the subject site lands by the birds. While a single light-bellied goose flight was recorded, risk of collision with a static building is very low and the development would not have an effect at the population level to the species. There are also areas available surrounding the site suitable for feeding habitat. As a result, there will be no effect on the distribution, range, timing or intensity of use of areas by the SPA species of conservation interest. As a result of the foregoing, no residual direct or indirect impacts associated with the proposed development could adversely affect the integrity of Baldoyle Bay SPA.

- 12.36. **North Bull Island SPA, Ireland's Eye SPA, Malinbeg Estuary SPA, South Dublin Bay and Tolka Estuary SPA, Lambay Island SPA, Rogerstown Estuary SPA and Skerries Islands SPA:** The proposed development presents potential for disturbance and displacement impacts (arising during temporary construction works from noise and vibration, and human activity during both construction and operation), and bird mortality as a result of collision risk impact with new development built on the site.
- 12.37. North Bull Island is one of the top ten sites in the country for wintering waterfowl, it provides important feeding and roosting habitat for bird species listed as special conservation interests for the site and supports internationally important populations of light-bellied brent goose and bar-tailed godwit. Threats include oil pollution from Dublin Port along with localised commercial bait digging, and disturbance from activities such as sailing, walkers and dogs. The conservation objectives relate to maintaining / restoring the favourable conservation condition of light-bellied brent goose, shelduck, teal, pintail, shoveler, oystercatcher, golden plover, grey plover, knot, sanderling, dunlin, black-tailed godwit, curlew, redshank, turnstone, black-headed gull and wetlands & waterbirds.

- 12.38. Ireland's Eye SPA is a small uninhabited island located circa 1.5km north of Howth Head, with habitats formed of dry grassland and bracken, a large seabird colony and designated for breeding populations of birds. Major threats including walking, horse riding and non-motorised vehicles, and leisure fishing. There are no site specific conservation objectives for this SPA and the NIS has based attributes, measures and targets on those available for Rogerstown Estuary SPA as a suitable comparison. The species of conservation interest are cormorant, herring gull, kittiwake rissa, guillemot and razorbill.
- 12.39. Malahide Estuary SPA comprises saltmarsh habitats and extensive intertidal flats and is of high importance for wintering waterfowl, supporting a good diversity of species. It supports an internationally important population of light-bellied geese and nationally important populations of a further 12 species, as well as being a regular site for a range of autumn passage migrants. The conservation objectives relate to maintaining / restoring the favourable conservation condition of great crested grebe, light-bellied brent goose, shelduck, pintail, goldeneye, red-breasted merganser, oystercatcher, golden plover, grey plover, knot, dunlin, black-tailed godwit, bar-tailed godwit, redshank and wetland & waterbirds.
- 12.40. South Dublin Bay and Tolka Estuary SPA has extensive intertidal flats, part of which are designated as South Dublin Bay SAC, and supports wintering waterfowl as part of the wider Dublin Bay population. The site supports an internationally important population of light-bellied brent geese, feeding on the strands of *Zostera*. It also hosts important numbers of six species, is an important site for wintering gulls and is an autumn roosting site for terns. Threats include land reclamation, oil pollution from Dublin Port, commercial bait digging and disturbance by walkers and dogs. The conservation objectives relate to maintain or restoring the favourable conservation condition of light-bellied brent goose, oystercatcher, ringed plover, grey plover, knot sanderling, dunlin, bar-tailed godwit, redshank, black-headed gull, roseate tern, common tern, arctic tern and wetland & waterbirds.
- 12.41. Lambay Island SPA is an island located circa 4km off the north Dublin coastline, with rocky shorelines, low tide sandflats and fertile grassland habitats. Predominant land use of the island is cattle grazing. The island supports one of the most important seabird colonies in Ireland. It has been designated for breeding populations of fulmar, cormorant, shag, greylag goose, lesser black-backed gull, herring gull,

kittiwake, guillemot, razorbill and puffin. The conservation objectives relate to maintaining or restoring the favourable conservation condition of fulmar, cormorant, shag, greylag goose, lesser black-backed gull, herring gull, kittiwake, guillemot, razorbill and puffin.

12.42. Rogerstown Estuary SPA is formed of saltmarsh and sand dune habitat as well as agricultural fields which have ornithological and botanical interest. It supports and internationally important population of light-bellied brent goose and nationally important populations of a further 15 species. It is an important and regular site for a range of autumn passage migrants. Little tern has bred here in the past and there are populations of three Red Data Book plant species presents. Threats include disposal of household / recreational facility waste, invasive species, disposal of industrial waste, fertilisation and landfill, land reclamation and drying out. The conservation objectives relate to maintaining or restoring the favourable conservation condition of greylag goose, light-bellied brent goose, shelduck, shoveler, oystercatcher, ringed plover, grey plover, knot, dunlin, black-tailed godwit, redshank and wetlands.

12.43. Skerries Islands SPA is a group of three, small, uninhabited islands between circa 0.5 and 1.5km off the north Dublin coastline. Habitats include low cliffs, rocky shores, sandflats and a shingle bar. Vegetation is dominated by rank grasses and brambles. The site has nationally important breeding colonies of cormorant, shag, herring gull and greater black-backed gull. A good diversity of the waterfowl also visit in winter. It supports an internationally important population of light-bellied brent goose and nationally important populations of cormorant, purple sandpiper and turnstone. The conservation objectives relate to maintaining or restoring the favourable conservation condition of cormorant, shag, light-bellied brent goose, purple sandpiper, turnstone and herring gull.

12.44. The proposed development does not result in any habitat loss or habitat fragmentation within any of these SPA sites or any supporting ex-situ site associated with SPA populations of conservation interest. The results of the winter bird survey (as detailed in tables 12.2 and 12.3 above) demonstrate the low number of SPA birds recorded and infrequency of use of the subject site lands by the birds. Risk of collision with a static building is also very low as demonstrated in the NIS explanation regarding modelling undertaken for off-shore wind turbines. Therefore,

the development would not have an effect at the population level to the species. There are also areas available surrounding the site suitable for feeding habitat. As a result, there will be no effect on the distribution, range, timing or intensity of use of areas by the SPA species of conservation interest and no mitigation is proposed. As a result of the foregoing, no residual direct or indirect impacts associated with the proposed development could adversely affect the integrity of North Bull Island SPA, Ireland's Eye SPA, Malahide Estuary SPA, South Dublin Bay and Tolka Estuary SPA, Lambay Island SPA, Rogerstown Estuary SPA and Skerries Islands SPA.

12.45. In-Combination / Cumulative Impacts

12.46. The submitted NIS considers the in combination / cumulative effect of plans and projects to Natura 2000 Sites, alongside the proposed development. This included consideration of those projects listed at paragraph 12.20 in this report above. The potential for other pollution sources to drain to Baldoyle Bay and cumulatively affect water quality in the receiving estuarine and marine environments is recognised. However, policies and objectives under the Fingal Development Plan 2017-2023 are highlighted, with respect to the regulation and control of development and the environmental protective quality of the plan. This is alongside plans for other local authority areas with hydrological links to Baldoyle Bay. These County Development Plans were also subject to Appropriate Assessment prior to adoption with consideration of the impact of identifying sites suitable for development in each County, including in and around Howth. Mitigation is also described through the implementation of measures in the CEMP and through the inclusion of SUDs, to control and prevent impact on European Sites via hydrological links.

12.47. No potential for habitat loss associated with the proposed development is identified that would, either alone, or cumulatively, affect the special conservation interest populations of any SPA species' populations or distribution. This is in light of the infrequent and low number of birds associated with the site, and the availability of suitable habitat in the locality. Therefore, no mitigation is required.

12.48. 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, Howth Head SAC, Baldoyle Bay SPA, North Bull Island SPA, Ireland's Eye SPA, Malahide Estuary SPA, South Dublin Bay and River

Tolka Estuary SPA, Lambay Island SPA, Rogerstown Estuary SPA, and Skerries Islands SPA, when considered in combination with other developments.

12.49. AA determination – Conclusion

12.50. 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.

12.51. Having carried out for a Stage 1 Appropriate Assessment Screening of the proposed development, it was concluded that likely significant effects on the Baldoyle Bay SAC, Howth Head SAC, Baldoyle Bay SPA, North Bull Island SPA, Ireland's Eye SPA, Malahide Estuary SPA, South Dublin Bay and River Tolka Estuary SPA, Lambay Island SPA, Rogerstown Estuary SPA, and Skerries Islands SPA 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.

12.52. Following a Stage 2 Appropriate Assessment with submission of a NIS, it has been determined that subject to mitigation (which is known to be effective) 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, Howth Head SAC, Baldoyle Bay SPA, North Bull Island SPA, Ireland's Eye SPA, Malahide Estuary SPA, South Dublin Bay and River Tolka Estuary SPA, Lambay Island SPA, Rogerstown Estuary SPA, and Skerries Islands SPA, or any other European site, in view of the sites Conservation Objectives.

12.53. 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 it has been established beyond scientific reasonable doubt that there will be no adverse effects.

13.0 Environmental Impact Assessment

This section sets out an Environmental Impact Assessment (EIA) of the proposed project. The development provides for the construction of 162no. residential apartment units, together with amenity rooms (co-working, community room and meeting room) distributed in 3no. blocks (A, B & C) ranging in height from 5 storeys

to the north and 6 storeys to the south, on a site area of approximately 1.7 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.

13.1. 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.

13.2. The current application site does not fall within the two mandatory thresholds for EIA as described above, being a proposal for less than 500 dwellings on a site less than 10 hectares in size.

13.3. The applicant has submitted an EIAR that includes a sub-threshold screening for EIA in section 1.4.2. This identifies that the site is in an environmentally sensitive location with respect to cultural heritage, landscape, biodiversity and European Designated sites. This approach has been taken, to assess the ability of the site to absorb the proposed development without residual significant environmental impacts.

Accordingly, an EIAR has been submitted with the application in conjunction with Article 299A of the Planning and Development Regulations, which state that:

"Where a planning application for a sub-threshold development is accompanied by an EIAR and a request for a determination under section 7(1)(a)(i)(I) of the Act of 2016 was not made, the application shall be dealt with as if the EIAR had been submitted in accordance with section 172(1) of the Act."

13.4. The EIAR comprises a non-technical summary, a main volume and supporting appendices. Chapter 17 of the main volume provides a summary of the mitigation

measures described throughout the EIAR. Each chapter describes the expertise of those involved in the preparation of the EIAR.

- 13.5. 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 and my comments from para.13.7 should be noted in this regard.
- 13.6. 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, prescribed bodies and members of the public which are summarised in sections 8, 9 and 10 of this report above.
- 13.7. Vulnerability of Project to Major Accidents and/or Disaster
- 13.8. 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.
- 13.9. Chapter 4 'Population and Human Health' states that it addresses the risk of major accidents and/or disasters, however specific analysis under a heading regarding the same is not provided. Section 4.13 addresses 'Worst Case Scenario' and refers to the low risk to human health during construction, however specific reference to the location of the site outside of regulated areas under the Control of Major Accident Hazards Involving Dangerous Substances Regulations i.e. SEVESO sites, is not provided. The screening section of the EIAR does however identify that the site is not at high risk of flood events.

13.10. In my opinion, the EIAR could have addressed this matter more specifically, however I am satisfied that the proposed use, i.e. residential, is unlikely to be a risk of itself. I have reviewed the 'Notified SEVESO Establishments' (lists of upper and lower tier) on the hsa.ie website and can confirm that the site is not itself, or proximate to, a SEVESO site. 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. Although, this matter has not been directly addressed within the submitted EIAR as required under Article 3(2), I do not consider this to be a fundamental flaw.

13.11. Alternatives

13.12. 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;

13.13. 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.

13.14. Chapter 3 of the EIAR provides a description of the main alternatives considered. The EIAR considers the 'Do-nothing' scenario and concludes that this would be a negative/adverse effect on the population, as this approach would fail to address the shortage of homes in Dublin City and Suburbs. In addition, the demesne wall that encloses the site along its northern and eastern boundaries are in a state of decline, and it is concluded that without intervention there would be further decline that would be negative and very significant. In relation to the removal of hedgerow / vegetation / trees from the site, this is identified as being no more than 25 years old, and given the residential zoning of the land, it is concluded its removal is likely as part of any future development proposal on the lands. The short-term impact of retaining the

hedgerow / trees is anticipated to be more advantageous than its removal, however given the zoning of the site it is considered the overall medium to long term effect is neutral. Remaining effects of the 'Do-nothing' scenario are also considered to be neutral under the EIAR on a short-term basis.

- 13.15. In addition to the 'Do-nothing' scenario, the EIAR outlines the consideration of 'alternatives'. Consideration is undertaken of the land use of the site, followed by alternative forms of development on the site.
- 13.16. In relation to land use, the EIAR relies upon the Strategic Environmental Assessment (SEA) undertaken of the Fingal Development Plan 2017-2023 and the associated land use zoning under that plan. The SEA considered alternatives in relation to land use zoning as required under Article 5 of the SEA Directive. The conclusion under the alternatives examined in that SEA was the 'Consolidation of development within existing settlements, to preserve the greenbelt, favouring high density expansion in areas nearest to existing and or planned public transport corridors/nodes and in areas nearest to available/planned improvements to water services infrastructure capacity.' The EIAR then concludes that the proposed residential development of the site conforms with the preferred approach identified in the SEA to land use zoning.
- 13.17. The EIAR identifies the zoning of the site as 'RA' under the Fingal Development Plan 2017-2023, being 'Residential Areas – Provide for new residential communities subject to the provision of the necessary social and physical infrastructure'. This is an error and the zoning of the site is in fact 'RS' 'Residential – Provide for residential development and protect and improve residential amenity'.
- 13.18. The consideration of land use under Chapter 3 – Alternatives, in the submitted EIAR, is based upon the conformity of the a 'RA' land use zoning to the preferred approach taken in the SEA of the Development Plan. However, the zoning of the site is actually 'RS', which while reflecting the same land use, being 'residential', has a different objective and vision under the Development Plan. The vision for RA zoned land is *'to ensure the provision of high quality new residential developments with good layout and design, within close proximity to community facilities, and with an appropriate mix of house sizes, types and tenures'*. While the vision for RS zoned land is *'to ensure that any new development in existing residential areas has a minimal impact on existing amenity'*.

- 13.19. The EIAR goes on to consider the permitted in principle uses under the land use zoning, and alternative uses on the site that might be considered as a result. However, as the EIAR mistakenly identifies the land use zoning as 'RA' the list of permitted in principle uses is incorrect and does not reflect the correct 'RS' list of permitted uses on the site. The correct permitted in principle list under the Development Plan for 'RS' zoned land is more confined than the extracted list for 'RA' zoned land set out in the EIAR.
- 13.20. In relation to alternative development schemes on the site, consideration is taken in Chapter 3 of development with decreased density and height/scale.
- 13.21. A low density alternative is concluded to have neutral and not significant effects on the historic context, landscape and visual amenity of the wider area, and I note that it would still require the creation of new openings into the historic boundary wall. However, the EIAR concludes that as a result of the emerging pattern of development in the area (i.e. the permitted Claremont scheme), a lower density alternative on the site would miss the opportunity to create a defined edge at this location and a gateway to the town centre, with an overall negative effect with slight-moderate significance. The EIAR does not acknowledge that the emerging pattern of development referenced, is situated on land zoned 'TC' – Town and District Centre, and therefore the way development might emerge on the two distinct areas of land use zoning might be expected to differ, although the proximity of the two sites would still support development of the subject site responding to the context of the Claremont scheme.
- 13.22. A high density alternative is also considered and the EIAR concludes that this approach follows the permitted density on the former Techrete site (the Claremont scheme), and would be a very significant positive for the population of Howth and the wider Dublin City and Suburbs. As a result, the high density approach has been selected for the site. Again, this analysis does not consider the different zonings for the two sites.
- 13.23. Alternative approaches to height on the site are also considered under the EIAR. The conclusion focuses on maximising the delivery of new homes, which is achieved more efficiently on the site in a medium rise scheme, ranging in 5-6 storeys in height

as proposed. The EIAR concludes that the effects of a more low rise scheme (2-3 storeys) would not be so beneficial or significant to justify that alternative approach.

13.24. A reduction in height by a storey was also considered during the design process, with a 4-5 storey height to Block A examined. This was considered in light of improvements that might be experienced to neighbouring properties daylight and sunlight as a result of decreased scale to Block A. The resulting improvement was considered to be imperceptible, and therefore it was concluded that it was not necessary to reduce the height and scale of Block A from a daylight or sunlight point of view.

13.25. The visual impact of stepping down of height in Block A, rather than maintaining uniformity in building height, is also considered in Chapter 3. The EIAR concludes that the effect of a stepped down height in Block A from 6 to 5 and 4 storeys, would be neutral, while the uniformity of height to Block A has positive visual and urban design effect through the creating of a balanced urban edge north and south of the road, and gateway to Howth. This analysis does not acknowledge the differences between the Techrete site (the Claremont scheme) to the north, and the application site, in terms of both zoning and context.

13.26. Alternative entrance arrangements for the site are also considered in Chapter 3, with the EIAR concluding that the intensified use of the existing entrance off Howth Road would have significant negative effects on the protected gates set back from the public road in the avenue. The creation of a new entrance is concluded to have a moderate effect on the demesne wall, which is not protected and not within the ACA, and therefore direct impacts on protected heritage are not considered to arise. This assertion in Chapter 3 of the EIAR does not concur, with my view, with the findings of the submitted Architectural Heritage Assessment, which state that the "historic boundary wall is a feature of the historic demesne and is of significance." Therefore, while the wall may not be protected in itself, it is a feature associated with protected heritage at Howth Castle and therefore it is not correct, in my view, to conclude that impact on protect heritage does not arise. In any case, the EIAR concludes that the works proposed to the wall offer opportunity for restoration and safeguarding the structure into the future which is a direct significant and positive effect for cultural heritage.

13.27. Lastly, Chapter 3 considered alternative energy sources as part of operation of the development, with low carbon heat pumps determined to be the most appropriate solution for the site.

13.28. Overall, in my opinion there are shortcomings in the analysis described in Chapter 3 Alternatives, the most significant being the incorrect land use zoning presumed for the site. However, I do not consider these matters to be fundamental to the validity of the assessment provided. While the incorrect zoning is assumed as part of the examination of potential land uses on the site, the primary land use, being residential, is the same for both the RA and RS zonings. The alternatives considered include variations to the scale, height, and density of the scheme and therefore a comprehensive approach has been taken in this regard.

13.29. I do not concur with the conclusions reached in relation to alternative heights examined to blocks, and I described in detail in section 11.4 and 11.5 why I consider amendments to the proposed development necessary in this regard. However, the fact that my assessment has considered wider matters of zoning, context and historic / environmental sensitivities associated with the site, that Chapter 3 does not, is not a fundamental flaw in the EIAR submitted. My assessment comes to a different conclusion regarding the appropriateness of the proposed height, scale and mass for the site, but that does not mean that the submitted EIAR is unacceptable, as this is based upon a subjective assessment. As such, I am satisfied that the Directive requirements in relation to the consideration of alternatives have been met.

13.30. Consultations

13.31. 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.

13.32. Likely Significant Direct and Indirect Effects

13.33. 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.

13.34. Population and Human Health

13.35. Population and Human Health is considered in Chapter 4 of the submitted EIAR. During the construction phase, mitigation is presented in the EIAR, specifically

through the adoption of measures outlined in a Construction and Environmental Management Plan, which will ensure that effects will be imperceptible and neutral over a short-term period. Cumulative effect of the proposed development alongside the Techrete (Claremont scheme) is also considered, and concluded to be very significant and positive. This is as a result of the provision of new housing and amenities. The combined strain of these developments upon local infrastructure and services is also considered, and concluded to be a neutral effect, ranging from slight to moderate significance. The submitted EIAR does not consider any mitigation during the operational phase to be required, with the incorporation of measures through the design to promote healthier living standards. This includes to promotion of public transport and the quality of accommodation proposed. During construction phase, the implementation of mitigation measures through a Construction and Environmental Management Plan and Construction Waste Management Plan will reduce impact upon human health. Increased demand on local services is considered to be a locally moderate permanent effect, with positive effect as a result of increased economic activity. Overall, the residual effect of the proposed development is determined to be significantly positive, having regard to the need for new homes in this location, that has the carrying capacity in terms of services and amenities to support the population generated by the scheme, and in allowing people to live proximate to high capacity public transport.

13.36. 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 childcare, schools and traffic congestion. Section 4.4.9 of the EIAR considers social infrastructure, and the application is also accompanied by a Childcare Demand Report, Social Infrastructure Audit and School Demand Assessment. More specific examination of traffic and transportation impact is undertaken in a Chapter 6 of the EIAR.

13.37. In relation to childcare capacity, I address this under a separate heading in section 11.12 of this report above. In terms of infrastructure in general, the EIAR identifies the location of a range of healthcare and wellbeing service providers in the Howth area. The assessment is also informed by a submitted Social Infrastructure Audit and School Demand Assessment. Identified social infrastructure in the vicinity of the site includes GPs, Pharmacies, Dentists and Physiotherapy services. A large

number of sport, social and community facilities are also identified within the Howth area that could be accessed by future populations of the development. I address traffic and transport impact separately in this EIA below and above in section 11.8 of this report. I also consider water infrastructure in detail in section 11.13 above, as part of my AA in section 12 in relation to the Ringsend Wastewater Treatment Plant and in this EIA below. In brief, sufficient capacity is identified to serve the proposed development and this is confirmed by Irish Water.

13.38. In relation to school capacity, I note detailed comments received from third parties, that outline the specific characteristics of surrounding schools and that there is no capacity within these establishments to serve the current population of the area, regardless of the increased population proposed under this application. However, the applicant has presented data within their submitted Schools Demand Assessment to demonstrate sufficient capacity to cater for the development and the cumulative impact of development in the area. I recognise that the conclusions presented by the applicant are not compatible with third party knowledge 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, I do not foresee a permanent negative effect in this regard. Overall, I am satisfied that the applicant has presented analysis to support their conclusions that capacity exists to cater for the education demands of the development. Therefore, I concur with the submitted EIAR conclusions regarding the existence of infrastructure in the local area to accommodate the development.

13.39. Biodiversity

13.40. Chapter 11 of the submitted EIAR addresses biodiversity. It describes desktop study and on-site surveys of habitat, flora, terrestrial mammals, breeding birds, wintering birds and bats. 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.

13.41. The following habitats were identified on the site following the Heritage Council classification system – stone walls (BL2); scrub (WS1); amenity grassland (improved) (GA2); dry meadows and grassy verges (GS2); hedgerow (WL1); and mixed broadleaved woodland (WD1). Predominately habitats on the site are categorised of local importance, and lower value in the main, apart from hedgerows which are of higher value. The exception to this is the woodland area, which is categorised to be of at least county level importance. This is comprised of the treelined avenue along the entranceway to the Deer Park demesne which has developed into a woodland community. While largely outside of the proposed development site, individual trees overhang the site at its eastern edge. The woodland appears on Ordnance Survey maps from 1837-1842. The EIA identifies that woodland habitats are rare at county and national level and are afforded protection under a number of Objectives in the Fingal Development Plan.

13.42. In relation to bats, there are no existing buildings within the subject site, however the site is bounded by a stone wall. Examination of the wall did not find any cracks suitable for bat roosting and no evidence of roosting was detected. However, the EIA identifies that the wall may contain a few suitable cracks which in theory could be exploited by bats as a day roost on occasion. In terms of trees on the site, these are concluded to be of negligible suitability for roosting bats and no roosting bats were found. Two soprano pipistrelles were recorded foraging along the hedgerow that runs through the southern end of the subject site in 2019. In 2020, four species of bat: Common pipistrelle bat *Pipistrellus pipistrellus*, soprano pipistrelle bat *Pipistrellus pygmaeus*, Leisler's bat *Nyctalus leisleri*, and brown long-eared bat *Plecotus auratus*, were identified during surveys of the proposed development site and its vicinity, although only two of these species (Leisler's bat and common pipistrelle bat) were observed foraging within or passing over the proposed development site. The two species observed in the proposed development site are the most light-tolerant of the Irish bat species. The EIA notes that bat activity was more heavily concentrated in Deer Park, along the avenue and in the vicinity of the old Abbey (outside of the subject site). Based upon the survey findings, the EIA categorises bat populations associated with the site to be of local importance (higher value). I note that bat species are protected under Habitats Directive and Wildlife Amendment Act 2000. I am satisfied that the habitats in the adjacent Deer Park area

are of suitable foraging and commuting for bats, and there was little activity recorded on the subject site. The EIAR notes that the proposed lighting design was developed in consultation with an ecologist and designed to be sensitive to the presence of commuting and foraging bats. As the final lighting strategy will be subject to further agreement with the Planning Authority by condition, I recommend that a condition to secure a sensitive lighting strategy that reflects guidance in the document Bats and Lighting in the UK. With this mitigation in place, I am satisfied that no significant adverse impacts are anticipated upon bats species resulting from the proposed development

13.43. In relation to terrestrial mammal activity, no badger setts were identified, however signs of foraging by mammals were discovered. These could relate to either badger or fox species. I note that badgers are protected under the Wildlife Amendment Act 2000. The EIAR states that it is possible that badgers are present in the surrounding Howth demesne, however given the small number of feeding signs encountered and absence of setts, the local badger populations are valued to be of local importance (higher value), and the proposed development site is likely to only form a small part of a badger foraging territory. As much larger areas surrounding the development site are identified as suitable for badger populations, no mitigation is recommended in this regard. Remaining local small mammal populations are assessed as being of a local importance (higher value).

13.44. A range of common bird species were observed on the subject site and in surrounding areas. Robin and Barn Swallow (on the amber list of BoCCI) were observed foraging and displaying in the site. A broader range of bird species associated with the marine habitats of Dublin Bay were also observed flying over the site. The site contains high quality foraging and nesting habitat, therefore the EIAR categorises bird fauna at the proposed development site as of local importance (higher value).

13.45. In terms of surveying wintering birds, I note third party comments regarding the absence or inadequacy of these. The EIAR states in relation to these surveys that:
“Due to timing of engagement of Scott Cawley Ltd. by the client, the full winter bird season (generally taken as October- March inclusive) could not be covered for either the 2019/2020 surveys or 2020/2021 surveys. Surveys in 2019/2020

commenced on 22nd October, thereby missing the first 3 weeks of the winter bird season, and surveys in 2020/2021 commenced on 24th November thereby missing the first 7 weeks of the winter bird season. This is not considered a limitation given that there were two winter seasons covered and the period not covered on both years consisted of early in the winter bird season when birds are less likely to forage inland. This means that there are no limitations arising from the timing of winter bird survey visits with respect to identifying the range of bird species present and identifying and mitigating potential impacts on winter bird populations.”

13.46. The EIAR identifies that the proposed development site contains high quality foraging habitat for species such as light-bellied brent goose, curlew and oystercatcher, as a result winter bird fauna is categorised as local importance (higher value). I am satisfied that the winter bird surveys submitted are sufficient to allow an assessment of potential impacts arising from the development.

13.47. In terms of reptiles and amphibians, these are categorised as being of local importance (higher value), however the EIAR identifies while potential habitat for common lizard could be supported on the site, there is no suitable habitat for amphibians. There were no reptile or amphibian species observed on the site during surveys.

13.48. In terms of potential impacts, while the site does not overlap with the boundary of any Natura 2000 site, there is a possible significant negative hydrological impact on the Baldoyle Bay SAC and SPA from surface water run-off during construction. As a result, a NIS has been submitted with the application, and outlines mitigation measures to exclude any adverse impact on downstream Natura 2000 sites. During operation, water quality at Dublin Bay is not expected to be impacted by the development, as a potential foul water discharge would equate for a very small percentage of overall discharge. In terms of potential impact upon the qualifying interests of Natura 2000 sites, the potential for disturbance / displacement of species is considered in the EIAR, but the need for mitigation is ruled out given the short-term nature of the impact and availability of large areas of alternative suitable foraging and/or roosting habitat for SCI bird species in the wider locality. It is also noted that the SCI species peak counts were below the 1% national population.

13.49. The EIAR and NIS conclude that the operational phase of the proposal will therefore not adversely impact the population trends or distribution of SCI species. The EIAR recognises that the submitted NIS outlines the potential to affect the conservation objectives of SCI populations of SPAs within 20km through collision risk. In the absence of any mitigation measures, likely significant effects on Nationally Designated Sites i.e. Baldoyle Bay pNHA, Ireland's Eye pNHA, Malahide Estuary pNHA, South Dublin Bay pNHA, Lambay Island pNHA and Rogerstown Estuary pNHA, cannot be excluded.

13.50. The proposed development will require the removal of circa 1,265sqm of the southern hedgerow (with 726sqm of the southern hedgerow and all of the western hedgerow retained). Alongside 9 individual trees of moderate quality and part removal of two groups of trees of moderate quality, 11 individual trees of low quality, one individual tree of poor quality and part removal of one hedge/area of vegetation of poor quality. Four trees are recommended for removal in respect of the proposed development due to their condition. This will have impact upon the habitats supported by the site. In the absence of mitigation, these impacts would be neutral, significant and on a county level for habitats and local level for bats, terrestrial mammals, breeding birds and wintering birds. Impacts are on a short-term basis during construction and permanent basis during operation.

13.51. In terms of mitigation, measures are described in section 11.8 of the EIAR and include the following: implementation of measures through a construction and environmental management plan, including measures to protect trees and reduce risk of discharge from the site, use of silt fences etc; construction phase lighting to be sensitive to bats; avoiding removal of vegetation during bird breeding season 1st March and 31st August or inspection by ecologist prior to removal; incorporation into the development of green roofs; permeable paving; rain gardens; bioretention systems & tree pits; attenuation tanks; new tree planting; wild bird cover seeding; and the hedgehog holes. A summary of mitigation and monitoring measures is included in table 11.9 of the EIAR.

13.52. The EIAR conclusion on biodiversity is that with mitigation in place, there are no long-term significant impacts expected. I have given consideration to third party objections, however overall, I concur with the conclusions described in the EIAR and consider there to be no residual impact upon internationally or nationally significant

receptors with mitigation in place. Any residual impacts upon biodiversity will therefore be locally significant only, with suitable mitigation to reduce impact on high value receptors. I also note that the site is zoned for 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.

13.53. Land, soil, water, air and climate

13.54. Land, soils, geology and hydrogeology is described in Chapter 9 of the submitted EIAR. This describes the soil and geological character of the site as well as the results of site investigations carried out. This confirms that there is no evidence of contamination in the soil on the site and that the site is not located near any public groundwater supplies, group schemes or groundwater protection areas. No other hazards are identified in relation to the site. The site is rated of moderate importance in terms of geological features, as it is located in the vicinity of Claremont Strand, a county geological site, however there is poor hydraulic connectivity to that site. Based on the close distance between the local aquifer and the Baldoyle Bay SAC/pNHA EU Natura site, the EIR rates hydrogeological features as moderate importance on the site, however there is poor hydraulic connectivity. In the absence of mitigation, negative impacts would be possible as a result of excavation works and potential spills from the site, or during operation as a result of leakage of car fuel.

13.55. Mitigation measures are described in section 11.9 of the EIAR and include the following: SuDS; incorporation of measures outlined in a construction environmental management plan (CEMP); dewatering system; groundwater management system; silt traps; and filtration and sedimentation system. The EIAR concludes, that with mitigation in place, there are no likely significant negative impacts expected. Table 9.6 of the EIAR contains a summary of mitigation and monitoring measures.

13.56. Water and hydrology is described in Chapter 10 of the EIAR. The subject site is within the Liffey and Dublin Bay Catchment, River Mayne sub-catchment and Howth river sub-basin. The Bloody Stream flows from Howth Head towards the Baldoyle Bay coastal waterbody. The subject site is drained by the Bloody Stream and there is also a local stream which drains the lands of Howth Castle and flows into the Baldoyle Bay. Based upon the connectivity through surface water drainage with Baldoyle Bay SAC/pNHA EU Natura site, the importance of hydrological features at

the site is rated as extremely high importance. In terms of flooding, risk on the site is low from either Tidal, Fluvial, Pluvial Surface Water or Groundwater. I address flood risk in more detail in section 11.12 of this report.

- 13.57. In the absence of mitigation, there is potential for negative impact, as a result of increased sediments loading in run-off and accidental spills / leaks from the site during construction. During operational phase, potential for likely significant impact is low. There will be an increase in demand on water supply and wastewater services, and Irish Water have confirmed sufficient capacity to accommodate demand from the proposed development. Mitigation is described in section 10.9 of the EIAR and include the following: SuDS; incorporation of measures described in a CEMP; use of silt fences, silt curtains, settlement lagoons, filter materials; provision of exclusion zones and barriers; and measures to prevent and manage fuel / chemical spills. With the implementation of mitigation measures, negative effects are expected to be imperceptible. Mitigation and monitoring is set out in table 10.5 of the EIAR.
- 13.58. In relation to wastewater, I consider water infrastructure in section 11.12 of this report. In summary, capacity exists to serve the development. Upgrades are also underway to improve the treatment of effluent discharge and associated water quality at Dublin Bay. In any case, even without treatment, the effluent discharge from this proposed development would be negligible and would not have a measurable impact on the overall quality of water at Dublin Bay.
- 13.59. Air quality and climate are described in Chapter 13 of the 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. The EIAR also identifies Transport Infrastructure Irelands requirement for consultation with an Ecologist, for routes that pass within 2km of a designated area of conservation. The site is located within 200m of the Baldoyle Bay Special Area of Conservation. The impact of the proposed scheme upon climate is assessed through the consideration of removal of vegetation and replacement with hard-standing / residential buildings, alongside consideration of the change in CO₂ emissions that occur due to changes to traffic flows. During construction, negative impacts are anticipated in the absence of mitigation, that would range from not significant to

moderate effect, on a short-term basis. During operation, long-term, localised, neutral and imperceptible impact is expected in relation to air quality, climate and human health.

13.60. Mitigation measures are described in the EIAR to reduce 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. In terms of climatic impact, buildings are to be designed to be energy efficient, complying with 'nearly zero energy buildings' Building Regulations. Features will also be incorporated to reduce energy consumption. The site is readily accessible to public transport modes and will also incorporate open landscape areas. 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. With the incorporation of mitigation measures, predicted air quality impacts during construction phase will be negative, not significant and short-term. Construction phase impacts are not predicted to generate air emissions that would have an adverse impact on local human health or the climate. The residual operational phase of impacts will be imperceptible and long-term.

13.61. 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.

13.62. Noise and vibrations

13.63. Chapter 12 describes noise and vibration considerations within the EIAR. The most significant noise and vibration generating activities relate to the operation of plant during construction phase, basement construction works with the insertion of piles, pneumatic breaking, cutting, vibro-rolling and construction vehicle movements.

Excavations will not require the use of rock breakers. In terms of the prediction of impacts, these are assessed to the closest noise sensitive receptors, namely residential properties Tig Bhríde and Windwood located opposite the western boundary. During operation, potential impacts arise from traffic movements, neighbourhood noise, roof gardens and operational vibration. Consideration of conditions for future populations of the development is also included, in terms of traffic, DART and aircraft noise. The EIAR considers the progression of a northern parallel runway at Dublin Airport in section 12.6.5 of the EIAR. The location of the stie is outside the daytime 54dB LAeq, 16hr noise contour and the night 48dB LAeq, 8h noise contour. Therefore, operation of the northern parallel runway will not increase noise levels over existing conditions, to any noticeable extent.

- 13.64. In the absence of mitigation, negative impacts ranging from imperceptible to moderate – significant, are predicted during construction phase on a short-term local level. During operation, impacts are predicted to be neutral and ranging from imperceptible to not significant on a long-term local level. Mitigation is described in section 12.9 of the EIAR and includes the following: minimum sound insulation performance to be applied to windows, walls and roofs; ventilation systems; noise management measures during construction; vibration mitigation and control measures during construction and management of roof garden amenity areas. With mitigation in place, impact during construction is anticipated to be negative, short-term and ranging from not significant to moderate – significant. During operational phase, impact will be neutral, long-term and ranging from imperceptible to not significant.
- 13.65. 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.
- 13.66. 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.

13.67. Transportation

13.68. Traffic and Transport is described as part of material assets in Chapter 6 of the submitted EIAR. A Traffic and Transport Assessment is also submitted with the application, and I provide an associated assessment of potential impacts in section 11.8 of my report above. Chapter 6 of the submitted EIAR describes the baseline environment for the road network, pedestrians, cyclists and public transport. Impacts during both the construction and operation phase upon the baseline environment are then described. Cumulative impacts of the Claremont SHD and Balscadden developments are also included in the analysis.

13.69. The EIAR confirms that the intended construction programme has been discussed with the adjacent Claremont SHD construction team to take into account the cumulative impact of both schemes. During the construction phase, slight impact on the road network is anticipated over a short term period with temporary effect. The existing footpath outside the Proposed Development will be maintained during the works except for periods where service connections and drains are constructed (estimated 2 month period). Therefore, slight temporary neutral effects are expected to arise to pedestrians during construction. The use of cycle lanes is not expected to be significantly impacted during construction. Increase in public transport use is expected during construction phase, with trips in the opposite direction to peak demand, and therefore resulting in imperceptible impacts, with local, neutral, temporary effect.

13.70. During the operational phase, impact on junctions at Offington Park / Howth Road, Church Road / Howth Road, Harbour Road / Church Street and Development Entrance (Howth Road), is not significant with neutral long term effects. However, analysis of the Sutton Cross junction demonstrates that this is over capacity in the 'without development' scenario. Therefore, with the development, there is a moderated negative and long-term effect in terms of congestion and I have

described in detail in section 11.8 above my reasoned judgement in relation to this matter. The EIAR also states that the assumptions are based on a robust worst case scenario methodology, and therefore potential impact in the year 2038 could be more moderate than significant. Due to the increase in population in the area and associated use of public footpaths, potential impact is expected to be relatively significant on public footpaths with neutral long-term effects. For the same reason, impact on the cycling network is expected to be long-term, neutral effect of minor to moderate significance. In the 'no development scenario' queuing would still be significant at the Sutton Cross junction and impact on cycle / footpath network would be imperceptible with neutral long term effects.

- 13.71. In relation to public transport impacts during operation of the development, the EIAR describes the planned expansion programme to create a full metropolitan area DART network for Dublin. Customer capacity and train service frequency is expected to be significantly increased as a result. It is anticipated that the proposed development will result in a 5-6% increase on network demand, equating to an additional 17 people per train and 4 people per bus during peak commuting hours. A cumulative network increase of 28% is also anticipated. However, the EIAR points out that changing working patterns, including increased flexible working hours and home working is changing peak commuting patterns, therefore, it is expected that in reality, these additional persons would be spread over a greater timeframe. Given that transport improvements will happen regardless of the development taking place, positive long-term effects would be anticipated on public transport in the 'no development scenario'.
- 13.72. Mitigation measures are described as part of the construction phase and comprise the control and management of movements associated with the site. During the operational phase, it is expected that the limited car parking included as part of the proposed development will encourage use of sustainable transportation modes.
- 13.73. Residual impact on Sutton Cross junction is predicted to be a moderate negative and long term effect. While residual impact on pedestrians and cyclists is predicted to be neutral imperceptible and long term. Given the increased capacity of the DART proposed, which will be in place at the time the proposed development is operational, the residual impact on the public transport system is predicted to be moderate with negative long term impact.

13.74. Overall, I concur with the conclusions of the EIAR. While long term negative impacts are anticipated to both Sutton Cross and public transport networks, these are not considered to be significant and are reflective of wider demands upon both the road and public transport network in the area. Even in the 'no development scenario' the Sutton Cross junction would be over capacity. In relation to public transport, the Government is encouraging a general population modal shift towards public transport, and therefore increased reliance on services is to be expected. Improvements to the Dublin DART network will increase the frequency of transport and dissipate this demand across services. Changing working patterns is also anticipated and would reduce the overall impact of the development upon public transport with a change to peak commuting times. Overall, I am satisfied that the impact of the development upon traffic and transport will be within acceptable parameters.

13.75. Material assets – Archaeology and cultural heritage

13.76. The EIAR describes Cultural Heritage in Chapter 14 – Archaeology and Chapter 15 – Built Heritage. A Geophysical Survey of the site was undertaken alongside desk-based archaeological assessment and archaeological test excavation, which 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. While the subject site does not include any registered monuments, there are a number of monuments associated with Howth Castle adjacent to the site. The EIAR acknowledges that while no archaeological material has been recorded, features may still remain undetected on the site, including burial sites, which may not have any surface markers. As a result of the greenfield character of the site and lack of archaeological findings, during both the construction and operational phases, potential effects on the archaeological landscape and cultural heritage is predicted to be unlikely and negligible. However, in accordance with best practice approaches and in light of the potential for unexpected archaeological findings, mitigation is accounted for and described in section 14.9 of the EIAR. This includes the monitoring of works during construction by a suitably qualified archaeological consultant under license from the National Monuments Service of the Department of Culture, Heritage and the Gaeltacht. In the event that archaeological or architectural heritage features, deposits or structures be uncovered these will be hand cleaned, investigated and recorded. The Department and National Monuments Service will be

contacted and a strategy to resolve any finds would be formulated. No mitigation is proposed during operational phase. Consequently, no residual impacts on archaeology or cultural heritage are predicted.

- 13.77. I note the response from An Taisce which suggests that the Archaeological examination carried out by the applicant is insufficient, as it does not acknowledge substantial human remains discovered on the nearby St Mary's Church site. I also note the Department of Housing, Local Government and Heritage response, which does not raise any concerns with the submitted documents relating to archaeology and requests that conditions are attached to any grant of consent to secure appropriate monitoring, recording and preservation as necessary.
- 13.78. Overall, I concur with the conclusions in the EIAR. While the archaeological investigation described does not specifically reference the discovery of human remains associated with the nearby Church, there is acknowledgement within the EIAR that undisturbed, undetected burial sites could potentially exist, albeit such a finding would not be expected and is not considered likely. I am satisfied that the mitigation set out in the EIAR is acceptable and would appropriately account for this unlikely scenario. The approach is also accepted by the Department of Housing, Local Government and Heritage. Overall, I am satisfied that there are no significant permanent adverse impacts upon archaeological cultural heritage, with the application of mitigation measures.
- 13.79. Built cultural heritage is considered in Chapter 15 of the EIAR. This provides a description of the historical background and context to the site. I have also assessed heritage impacts in detail in section 11.4 of this report above. The EIAR outlines the anticipated effects of the proposed development upon the historical environment and features of the site. Mitigation measures are then identified and include how the design and architectural treatment of the proposed development has been devised to be sensitive to the historical sensitivities of the site. Best practice conservation measures will also be undertaken during the construction phase to minimise intervention and promote honesty of repairs in appropriate materials. Neutral, slight, local, permanent effects are anticipated to the demesne wall as a result of proposed interventions. Positive, slight, local, permanent effect is also predicted as a result of repairs to the historic fabric of the demesne wall. Positive effects are also predicted as a result of landscape works including tree planting. Views of the proposed

development are assessed in the EIAR in terms of heritage impact, and are considered to generally demonstrate a neutral, slight, local, permanent effect, with one view stated to have positive effect. Consideration of cumulative impacts is also undertaken with either neutral or positive effect considered to result.

13.80. I have already described in section 11.4 and 11.5 why I consider amendments necessary to improve the visual impact of the proposed development upon the sensitive, historic context of the site. Therefore, I do not entirely concur with the conclusions described in Chapter 15 of the EIAR. However, I recognise that there is a subjective quality to the assessment of visual impact and effect upon historic environments, and therefore, my disagreement with some of the conclusions reached in this section of the EIAR does not call in to question the reliability of the submission. I merely came to a different conclusion on basis of my own analysis. I have already described the amendments that I consider necessary to improve the relationship of the proposed development to the historic context of the site, including the reduction by a storey over all blocks, and reduce footprint to block C, alongside associated increased tree planting to the northeast and southern boundary of the site. With the incorporation of these amendments, I am satisfied that the proposed development would have a neutral effect upon built cultural heritage.

13.81. Material assets – Utilities

13.82. Chapter 7 'Built Services' of the EIAR considers built service utilities, and specifically the following: potable water supply infrastructure, surface water drainage infrastructure, wastewater drainage infrastructure, electricity, gas and telecommunications. Chapter 8 of the EIAR considers waste management and is informed by the separately submitted construction environmental waste management plan. Impacts on traffic and transport are assessed in Chapter 6 of the EIAR and in this EIA as well as in section 11.8 of this report above.

13.83. In terms of water supply, a new 150mm diameter looped watermain is proposed to service the development with a connection to the existing 160mm MOPVC watermain on Howth Road. For wastewater drainage a foul drainage system will be served by a gravity foul network and is proposed to provide a connection from the site drainage system to the existing 400mm diameter public wastewater network located to the north of the site adjacent to Howth Road. These proposals are in

accordance with Irish Water Code of Practice for Water Infrastructure and a Confirmation of Feasibility & Statement of Design Acceptance has been issued by Irish Water. For surface water drainage, there is an existing 450mm diameter surface water sewer on Howth Road to the north west of the site, that discharges towards the coast. It is proposed to incorporate SuDS in accordance with the Greater Dublin Strategic Drainage Study recommendations, which will significantly reduce run-off rates and improve storm water quality discharging into the public storm water system.

13.84. For electricity, a new underground power cable will connect the development into the existing network. Existing overhead power lines traversing the site will also be diverted around the site, underground, in accordance with ESB standards. The EIAR confirms that discussions have taken place with ESB regarding the undergrounding of the existing overhead ESB line. Gas is not required for the development as a heat pump system is proposed. An existing gas main that traverses the site will be disconnected by Gas Networks Ireland and diverted around the site.

Telecommunications supply will be provided via the existing Eir telecommunication networks and new proposed Virgin Media Network on Howth Road.

13.85. In terms of predicted impact during construction, demand on water supply will be neutral, imperceptible and short term. During installation works, there will be temporary loss of water pressure/supply to the local area as these works are ongoing. This impact would be local, not significant and temporary in duration. The EIAR identifies the risk to foul drainage during construction, including accidental spills and sediments reaching the drainage system. Overall, the anticipated impact is categorised as imperceptible, short-term and neutral in effect. Risks to interruption of electricity and gas supplies are also identified during construction, alongside health and safety risks of damage. Significant risks to telecommunications during construction are not anticipated as services are located under the public road.

13.86. During operation, no significant effects are anticipated to water supply, with impact being categorised as imperceptible and long-term, on the basis of Irish Waters confirmation of feasibility and statement of design acceptance. Similarly, impact on wastewater infrastructure is predicted to be imperceptible and long-term. With the incorporation of SuDS to attenuate discharge flow, the effect on the public surface water drainage network will be neutral, imperceptible and long-term. It is predicted

that positive effect will result from the expansion of electricity connection into the site, and neutral effect from the diversion of gas services. In relation to telecommunications, the EIAR states that the additional demand on the Eir telecoms network is not considered to have any material impact on the surrounding area as there is sufficient capacity in the telecoms network system to manage the additional demand created. In addition, positive long-term effects are anticipated from the expansion of Virgin Media infrastructure down Howth Road which would make a fibre network solution available to neighbouring properties.

13.87. Chapter 8 describes Waste Management in the EIAR. During construction, the proposed development will generate waste materials from site excavation, demolition and construction, alongside general housekeeping, packaging and municipal wastes generated by construction employees. During the operational phase the development will result in the generation of mixed domestic waste streams. Section 8.9 of the EIAR describes the mitigation proposed in relation to waste management, which is outlined in the associated Site Specific Construction and Demolition Plan and Operational Waste Management Plan. Mitigation comprises the proper sorting, storage and collection of waste, and capacity is identified in the region to accommodate waste generated. Adherence to regulations and requirements pertaining to waste generated during both construction and operation stage will also be managed. With the incorporation of mitigation, predicted construction phase residual impacts on regional waste management infrastructure will be neutral, not significant and short-term. It is also predicted that there will be no adverse impact on the receiving environment, existing material assets and local / regional waste services. During the operational phase residual impacts on regional waste management infrastructure will be neutral, not-significant and long-term.

13.88. I concur with the conclusions reached in the EIAR concerning utilities and waste and I am satisfied that there are no significant permanent adverse impacts upon utilities and services, with impact predicted to be within acceptable parameters.

13.89. Landscape and visual

13.90. A landscape and visual impact assessment is described in Chapter 5 of the submitted EIAR. This describes the baseline environment surrounding the site, including the historic context formed by the Howth Demesne ACA, Protected

Structures, including the nationally significant Howth Castle. This identifies that while there is no direct visual relationship between the site and the castle or St Mary's Church, visitors to these heritage buildings will pass by the site on their arrival and departure, and therefore development has the potential to indirectly affect the setting of these historic buildings.

13.91. During the construction phase, negative effects are predicted on a temporary basis to the landscape and visual environment. During the operational phase, there are no negative effects anticipated as a result of the proposed development. Positive effects are predicted as a result of the architectural quality of the proposed development and in the context of emerging town centre to the north and east of the site. Neutral effects are also expected as a result of the minimal visibility of the proposed development from some points in the surrounding Howth Demesne ACA. Cumulative impact is also considered in this chapter of the EIAR, taking into account the visual impact of the Claremont SHD alongside the proposed development. The general shift as a result of the two developments would be towards a more contemporary, urban condition, with a high magnitude of change. I have outlined in detail in section 11.5 above, my analysis of the submitted viewpoints and my assessment of impacts upon the character of the area from a design perspective. This also takes into account my assessment of heritage considerations in section 11.4 of my report. As a result, I cannot concur with the conclusions described in the submitted EIAR with regards to landscape and visual impact.

13.92. 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 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. I have already described the amendments that I consider necessary to improve the visual and landscape impact of the development, including the reduction by a storey over all blocks, and reduced footprint to block C, alongside associated increased tree planting to the northeast and southern boundary of the site. With the incorporation of these amendments, I am satisfied that the proposed development would have neutral and positive effects upon landscape character and visual environment.

13.93. The interaction between the above factors

13.94. A specific section on interactions between the topic areas under the EIAR is included within each individual topic chapter. Chapter 16 of the submitted EIAR is entitled 'Interactions of the Foregoing' 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.

13.95. 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 contained in the EIAR, and the additional mitigation I suggest in my recommendation, I am satisfied that residual impact resulting from interaction between all factors is minimised.

13.96. Cumulative impacts

13.97. 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, including the Claremont SHD and Seafield SHD.

13.98. Each topic chapter in the submitted EIAR has considered cumulative impacts and I have highlighted those 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 of potential unit numbers for Howth. 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.

13.99. Reasoned Conclusion on the Significant Effects

13.100. 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:

- 13.101. **Population and human health** - positive impacts in relation to the provision of new homes in close proximity to public transport, increased economic activity and with the provision of new public open space. Cumulative impact upon local infrastructure is concluded to be a neutral effect, ranging from slight to moderate. Mitigation has been incorporated into the design to promote healthier living standards, the application of measures in a Construction and Environmental Management Plan and Construction Waste Management Plan during construction will also reduce impact upon human health. No other mitigation is required during the operational phase.
- 13.102. **Biodiversity** – with mitigation in place, no long-term significant impacts are expected. No residual impact upon internationally or nationally significant receptors will arise with mitigation in place. Residual impact upon biodiversity will be locally significant, with suitable mitigation in place to reduce impact on high value receptors. Mitigation includes the implementation of measures in a Construction and Environmental Management Plan during the construction phase, to protect trees and reduce risk of discharge from the site, and ensure sensitivity to bats. Removal of vegetation will be avoided during bird breeding season or require inspection by an ecologist prior to removal. During the operational phase, the incorporation of a range of measures, including green roofs, permeable paving, rain gardens, attenuation tanks, new tree planting and wild bird cover seeding will reduce impact.
- 13.103. **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 negative impacts are envisaged.
- 13.104. **Noise and vibration** – during the construction phase, negative impacts are anticipated, ranging from imperceptible to moderate – significant. These impacts will be on a short-term, temporary basis and will be mitigated through measures in the Construction and Environmental Management Plan. During the operational phase, sound insulation will be incorporated into the buildings and control of use of roof terrace areas. With mitigation in place, impact during operational phase will be neutral, long-term and ranging from imperceptible to not significant.

- 13.105. **Transportation** – the main impact from the development will be during the operational phase, with the use of mitigation measures described in the Construction and Environmental Management Plan limiting residual impact during construction to slight neutral temporary effects. During the operational phase, negative long-term effects are anticipated on the Sutton Cross junction and upon public transport in terms of increased congestion and reliance on services. However, this impact is not significant, and in the 'no development scenario' the Sutton Cross junction would still be over capacity. Reduced car parking is intended to promote use of more sustainable transport modes. Public transport improvements are also planned and will increase the frequency of trains. Overall, impact will be within acceptable parameters.
- 13.106. **Material Assets - Archaeology and cultural heritage** - no significant permanent adverse impacts upon archaeological cultural heritage are anticipated with the application of mitigation measures. Amendments are necessary to improve the relationship of the proposed development to the historic context of the site, including the reduction by a storey over all blocks, and reduced footprint to block C, alongside associated increased tree planting to the north east and southern boundary of the site. With the incorporation of these amendments, a neutral effect will result upon built cultural heritage. Mitigation also includes the incorporation of conservation practice standards to the repair and refurbishment of the historic demesne wall, and creation of sensitivity located new openings.
- 13.107. **Material Assets – Utilities and waste** - positive long-term effects are anticipated from the expansion of Virgin Media infrastructure and electricity connection into the site, with neutral effect from the diversion of gas services. No significant effects are anticipated to water supply and wastewater infrastructure. During construction phase, there will be temporary loss of water pressure/supply to the local areas, and this impact would be local, not significant and temporary in duration. Mitigation is formed of adherence to relevant codes of practice, design guidance and consultation with local and statutory authorities. A Site Specific Construction and Demolition Plan and Operational Waste Management Plan will mitigate impacts in terms of waste, with mitigation in place, impact will be neutral and not-significant.
- 13.108. **Landscape and visual impacts** – amendments are necessary to improve the visual and landscape impact of the development, including the reduction by a storey over all blocks, and reduced footprint to block C, alongside associated increased tree planting

to the northeast and southern boundary of the site. With the incorporation of these amendments, the proposed development would have neutral and positive effects upon landscape character and visual environment.

13.109. 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.

14.0 Conclusion

- 14.1. The proposed residential land use is appropriate given RS zoning of the subject site. The density of the proposed development is also appropriate, in light of the location of the site a short walking distance to high capacity DART rail services at Howth, its proximity to the town centre and associated services there, as well as the harbour employment area. This is supported by the 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2020) and 'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities' (2009) which support increases in density, at appropriate locations, to ensure the efficient use of zoned and serviced land.
- 14.2. The proposed interventions into the historic boundary wall which forms part of the historic demesne wall are an inevitable consequence of developing this site zoned for residential development. The openings have been kept to a minimum and are sensitive in my view, with the proposed vehicle entrance located to the western end of the site and away from Howth Castle entrance.
- 14.2.1. However, the proposed development is situated on a site that has a proximate relationship to the entrance to Howth Castle and forms part of the setting to the nationally significant Howth Castle Protected Structure, as well as Howth Demesne ACA. In my opinion, amendments are required to minimise the visibility of the development in views from the ACA and in the setting of the entrance to Howth Castle. While I acknowledge the emerging scale established by the Claremont SHD to the northeast of the site, that neighbouring site is situated within a town centre land use zoning. In addition, the Claremont SHD site does not have the same sensitive relationship to Howth Castle entrance. Development on the subject site forms part of

the setting to Howth Castle, and in my opinion, alterations are required to improve its appearance as it forms part of the attendant grounds at the entrance to Howth Castle. I also consider that an amended development on the subject site would form a more appropriate transitional role in the urban environment, between the lower rise established residential dwellings to the west and emerging scale in the town centre to the northeast.

- 14.2.2. I am therefore recommending a reduction in the height of all blocks by a storey, to a maximum 4 and 5 storey development and reduced footprint to Block C, facilitating increased set back from Howth Road (by a minimum additional 7m) with additional tree planting to the northeast and southern boundary of the site. In this amended form, I am satisfied that the development would be compatible 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; policy 1.3.1 of the Howth SAA Order, and Objectives NH38 and NH39 of the Fingal Development Plan 2017-2023. As well as The Building Height Guidelines (including development management criteria under section 3.2) and The Architectural Heritage Protection Guidelines for Planning Authorities, specifically Chapter 13 of these guidelines as they relate to development within the attendant grounds of a Protected Structure.
- 14.2.3. I am also satisfied that the development would not have any unacceptable adverse impacts on the amenities of the surrounding area. The future occupiers of the scheme will also benefit from an acceptable standard of internal amenity. The overall provision of car parking and cycle parking is considered acceptable. I am satisfied the future occupiers of the scheme will not be at an unacceptable risk from flooding, and the proposal will not increase the risk of flooding elsewhere.
- 14.3. Having regard to the above assessment, I recommend that section 9(4)(a) of the Act of 2016 be applied and that permission be GRANTED for the proposed development, subject to conditions, for the reasons and considerations set out below.

15.0 Recommended Order

Planning and development Acts 2000 to 2019

Planning Authority: Fingal County Council

15.1. 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 4th Day of June by GLL PRS Holdco Limited care of McCutcheon Halley, Kreston House, Arran Court, Arran Quay, Dublin 7.

Proposed Development

15.2. The proposed development consists of:

- 162 no. residential units distributed across 3 no. blocks (A, B & C) ranging in height from 5-6 storeys, with a cumulative gross floor area (GFA) of 13,337.10sqm comprising;
 - d) 29no. 1-bedroom units;
 - e) 104no. 2-bedroom units; and
 - f) 29no. 3-bedroom units.
- 3no. resident services and amenity rooms (1no. in each block A-C) to accommodate co-working space, a community room and a meeting room (combined GFA 108sqm);
- 132no. car parking spaces at basement level (underlying Blocks A&B) including 6no. accessible spaces, 13no. electric vehicle spaces and 4no. car sharing spaces;
- 325no. residents bicycle parking spaces (long-stay) at basement level, and 30no. visitor bicycle spaces (short-stay) at surface level;
- Communal amenity space in the form of courtyards and roof gardens (combined 2,192sqm);
- Public open space of 1,161sqm. Including botanic garden and pocket park;
- A single storey ESB sub-station and switch room (45.5sqm);
- Demolition of 2no. sections of the existing demesne northern boundary wall to provide a primary access (vehicular/pedestrian/cyclist) to the northwest and a separate pedestrian/cyclist access at the centre;

- Restoration and refurbishment of the remaining extant northern and eastern demesne boundary wall;
- Change of use and regrading of part of the Deer Park Golf Course from active recreation use to passive amenity parkland and planting of a woodland belt on the southern boundary;
- Undergrounding of existing ESB overhead lines, and relocation of the existing gas main; and
- All ancillary site development works including waste storage and plant rooms at basement level, drainage, landscaping/boundary treatment and lighting.

Decision

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

Matters Considered

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

16.0 Reasons and Considerations

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

- (a) the location of the site in the established urban area of Howth in an area zoned for residential (under Objective RS 'RS' Residential – 'Provide for residential development and protect and improve residential amenity', with undeveloped area to the south zoned 'HA' High Amenity – 'Protect and enhance high amenity areas');
- (b) the policies and objectives of the Fingal Development Plan 2017-2023;
- (c) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;

- (d) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (e) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018 and particularly Specific Planning Policy Requirement 3;
- (f) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government 2020;
- (g) Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- (h) Architectural Heritage Protection- Guidelines for Planning Authorities 2011;
- (i) The nature, scale and design of the proposed development and the availability in the area of public transport and water services infrastructure;
- (j) The pattern of existing and permitted development in the area;
- (k) The planning history of the area, including its partial location in the Buffer Zone to the Howth Special Amenity Area and in the setting of the Howth Demesne Architectural Conservation Area and Protected Structures in the ACA (particularly Howth Castle);
- (l) Section 37(b)(2) of the Planning and Development Act 2000, as amended, whereby the Board is not precluded from granting permission for a development which materially contravenes a Development Plan;
- (m) The submissions and observations received;
- (n) The Chief Executive Report from the Planning Authority and specifically the recommended reasons for refusal; and
- (o) The report of the inspector.

The Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be appropriate to the

historic sensitivity of the site and would otherwise be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment: Stage 1

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Natura Impact Statement Report submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, other than Baldoyle Bay SAC, Howth Head SAC, Baldoyle Bay SPA, North Bull Island SPA, Ireland's Eye SPA, Malahide Estuary SPA, South Dublin Bay and River Tolka Estuary SPA, Lambay Island SPA, Rogerstown Estuary SPA, and Skerries Islands SPA which are European sites where the likelihood of significant effects could not be ruled out.

Appropriate Assessment: Stage 2

The Board considered the Natura Impact Statement and all other relevant submissions on the file and carried out an Appropriate Assessment of the implications of the proposed development on Baldoyle Bay SAC, Howth Head SAC, Baldoyle Bay SPA, North Bull Island SPA, Ireland's Eye SPA, Malahide Estuary SPA, South Dublin Bay and River Tolka Estuary SPA, Lambay Island SPA, Rogerstown Estuary SPA, and Skerries Islands SPA, in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the appropriate assessment, the Board considered, in particular, the following:

- a) the site-specific conservation objectives for the European sites,
- b) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, and in particular the risk of impacts on surface water and ground water quality,
- c) the mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of European Sites in view of the sites' conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

This conclusion is based on the measures identified to control the quality of surface water discharges which provide for the interception of silt and other contaminants prior to discharge from the site during construction and operational phases.

Environmental Impact Assessment Screening

The Board completed an environmental impact assessment of the proposed development, taking into account:

- (a) the nature, scale and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- (c) the submissions from the Planning Authority, the observers and prescribed bodies in the course of the application,
- (d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant identifies and describes adequately the direct, indirect and cumulative effects of the proposed development on the

environment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board agreed with the summary and examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application. The Board is satisfied that the Inspector's report sets out how these were addressed in the assessment and recommendation (including environmental conditions) and are incorporated into the Board's decision.

Reasoned Conclusions on the Significant Effects

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account current knowledge and methods of assessment and the results of the examination set out in the Inspector's Report. The Board is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are those arising from the impacts listed below. A Construction Environmental Management Plan is the overarching general mitigation relevant to the project design and delivery for the construction stage.

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated as follows:

Population and human health - positive impacts in relation to the provision of new homes in close proximity to public transport, increased economic activity and with the provision of new public open space. Cumulative impact upon local infrastructure is concluded to be a neutral effect, ranging from slight to moderate. Mitigation has been incorporated into the design to promote healthier living standards, the application of measures in a Construction and Environmental Management Plan and

Construction Waste Management Plan during construction will also reduce impact upon human health. No other mitigation is required during the operational phase.

Biodiversity – with mitigation in place, no long-term significant impacts are expected. No residual impact upon internationally or nationally significant receptors will arise with mitigation in place. Residual impact upon biodiversity will be locally significant, with suitable mitigation in place to reduce impact on high value receptors. Mitigation includes the implementation of measures in a Construction and Environmental Management Plan during the construction phase, to protect trees and reduce risk of discharge from the site, and ensure lighting is sensitive to bats. Removal of vegetation will be avoided during bird breeding season or require inspection by an ecologist prior to removal. During the operational phase, the incorporation of a range of measures, including green roofs, permeable paving, rain gardens, attenuation tanks, new tree planting and wild bird cover seeding will reduce impact.

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 negative impacts are envisaged.

Noise and vibration – during the construction phase, negative impacts are anticipated, ranging from imperceptible to moderate – significant. These impacts will be on a short-term, temporary basis and will be mitigated through measures in the Construction and Environmental Management Plan. During the operational phase, sound insulation will be incorporated into the buildings and control of use of roof terrace areas. With mitigation in place, impact during operational phase will be neutral, long term and ranging from imperceptible to not significant.

Transportation – the main impact from the development will be during the operational phase, with the use of mitigation measures described in the Construction and Environmental Management Plan limiting residual impact during construction to slight neutral temporary effects. During the operational phase, negative long-term effects are anticipated on the Sutton Cross junction and upon public transport in terms of increased congestion and reliance on services. However, this impact is not significant, and in the 'no development scenario' the Sutton Cross junction would still

be over capacity. Reduced car parking is intended to promote use of more sustainable transport modes. Public transport improvements are also planned and will increase the frequency of trains. Overall, impact will be within acceptable parameters.

Material Assets - Archaeology and cultural heritage - no significant permanent adverse impacts upon archaeological cultural heritage are anticipated, with the application of mitigation measures. Amendments are necessary to improve the relationship of the proposed development to the historic context of the site, including the reduction by a storey over all blocks, and reduced footprint to block C, alongside associated increased tree planting to the northeast and southern boundary of the site. With the incorporation of these amendments, a neutral effect will result upon built cultural heritage. Mitigation also includes the incorporation of conservation practice standards to the repair and refurbishment of the historic demesne wall, and creation of sensitivity located new openings.

Material Assets – Utilities and waste - positive long-term effects are anticipated from the expansion of Virgin Media infrastructure and electricity connection into the site, with neutral effect from the diversion of gas services. No significant effects are anticipated to water supply and wastewater infrastructure. During construction phase, there will be temporary loss of water pressure/supply to the local areas, and this impact would be local, not significant and temporary in duration. Mitigation is formed of adherence to relevant codes of practice, design guidance and consultation with local and statutory authorities. A Site Specific Construction and Demolition Plan and Operational Waste Management Plan will mitigate impacts in terms of waste, with mitigation in place, impact will be neutral and not-significant.

Landscape and visual impacts – amendments are necessary to improve the visual and landscape impact of the development, including the reduction by a storey over all blocks, and reduced footprint to block C, alongside associated increased tree planting to the northeast and southern boundary of the site. With the incorporation of these amendments, the proposed development would have neutral and positive effects upon landscape character and visual environment.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, or historic environment, would be acceptable in terms of urban design, height, scale, mass, and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area. In coming to this conclusion, specific regard was had to the Chief Executive Report from the Planning Authority and particularly the recommended reasons for refusal, which was addressed in detail in the Inspector's Report. It was considered that while the height, scale and mass of the development would have an unacceptable impact at 5 to 6 storeys in height, this could be successfully mitigated with a reduction in height, scale and mass to between 4 to 5 storeys and decreased footprint to Block C, alongside increased tree planting. Cognisant of the Planning Authority's recommended reasons for refusal, the Board concluded that the development would not result in undue overlooking of adjacent sites or within the proposed development itself and would represent an acceptable standard of quality for the proposed accommodation, but that the reduced height, scale and mass of the development would consequently reduce the visual impact on this historically sensitive site. The Board therefore concluded that the height, scale and mass of the proposed development would be appropriate following amendments secured by conditions and that the proposed development was acceptable in all other respects.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area, a grant of permission could materially contravene the potential unit number identified under the Fingal Development Plan 2017-2023 for Howth. The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the City Development Plan would be justified for the following reasons and consideration.

In relation to section 37(2)(b) (i) of the Planning and Development Act 2000 (as amended):

The strategic nature of the site for the delivery of housing, as one of only a few remaining vacant sites identified for residential development, and with excellent accessibility, in Howth. In this sense, the site is strategically important for the delivery of housing in Howth, in the context of national planning policy documents and guidelines which promote compact growth.

In relation to section 37(2)(b) (iii) of the Planning and Development Act 2000 (as amended):

Permission for the development should be granted having regard to national planning policy guidelines that promote increased housing delivery on appropriate sites, including Rebuilding Ireland, An Action Plan for Housing and Homelessness and Project Ireland 2040 – National Planning Framework. The site characteristics align with national principles underpinning sustainable compact growth in urban areas, being situated a short walking distance to Howth Dart Station, the town centre and harbour employment area. In addition, the proposed development (with amendments that I recommend) is also in accordance with SPPR1 and development management criteria (under section 3.2) in the Building Height Guidelines, as well as SPPR's and associated guidance in the Apartment Guidelines.

In relation to section 37(2)(b) (iv) of the Planning and Development Act 2000 (as amended):

The pattern of development in the area, specifically being the permission for the Claremont SHD development, which exceeds the potential unit number for Howth set out in the Development Plan, and therefore indicates that a material contravention would therefore similarly be justified for the proposed development.

17.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be

required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, such issues may be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) Removal of the upper storey to all blocks, resulting in a maximum height of 4-5 storeys and subsequent replacement of roof terrace amenity areas;
 - (b) Removal of units 02 and 05 on each floor in Block C (6 units in total over 4 storeys), and related decrease in footprint, facilitating an increased set back of at least 7m from Howth Road;
 - (c) Associated reduction in the number of car parking spaces to preserve a ratio of 0.81 spaces per a unit (while retaining a minimum 6no. accessible spaces, 13no. electric vehicle spaces and 4no. Go-Car spaces);
 - (d) Revised landscape plan as a result of the above alterations to include details of boundary treatment, a piece of public art or sculpture or architectural feature and details of free public access to the HA lands to the rear of the site in perpetuity;
 - (e) Additional tree planting and densification of canopy coverage of trees, on the north east corner of the site and southern boundary;
 - (f) Level access by either ramp or lift (or both) to be provided to cyclists to basement cycle store level. Basement car park to be designed in accordance with design recommendations for underground car parks published by IStructE;
 - (g) Revised Service Vehicles and Emergency Services access details and Swept Path Analysis to meet the design specifications of the Planning Authority, with no overlap into lands zoned HA;

(h) Revised details demonstrating adjustment to the footprint of the ESB substation to allow retention of tree labelled no.68 in the submitted tree survey as part of the approved application. Where the retention of this tree is demonstrated to be impossible, mitigation in the form of tree replacement to a suitable maturity should be detailed.

As a result of these amendments, the proposed development is formed of the following mix of units: 21no. (16.2%) 1 bed, 90 no. (69.7%) 2 bed and 18no. (13.9%) 3 bed (total units 132). Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

3. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report submitted with this application as set out in Chapter 17 of the EIA 'Summary of Mitigation Measures', shall be carried out in full, except where otherwise required by conditions attached to this permission.

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

4. The mitigation measures contained in the Natura Impact Statement which was submitted with the application shall be implemented in full.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the European sites.

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

and for the removal of any archaeological material which the authority considers appropriate to remove.

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

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

6. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

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

7. A minimum of 10% of all communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

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

8. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. The car parking spaces shall be assigned permanently for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.

(b) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of

the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.

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

9. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
- a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
 - b) Location of access points to the site for any construction related activity;
 - c) Location of areas for construction site offices and staff facilities;
 - d) Details of site security fencing and hoardings;
 - e) Details of on-site car parking facilities for site workers during the course of construction;
 - f) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
 - g) Measures to obviate queuing of construction traffic on the adjoining road network;
 - h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - i) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
 - j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
 - k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
 - l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
 - m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
 - n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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

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

Reason: In the interest of sustainable waste management.

11. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.

(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

(c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of retained trees, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.

(d) No trench, embankment or pipe run shall be located within three metres of any trees / shrubs / hedging which are to be retained on the site.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

12. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To secure the protection of the trees on the site.

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

Reason: In the interest of visual amenity.

14. Public lighting shall be provided in accordance with a scheme, which shall include details of any light spill into open spaces on the site, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be designed in accordance with guidance contained in the Institution of Lighting Professionals (ILP) (2018) Guidance Note 08/18 Bats and artificial lighting in the UK. The approved lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

15. The developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development. All works are to be

carried out in accordance with Irish Water Standards codes and practices, including in relation to separation distances and restrictions on the building up over assets.

Reason: In the interest of public health.

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

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

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

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

17. The public open space areas shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the revised landscape scheme to be agreed in writing with the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer.

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

18. Proposals for an estate name and numbering scheme with associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

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

19. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works. The development shall not be occupied until all services are operational.

Reason: In the interests of visual and residential amenity.

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

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

21. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks

from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

Rachel Gleave O'Connor

Rachel Gleave O'Connor
Planning Inspector

10th September 2021

DECISION QUASHED

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