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|  | **S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016**  **Inspector’s Report** |
| **ABP-311059-21** |
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| **Strategic Housing Development** | 1,365 no. units (346 no. houses, 1,019 no. apartments), creche and associated site works. |
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| **Location** | Corballis East, Donabate, Co. Dublin. (www.corballiseastshd.ie) |
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| **Planning Authority** | Fingal County Council |
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| **Applicant** | Aledo Donabate Ltd |
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| **Prescribed Bodies** | 1. Irish Water  2. Department of Culture, Heritage and the Gaeltacht  3. National Parks and Wildlife Service  4. Heritage Council  5. An Taisce  6. Department of Education and Skills  7. Fingal County Childcare Committee |
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| **Observer(s)** | 1. Adrian Henchy 2. Brian Dennehy 3. Brian Sinclair 4. Corina Johnston 5. David Fletcher 6. Dean Mulligan 7. Donabate Portrane Community Council (Marston Planning Consultancy) 8. Elaine Holden 9. Elaine Sinclair 10. Jim O’Donohoe and Breda Dockrell 11. John Conway and the Louth Environmental Group (BKC Solicitors) 12. John McFadden 13. Lara Glover 14. Lorraine Clifford Lee 15. Paul Mulville 16. Rosie Keran 17. Stephen and Shirely Devaney 18. Susan Brown |
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| **Date of Site Inspection** | 9th November 2021 |
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| **Inspector** | Rachel Gleave O'Connor |

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1. Introduction

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

1. Site Location and Description
   1. The northern portion of the site is located approx. 250m south of Donabate town centre and approx. 50m south of Donabate Train Station. The site has a stated area of 43.6 ha. It is irregular in shape and comprises several agricultural fields and field boundaries. It is divided by the Donabate Distributor Road (DDR). The site located to the north of the DDR has a stated area of 27.3 ha and the site located to the south of the DDR has a stated area of 13.6 ha. The site is generally open and undulating.
   2. The area is transitional in character. The northern portion of the overall site is bound by a mix of commercial and residential uses in Donabate town. The southern portion of the overall site is bound by a local road Corballis Cottages and the Malahide Esturary SAC (000205) and Malahide Estuary SPA (004025). To the east the site is bound by agricultural lands and to the west by the railway line with a new residential development beyond.
   3. There is an existing access to the site from the north west corner of the site via the car park of Smyth’s Bridge House, public house, which is a protected structure (RPS 0509).
2. Proposed Strategic Housing Development
   1. The proposed development comprises the following:

* Construction of 1,365 no. new residential dwellings on the Main Residential Development Site.
* Comprising 194 no. one-bed apartments (including 40 no. sheltered housing units) and 447 no. two-bed apartments (including 9 no. sheltered housing units) arranged in 16 no. apartment buildings.
* Apartment Blocks 1 to 14 range in height from 4 to 5 storeys and include balconies/terraces on all elevations. The Sheltered Housing Block is 3 storeys in height and has balconies/terraces on all elevations. The Mixed-Use Block 2 is 2 storeys in height with ground floor retail use and a balcony on the south elevation. An additional 26 no. two-bed, 2 storey apartments are proposed in terraced format throughout the scheme (Apartment M Type);
* A further 60 no. one-bed apartments, 126 no. two bed apartments and 166 no. three-bed apartments are proposed, arranged in duplex and triplex format in terraces and corner blocks (including Mixed-Use Block 1), ranging in height from 2 to 4 storeys; and
* 9 no. two-bed houses; 206 no. three-bed houses; and 131 no. four-bed houses (ranging in height from 2 to 3 storeys).
* Provision of communal residential amenities/facilities (total approximately 734sqm GFA) in 2 no. stand-alone 2 storey buildings and within Apartment Block 7 to serve the proposed Apartment Blocks.
* Provision of 3 no. childcare facilities (total GFA approximately 1,604 sqm) in stand-alone, 2 storey buildings, with capacity for in the order of 297 no. children.
* Provision of 7 no. retail/café units (total GFA approximately 627sqm) at two locations (3 no. units in Mixed-Use Buildings 1 & 2 adjacent to Donabate Town Centre and 4 no. units in Apartment Block 9 at the proposed local centre).
* Reconfiguration of the existing car park serving Smyths Bridge House (a Protected Structure) to provide 44 no. replacement spaces. A further 1,842 no. car parking spaces are proposed (comprising 1,707 no. residential spaces; 23 no. childcare facility spaces (including 17 no. drop off spaces), 112 no. on-street visitor parking spaces (including 5 no. car-share spaces)), together with a total of 2,613 bicycle parking spaces (1,926 no. secure private spaces and 687 no. visitor spaces).
* A series of public parks, open spaces, pocket parks and communal open spaces are proposed throughout the Main Residential Development Site.
* Provision of the Corballis Nature Park (approximately 13.0ha) on lands to the south of the Donabate Distributor Road (DDR) to provide multifunctional natural amenity area including a cycle and pedestrian connection from the DDR to Corballis Cottages Road and Sustainable Drainage Systems (SuDS) features to serve the wider Corballis lands.
* Vehicular access to the Main Development Site will be via two permitted junctions from the DDR to the south; the existing upgraded vehicular entrance at Smyth’s Public House (providing vehicular access to 19 no. dwellings only) to the north west; and a further new vehicular entrance to the north east at New Road. The proposed development also provides for the extension of the existing footpath by approximately 215m from The Strand to the proposed new entrance on New Road, along the southern side of New Road.
* The proposed development includes works within the curtilage of a Protected Structure (Smyths Bridge House) associated with the upgraded entrance to Main Street, the reconfiguration of the existing car parking and associated boundary, landscape, and site works.
* Proposed development facilitates future potential pedestrian, cycle and vehicular links to existing and proposed adjoining developments and including a link to the approved bridge over the railway line (FCC Ref. Part XI/004/19) and a connection to the proposed Nature Park via an existing pedestrian crossing on the DDR, and the approved Broadmeadow Way proposals (ABP Ref. ABP 304624-19) (via the Nature Park).
* All enabling and site development works, landscaping, boundary treatments, lighting, services and connections, including connection to permitted wastewater pumping station (Reg. Ref. F19A/0472), waste management, ESB substations, and all other ancillary works above and below ground on a site of approximately 43.1 ha.
* A 10 year permission is sought.

An Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS) have been prepared in respect of the proposed development.

* 1. **Key Figures**

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| **Site Area** | 43.1ha (formed of the residential development site at 27.3ha and the nature park at 13ha) |
| **No. of units** | 1,365 |
| **Density** | 51.1 uph |
| **Plot Ratio** | 0.54 |
| **Site Coverage** | 23% |
| **Height** | 2 to 5 storeys |
| **Dual Aspect** | 51.3% |
| **Open Space** | Amenity lands: 13ha  Within residential lands: 3.3ha |
| **Part V** | 136 no. units |
| **Vehicular Access** | New Road and Donabate Distributor Road |
| **Car Parking** | 1,886 no. in total  1,085 no. for apartments / duplexes / triplexes  622 no. for houses  44 no. replacement at Smyths Pub  23 no. spaces 3 creches  5 no. on-street carshare spaces  107 no. on-street visitors. |
| **Bicycle Parking** | 2,613 no. in total  1,926 no. sheltered spaces and 687 no. short stay/visitor spaces |
| **Creche** | 3 no. facilities providing 1,604sqm |
| **Other uses** | 5 no. retail/commercial units  2no. café units  627sqm |

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| **Housing Type** | **1 bed** | **2 bed** | **3 bed** | **4 bed** | **Total** |
| **No. of Apartments** | 194 | 473 | - | - | 667 |
| **No. of Duplexes / Triplexes** | 60 | 126 | 166 | - | 352 |
| **Houses** | - | 9 | 206 | 131 | 346 |
| **Total (%)** | 254  (18.6%) | 608  (44.5%) | 372  (27.2%) | 131  (9.5%) | 1,365  (100%) |

1. Planning History
   1. Subject site

* PA Ref. F18A/0618 & ABP Ref. 304904-19 – Planning permission refused on appeal to An Bord Pleanála (ABP) for development consisting of strategic open spaces, upgrades to the public road, reconfiguration of the existing car park serving Smyths Bridge House (A Protected Structure), upgrade of existing entrance onto Main Street, new access from Balcarrick Road, internal access roads, water services and a pumping station, and utilities. Proposed works are to facilitate future residential development including reserved sites for new primary school and local neighbourhood centre at Corballis East, as provided for in the Donabate Local Area Plan 2016. Planning permission sought for 10 years. Proposal includes a nature park of 13.63ha and 3 no. additional parks of 1,4437 ha, 0.6788 ha and 0.3856 ha.
  1. The application was refused by ABP as follows:

Having regard to –

(a) Previous recorded observations of significant numbers of wintering birds utilising the subject lands as an ex-situ feeding site, including species which are qualifying interests for the Malahide Estuary Special Protection Area (Site Code:004025) and Rogerstown Estuary Special Protection Area (Site Code:004015), in particular the Light-Bellied Brent Geese,

(b) the lack of adequate up-to-date, quantitative and qualitative analysis with regard to the frequency, duration and extent of such use of the lands, and

(c) the extended duration of construction activity involved in the provision of the nature park,

the Board cannot determine the significance of the potential disturbance and displacement impacts of construction activity within the proposed nature park on such species with sufficient certainty and accordingly, the Board cannot be satisfied, beyond reasonable scientific doubt, that the proposed development, either individually or in combination with other plans and projects, would not adversely affect the integrity of these European sites in view of the sites’ conservation objectives.

* 1. On lands encompassing part of the application site
* PA Ref. F20A/0204 & ABP Ref. 304446-20 – Permission granted on appeal to ABP for 55no. residential units, 3 no. retail units, public open spaces, upgrades to the public road, reconstruction of the existing car park serving Smyths Bridge House (a Protected Structure), upgrade of the existing entrance onto Main Street, internal access roads, water services including a pumping station, surface water attenuation tank and detention basin, public lighting, 1 no. ESB substation and utilities.
* Part XI/004/19 – Permission granted by Fingal County Council Planning Authority for construction of a new pedestrian and cycle bridge over the Dublin-Belfast Railway Line 220m south of Donabate Train Station. Construction of a 33m long, 5.2m wide, concrete bridge deck made up of precast concrete beams and a reinforced concrete top slab. Construction of supporting in-situ concrete abutments on the side slopes to the railway. Construction of bridge parapets ranging in height from 1.5m to 2m. Application of a deck waterproofing system. Provision of a 4.2m wide path and cycle track. Installation of 2no. pole mounted luminaries: 1 at either end of the bridge. Provision of associated drainage and ducting infrastructure. All associated site works.
  1. Adjoining lands
* F21A/0113 – Current application with Fingal County Council Planning Authority on lands bounded to the north and north east by the existing residential development at Semple Woods (permitted under PA Ref. F17A/0113), to the south by the Donabate Distributor Road, to the west by low density residential development (with Hearse Road further beyond); for an extension to the Semple Woods housing development comprising the construction of 76no. residential units and associated works.
* F20A/0510 – Permission granted by Fingal County Council Planning Authority at Ballymaston, Donabate for the construction of 36no. houses and 28no. apartment / duplex units, as well as associated works.
* ABP Ref. 304624-19 – Permission granted by An Bord Pleanála for the construction of a new greenway (shared footpath and cyclepath) approximately 6km in length, between Malahide Demesne and Newbridge Demesne, in the townlands of Malahide Demesne, Malahide, Kilcrea, Newbridge Demesne and Donabate.
* F19A/0472 – Permission granted by Fingal County Council Planning Authority for development of a wastewater pumping station on a site of 674sqm, at lands situated approximately 430m to the south of the junction of the Balcarrick Road (R126) & the distributor road (under construction), Corballis East, Donabate, Co. Dublin.
* ABP SHD Ref. 304289-19 – Permission refused by An Bord Pleanála at Hearse Road, Donabate for a SHD application for amendments to the residential development permitted under PA Ref. F17A/0113, to replace 35no. houses and 62no. apartments with 174no. apartments and associated works. Reason for refusal related to the proposed development, by reason of its blanket approach to height, campus style building layout, dominance of carparking and lack of legibility/wayfinding between the proposed bridge and Newbridge Demesne, which did not represent a satisfactory urban design response for the site, and did not enhance the character of the area or adequately recognise the cultural context and special setting of Newbridge Demesne.
* PA Ref. F17A/0373 & ABP Ref. PL06F.249206 – Permission granted by An Bord Pleanála on appeal at lands served by the Donabate Distributor Road, New Road, Ballisk, Donabate, for 151 no. residential units and creche.
* PA Ref. 17A/0113 – Permission granted by Fingal County Council Planning Authority at Corballis West, lands at Hearse Road, Donabate, for 251no. dwelling units comprising 189no. houses and 62no. apartment units, childcare facility, necessary infrastructure, part of the proposed nature park and all site works.
* ABP Ref. PL06F.KA0018 & PL06F.HA0031 – Permission granted by An Bord Pleanála for construction of the Donabate Distributor Road, a c.4km road from the R126 at Portrane Road on the north-eastern side of Donabate to Hearse Road on its southwestern side.

1. Section 5 Pre Application Consultation
   1. A pre-application consultation with the applicants and the planning authority took place via video call with An Bord Pleanála on 19th October 2020 in respect of a proposed development of 1,368 no. residential units.
   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 4th November 2020 ABP Ref. ABP-307633-21) 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.
   3. Specific information was requested which is summarised below:

* Justification of the density level proposed;
* A report regarding the design rationale and CGIs with visual assessment;
* Plan and report addressing connectivity and permeability;
* Consideration or amendment in relation to car parking layout;
* Taking in charge plan;
* Childcare Demand Report;
* School Demand Report;
* Response to PA Parks and Green Infrastructure Division comments;
* Address Irish Water and PA Water Services comments;
* Phasing plan;
* Material contravention statement; and
* An NIS.

Applicant’s Statement

* 1. The applicant includes a statement of response to the pre-application consultation (Cover letter and statement of response ABP Ref. 307633-20), 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.

1. Relevant Planning Policy

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.
  1. **Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES-EMR)**
  2. 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.
  3. Donabate is recognised as a strategic development area. Table 5.1 ‘Strategic Development Areas and Corridors, Capacity Infrastructure and Phasing’ identifies Donabate as having significant residential capacity, in a strategically located rapidly growing coastal village.
  4. Table 7.1 ‘Strategic Natural, Cultural and Green Infrastructure Assets in the Region’ identifies Donabate as a maritime town and beach. RPO 7.22 – Green Infrastructure requires the identification, protection, enhancement and management of green infrastructure through development and local area plans.
  5. Other policies include:
* 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.
  1. **Local Policy**
  2. Fingal County Development Plan 2017-2023
  3. Three separate zoning objectives apply to the northern portion of the overall site.
  4. The majority of the northern portion of the site is zoned RA ‘Residential Area’ with the associated land use objective ‘*to provide for new residential communities subject to the provision of the necessary social and physical infrastructure’.*
  5. The north eastern portion of the site is zoned OS ‘Open Space’ with the associated land use objective ‘*to preserve and provide for open space and recreational amenities’*.
  6. The southern portion of the site is zoned HA – ‘High Amenity’ with the associated land use objective ‘*to protect and enhance high amenity areas’.*
  7. A small section of the north west of the site is zoned TC – ‘Town and District Centre’ with the associated land use objective ‘*to protect and enhance the special physical and social character of town and district centres and provide and or improve urban facilities.’*
  8. The zoning map also indicate that the site is subject to a Local Area Plan, with Local Objective Points and a Proposed School also indicated. Recorded monuments are indicated in the wider area outside of the site redline boundary. The north west of the site is partially within the area identified for an Urban Framework Plan.
  9. Variation no.2 of the Development Plan outlines that in the period 2016-2019 2,170 units have been constructed in Fingal in locations including Donabate. Donabate is identified as a Self-Sustaining Growth Town, with a development strategy to promote the creation of a vibrant town core by providing a high-quality living environment for the existing and future population and providing for the development of necessary community, commercial, cultural and social facilities in tandem with new residential development and accordingly a 10% increase in population is appropriate. Table 2.4 ‘Total Residential Capacity provided under the Fingal Development Plan 2017-2023, updated as of September 2019’ identifies remaining capacity in Donabate of 101ha equating to 3,532 remaining residential units.
  10. Objective SS17 – states that the development and growth of Donabate should be managed in a planned manner linked to the capacity of local infrastructure to support new development of the area and taking account of the ecological sensitivity of qualifying features of nearby European Sites.
  11. Variation no.2 also states the following in relation to Donabate: is also identified on the North – South Strategic Corridor (DART expansion) in the RSES. The DART Expansion Programme, to be delivered by 2027 will increase capacity on the northern commuter line and support ongoing urban expansion of Donabate. The Donabate Peninsula enjoys many natural areas including the Rogerstown and Malahide Estuaries, European Sites which form part of the Natura 2000 network. In addition, there is Newbridge Demesne and The Square ACA. While Donabate has experienced substantial housing development in recent years, there remains extensive areas of undeveloped residential zoned lands. Donabate is envisaged as performing a strong role for continuing future growth as a wellserved commuter location.
  12. 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”.
  13. Chapter 4 of the plan refers to urban Fingal. It includes specific Development Plan Objectives for Donabate relating to connectivity, education, social and community infrastructure. DONABATE 9 ‘Prepare an Urban Framework Plan for Donabate (including a Public Realm and Integrated Traffic Management Strategy) to guide and inform future development, to include measures to improve and promote the public realm of the village.’
  14. The site is situated proximate to a number of protected structures, RPS. No. 509 ‘Smyth’s Public House’ is bounded by the north west portion of the site on three sides. The Former Station Masters House and Donabate Railway Station (RPS. No. 510 and 511) are situated opposite the site to the north west.
  15. 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”.
  16. 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. Donabate is identified as a low lying character type.
  17. Objectives CH20, CH21, CH25 and CH46 refer to the protection of protected structures and their setting, curtilage, and designed landscapes in any development proposal.
  18. 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.
  19. 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 28 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.
  20. Objective PM64 Protect, preserve and ensure the effective management of trees and groups of trees.
  21. Donabate Local Area Plan 2016 – 2022
  22. Strategic aims of the LAP include:
* Provide a framework for a growing population with phased development of new housing in tandem with supporting community and physical infrastructure.
* Provide infrastructural investment to address traffic, pedestrian safety and movement challenges including the early delivery of a new road & bridge providing an alternative access to Donabate and Portrane.
  1. The subject lands at Corballis East comprise part of one of four residentially zoned (RA) development areas in the LAP. At an approx. density of 35 units per hectare the LAP lands have an overall capacity to accommodate approx. 4,000 units.
  2. Section 8, Urban Design Framework, sets out specific provisions for the development of these lands. The lands at Corballis have the potential to provide approximately 1,850 units. The plan states that ‘in the interests of protecting residential and visual amenities, no buildings shall be built above the 20m contour line and the maximum ridge / roof heights at this location shall be limited to 26m OD which is below the ridge height of the existing houses at ‘The Strand’.
  3. The southern portion of the site is identified as Corballis Nature Park. This area is to be managed as a natural landscape to ensure it continues to play host to a variety of bird/wildlife with controlled public access.
  4. Objective 6.16 ‘Prepare an Urban Development Framework Plan for Donabate (including a Public Realm and Integrated Traffic Management Strategy) to guide and inform future development, to include measures to improve and promote the public realm of the Village.’

1. Statement of Consistency
   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, Regional Policy and the Development Plan and I have had regard to same.
   2. A Material Contravention Statement also accompanies the application, relating to density, growth rate, building typology and height, car parking, visual sensitivity, apartment standards and rear garden size. 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 or Donabate Local Area Plan 2016-2022.
2. **Density:** The Core Strategy of the Fingal Development Plan calculates the residential capacity of the available lands based on an average density of 35 units per hectare. The Donabate LAP states that ‘an overall density of residential development of approximately 35 dwellings per hectare will be targeted in the LAP lands’. Furthermore, the phasing contained in Donabate LAP assumes approximately 35 units per hectare for each of the 3 phases of the residential landbank identified in the LAP.

The proposed development provides for a total of 1,365 no. units on a site area of 26.7 ha (Developable Area), which equates to a net residential density of 51.1 units per hectare. While the stated density of 35 units per hectare is not stated as a maximum density, it is considered that the proposed development is in excess of the average density used to calculate unit yield, both in the Fingal County Development Plan and the Donabate LAP.

1. **Growth Rate:** Variation 2 of the Fingal Development Plan envisages a 10% increase in population for Donabate. Table 2.4 sets out the total land and housing capacity for the 2017-2023 Development Plan (updated in light of the adoption of the RSES and the NPF) and provides that there is remaining capacity in Donabate of 101 ha with potential to delivery 3,532 no. houses. The proposed development provides for development in excess of the envisaged growth rate.
2. **Building Typology & Building Height:** The Donabate LAP provides that building heights should be predominantly two storeys with opportunities for increased heights at specific locations such as where increased height would make a contribution to the streetscape or would provide overlooking of open space/recreation areas and locations closest to the Village and Railway Station. The proposed building types provide a mix of two and three storey houses, with three storey duplex units, and four and five storey apartment buildings.
3. **Car Parking:** Table 12.8 of the Fingal Development Plan provides car parking standards which vary from 1 to 2 no. spaces per unit, depending on house type and size, with an additional requirement for visitor parking for apartments. The Donabate LAP requires that all development on LAP lands conform to the Development Plan Standards for cars. The proposed development will result in residential car parking levels below the standards stated in the Development Plan.
4. **Visual Sensitivity:** The Donabate LAP provides that in the interests of protecting residential and visual amenities, no buildings shall be built above the 20 m contour line, and the maximum ridge / roof heights at this location shall be limited to the ridge height of the existing houses at ‘The Strand’ (stated as 26m OD). The ridge height of some of the proposed dwellings exceed 26m OD, however none of them exceed the established ridge heights of The Strand, which at the western end of vary between 26m OD and 28.94m OD.
5. **Apartment Standards:** Table 12.2 of the Fingal Development Plan provides minimum standards for apartments. The Development Plan does not include the provision for a reduced size two-bed apartment, 63 sqm GFA, which is suitable for 3 persons. The proposed development includes 19 no. two beds which were deemed to be 3 person two-bed units. Objective DMS23 of the Fingal Development Plan seeks to ‘permit up to 8 apartments per floor per individual stair/lift core within apartment schemes’. Apartment Blocks 12, 13 and 14 have 10 no. units per core at some of the upper levels.
6. **Rear Garden Size:** Objective DMS87 of the Fingal Development Plan requires that requires that houses of 3-bedrooms or less have a minimum of 60sqm of private open space. There are 9 no. 2 bedroom houses which have rear gardens of 55sqm which fall below the 60sqm requirement of Objective DMS87. Objective DMS88 allows for a reduced standard of private open space for 1 and 2 bedroom *‘only in circumstances where a particular design solution is required such as to develop small infill/ corner sites. In no instance will the provision of less than 48 sq m of private open space be accepted per house’*. Whilst the reduced garden size is as a result of incorporating smaller, narrower, units within a standard terrace, they may not be considered to be *‘small infill/ corner sites’* as specified under Objective DMS88.
7. Third Party Submissions
   1. 18no. responses were received from third parties in relation to the application and the main matters raised are summarised below:
   2. General, nature, principal of the development

* The development should comply with both the LAP and Development Plan;
* Further development should not be permitted on the peninsula without the guidance from an urban framework plan and a viable public realm strategy;
* Does not adhere to rural development guidelines.
* The proposed development will lead to overcrowding on the peninsula.
* Query whether due process was followed in relation to the rezoning of the lands.
* The Building Height and Apartment Guidelines are ultra vires and not authorised by s28(1C) of the Planning and Development Act 2000 (as amended). They are also contrary to the SEA Directive and a decision cannot be made based upon those guidelines.
  1. Infrastructure
* Development of the site for residential will mean that there will be no suitable sites left on the peninsula for necessary public open space, community, commercial, cultural and social facilities and no employment opportunities.
* Shortage of childcare services for preschool and after school services (recent closure of Scouts Den). Submitted reports should include potential children in 1 bedroom units.
* Shortage of primary school and post primary school spaces. Submitted reports do not take into account approved development and are based on historical data.
* No commitment in terms of provision of a new school.
* Lack of shops, pubs and restaurants (and other amenities and services) in the area to support the proposed population.
* No garda station or bank for the area.
* Sewage system is at capacity and regular failures to water supply.
* Current struggles for the electricity networks for the area. No capacity indicated at Glasmore substation. Electricity outages cause mobile networks to go down. Lack of electricity supply will preclude prospect of electrification of the railway line past Malahide.
* Lack of GP and medical services for the area.
* Lack of recreational facilities in the area.
* With the number of 1 and 2 beds proposed, query inclusion of a school.
* Application has not demonstrated sufficient infrastructure capacity with respect of public transport, drainage, water services and flood risk.
  1. Transport
* Residents will have to leave the peninsula to seek employment adding to congestion.
* The proposed development will bring public transport to a standstill.
* Lack of consideration of multi-model transport requirements as would be promoted in urban framework plan.
* Access to peninsula and roads on the peninsula are already congested.
* A rent a bike system should be implemented for visitors.
* The transport reports submitted make no reference to the type, location or number of cycle parking spaces to be provided, or associated adequacy against relevant standards.
* The latest versions of the plans do not post date the proposed amendments described in the feedback form as part of the Road Safety Audit.
* The development proposes limited off-site improvements to the network that will do little to encourage future residents to walk or cycle, despite describing existing infrastructure as limited, narrow or non-existent.
* A separate vehicular / pedestrian access to Donabate Railway Station from Donabate Town Centre as required under Objective DONABATE 19 should be implemented prior to any more development on the peninsula.
* Rail services already overcapacity and infrastructurally constrained.
* Bus services are overcapacity and there is a lack of bus stops.
* Query how emergency vehicles will access the development when roads congested.
* Details of public realm upgrades to Hearse Road / Main Street / New Road not provided.
* Planned cycle infrastructure upgrades in the area will amount to lined cycle ways only that do not physically protect cyclists.
* The transport reports do not consider availability / walking distance to amenities, and only considers the railway station. Due to the size of the site, most residents are not situated within a reasonable walking distance to services / amenities.
* Bus stops require improvements.
* Improvements to bus services cannot be guaranteed and will not substantially alter the accessibility of the site.
* Submitted transport reports silent on railway capacity. Improvements will only address existing capacity issues, not new populations. Passengers sometimes unable to board trains at Donabate.
* Submitted MMP is not fit for purpose.
* The site is a peripheral and/or less accessible urban location, and not an intermediate location as suggested by the applicant.
* As parking standards are not an SPPR in the Apartment Guidelines, the Development Plan standards take the lead. Insufficient car parking proposed will lead to on street parking. No details of car parking management.
* Census information does not support car parking quantum proposed, should take the proportion of residents with ‘2 or more cars’ to mean 2.5 cars on average. Applicant has rounded down the ‘2 or more cars’ to mean 2 cars.
* The retail units should be in a location free of traffic as children will be using routes to access the school.
* Hearse Road is insufficiently sized to cope with additional traffic and could be dangerous. Needs to be upgraded with cycle lane.
* Footpaths are small and narrow in the area. Proposed footpath should be 2.5m ‘desirable’ in DMURS.
* Proposed entrance is unsuitable.
* Concern regarding increased illegal parking.
* Proposed through road next to Smyths Pub is inappropriate, it will cause increased backlogs.
* Traffic impact assessment does not assess impact on junctions at the Hearse Road and M1/R132 and Turvey Avenue and the R132, the only two accesses into and out of Donabate and Portrane. No mitigation offered in respect to junction 3 reaching capacity.
* No consideration of impact on the operation of the R126 / R132 / M1 junctions.
* Insufficient detail provided of committed developments taken into account in submitted transport assessment. Ballisk Development (F17A/0373) not taken into account in future scenarios.
* Trip rate values used for the TIA for the residential element are lower than they should be. Manipulation of pre Distributor road survey information will lead to errors.
* Traffic counts undertaken prior to the opening of the Distributor Road.
* The proposed development materially contravenes the Development Plan and LAP in relation to car parking and cannot be justified with reference to s37(2) of the Planning and Development Act 2000.
* The application documentation is not in compliance with DMURS.
* The road network is not suitable for the construction phase. Insufficient consideration of construction traffic impacts.
* Information presented in the SHD relating to transport is deficient and in some cases out of date (junction assessments carried out in March 2018).
* The proposed development will prevent completion of the distributor road in its dual carriageway / widened form, and as approved.
  1. Amenity
* Apartments are inadequately sized / too small.
* Nothing to occupy children and teenagers in the area leading to anti-social behaviour.
* Insufficient green space proposed. And insufficient ratios of types of open space as required in DMS57 of the Development Plan and table 12.5.
* The proposed public open space in the HA lands should not be counted towards the open space requirement for the development, therefore the development is deficient in public open space.
* The open space does not include play facilities and is located on the other side of a permitted dual carriage way and is inaccessible to residents. Material contravention of DMS57, DMS57A, DMS57B, PM60, PM61, DMS73, DMS74, DMS75, DMS76 of the Development Plan.
* Material contravention of the Development Plan with respect to open space.
* Location of sheltered housing units is inappropriate, too far away from the village centre, train station and bus stops.
* Proposed houses do not all meet minimum rear garden length of 11m.
* Proposal materially contravenes the Development Plan / LAP in respect of garden sizes and cannot be justified with reference to s37(2).
* Cannot rely upon duplex/triplex units or own door accessed apartments for purposes of calculating dual aspect as they do not come within definition of apartment in the guidelines, with no common access. Therefore only 44.3% dual aspect, or further reduced to 42.8% when discounting dubious units 5 in block 12, 9, 13, 19, 23, 29 and 32 in block 1 and 5 in blocks 13 and 14.
* Part V units are poor quality with north facing rear gardens and small in size.
* Query if distance between units is 22m as required.
* Material intrusion on the residential amenity of residents in The Strand, resulting in noise disturbance, loss of privacy and dimmish enjoyment of residential amenity. Both during construction and operation. Traffic hazard, public safety concerns, noise and dust disturbance. Long-term and profound detrimental impact as a result of the 10 year consent sought.
* DMS 23: 8 apartments per floor, DMS87-88 Open space provisions shouldn’t include HA lands.
* The proposed development will be injurious to exiting residential amenity of adjoining residential developments, by way of density, design, and layout.
  1. Design, height, density
* Proposed building heights not in keeping with standards.
* Proposed development and 5 storey apartments not in keeping with the area / village character.
* Development will dominate the skyline.
* Density is a material contravention of the Development Plan. This cannot be justified by reference to s37(2) of the Planning and Development Act 2000 or s28 Guidelines.
* Density calculation based upon a net area that does not exclude the distributor road, open space ‘Eastern Park’ and the landscape buffer strip ‘Linear Park’, which when excluded result in density of 58.2 uph. As such, a material breach of national guidance as provided for in the 2009 DoEHLG ‘Sustainable Residential Development in Urban Areas.’ Density is contrary to SHD circular requesting applications on the edge of towns and villages to be 35-50 uph.
* The proposed development is not walking distance to a DART or Luas service and therefore density not justified.
* The design is weak in terms of layout and spaces between buildings, it offers nothing new.
* Negative impact on the Protected Structure at Smyths Bridge House, its ancillary building complex and its curtilage which are partly within the subject site. The red line boundary extends over the car park area for the Protected Structure and therefore the application site contains curtilage features to the Protected Structure. The SHD application has not fully considered the impacts of the proposed development on the Protected Structure and its curtilage. Contrary to objectives CH20, CH21, CH22, CH25.
* The photomontages and images in appendix 13 of the EIAR are misleading, as they show the renovated outbuildings associated with the Protected Structure.
* High density development unsuitable for rural, village environment and is dangerous.
* Design should include routes that are direct and without obstacles (kissing gates etc.)
* Proposed ‘civic square’ does not conform with LAP requirements for this space.
* Reflects the Strand the development which is a poor precedent.
* Proposed apartment blocks are visually intrusive and inappropriate, will obscure the sensitive landscape, setting and character of highly sensitive landscape, including the Malahide/Swords estuary.
* Apartments 1, 2 and 4 will have negative effect and be overbearing and cause overshadowing to homes in the Semple Woods estate.
* Proposal materially contravenes the Development Plan and/or LAP in respect of apartment development/standards and cannot be justified with reference to s37(2).
* The submission does not justify the density proposed, provided a VIA or address material finish, as required under the pre-application advice. Reflection of sunlight from material finish also not considered.
* Proposal is not joined up with adjacent schemes and poor connectivity.
* The applicant’s material contravention statement misinterprets the 20m contour line as being above the proposed finished ground level of 20m OD. Houses 01, 02, 03, 04, 26 and 27 are wholly above the existing 20m contour line and houses 05,06, 07, 08, 19, 20, 25, 28, 35, 36 and 37 are partially above it. Houses 05, 06, 07 and 08 are within the reserved zone for a strategic landscaping scheme, page 85 of the LAP.
* SPPR 3 of the building height guidelines is for situations where the development plan is not compatible with the NPF.
* The proposed development does not comply with the Building Height Guidelines, including SPPR’s 1, 2 and 3.
* Proposal is a material contravention of the LAP in relation to height and cannot be justified by reference to the building height guidelines or s37(2).
  1. Natural environment
* Consideration required of the adjacent Malahide and Rogerstown estuaries as protected sites under European legislation.
* The proposed development would visually impact the adjoining Broadmeadow estuary an area of natural beauty.
* Cumulative impact of the scheme and adjoining schemes in Donabate upon the sensitive environment at Malahide not assessed in submitted NIS and represents project splitting.
* Removal of trees along the verge of the proposed section of New Road will have adverse ecological and landscape implications.
* The appropriate assessment is not based on scientific expertise, is insufficient, contains lacunae, and cannot comply with the requirements of the Habitats Directive.
* NIS does not take into account the findings of the AA related to the previous refusal on the site.
* The AA does not provide sufficient reasons or findings as required under Art.6(3). No clear methodology, analysis or conclusion with respect to sites screened out.
* The NIS is flawed. Doesn’t consider construction phase / compounds / haul roads. Can’t rely on the assessment of collision/flight risks in the EIAR and insufficient surveys carried out. Shouldn’t rely on information/studies from different areas. The ‘zone of influence’ is not reasoned or explained and has no basis in law. Fails to consider all potential impacts on protected birds species, including by reference to collision flight risks during both construction and operational phase. Previous reason for refusal not adequately addressed.
* NIS does not explain why some winter bird SPAs have been excluded. The description of the development in the NIS is inadequate, no details of phasing, duration of construction, potential increase in people and cars, management of surface water and sewage – not mentioned. Inconclusive as to the effect of the development on European Sites as states further three years of observation needed to inform development of the ‘Nature Park’ (ref. Briels – Case C-521/12 and Orleans – Case C-387/15). Difficult to ascertain what bird data relates to the scheme and what relates to the ‘Nature Park’. Survey method not described in relation to breeding birds and not sourced. Irrelevant information included relating to species not relevant to the European Sites. Doesn’t appear to be drafted by a competent author. Inadequate consideration of increased human presence and recreational usage of coastal areas. Inconclusive and imprecise unscientific conclusion. Mitigation measures not discussed and reliance on Biodiversity Management Plan is inadequate as does not contain definitive, demonstrably effective and well-established measures to mitigate human presence and increased recreational activity.
  1. Mix
* More family homes needed.
* No affordable homes provided.
* Too many apartments and too many houses.
* Insufficient inclusion of non-residential uses in light of the LAP.
* Mix is not in keeping with the character of the area.
* Unclear if recent amendments to Part V requirements are fulfilled.
* No provision for live/work units or shared serviced office space as required under section 6.2.2 of the LAP.
* Poor housing mix in breach of national guidance as provided for in Urban Design Manual, Sustainable Residential Development in Urban Areas and Building Heights Guidelines.
  1. Drainage Infrastructure and Flooding
* Query if sufficient drainage capacity exists for the development, particularly to the north of the site, and if capacity takes into account planned development and climate change.
* Area is subject to flooding.
* Will increase flooding in the area.
* Who is responsible for maintaining SUDS – cost / maintenance plan.
* Phasing does not prioritise delivery of the wetland in contravention of the LAP.
* The flood records and CFRAM data are unreliable and incomplete. Two flood reports were submitted by have not been processed yet by OPW.
* Donabate is at high risk of pluvial flooding, fluvial flooding and groundwater flooding. This is supported by the latest report on climate change which identifies large sections of Donabate at risk to be underwater by 2050.
* The development will increase surface water runoff by 43% and increase risk of flooding significantly.
* Concern regarding groundwater flooding and resulting pollution of the water network.
* Query need for the justification test and in flood zone B, construction should be above the 0.1% Peak Tide Level of 4.43mOD.
* Objectives in the Development Plan relating to Surface Water and Flood Risk Management have not been implemented and should be before any further development approved on the peninsula.
  1. Environment Impact Assessment
* The EIAR does not include all relevant figures of adjoining schemes, infill schemes in Donabate and offers up ‘phony’ figures.
* Cumulative impact of the scheme and adjoining schemes in Donabate upon the sensitive environment at Malahide not assessed and represents project splitting.
* The EIAR is inadequate and deficient and does not permit an assessment of the potential environmental impacts of the proposed development.
* The process provided for under the 2016 Act contravenes the requirements of the EIA Directive and the public participation requirements set out at Art.6. The public were deprived of the opportunity to view the Chief Executive Report prior to making submissions, such reports contain relevant information with respect to EIAR.
* The Board lacks ecological and scientific expertise and/or does not appear (in light of the information available on the Board’s website) to have access to such ecological/scientific expertise in order to examine the EIA screening report as required under Article 5(3)(b) of the EIA Directive.
* Insufficient information with respect to construction pollution and nuisances and risk to human health. Information is required prior to the grant of consent in order to determine mitigation and cannot be left for later agreement with the PA as indicated in the documentation. There is no process for the public to participate in the agreement of the same. To leave details to condition abdicates responsibilities under the EIA Directive.
* The criteria considered in the EIAR and the proposed development and documentation does not comply with the Planning and Development Act 2000, 2016, and Regulations, or the EIA Directive the application documentation does not comply with mandatory requirements of the regulations 2001.
* EIAR failed to provide comprehensive cumulative assessment of the project.
* Population and Human Health Chapter of the EIAR is inadequate and fails to assess the impact of an increased population in the area on services including schools, childcare and medical care.
* Assessment of impact on biodiversity and human health is lacking in detail and inadequate.
* Inadequate consultation period in contravention to EIA Directive. Exclusion of third parties from pre-application stage is in contravention of EIA Directive.
  1. Other
* Negative impact on Property Values.
* Apartments will be sold to vulture funds.
* Lack of recognition or regard to community concerns.
* Material contraventions of the LAP and Development Plan. Material contravention of Objective PM40 of the Development Plan. Provision of apartments and proposed phasing plan are a Material Contravention of the LAP. Objective DMS87, there are 9 no. 2 bed houses with rear garden less than this requirement therefore Material Contravention.
* Material Contravention DONABATE 9.
* Material Contraventions cannot be justified when the Plan making hierarchy is in place to ensure that policy at a local level adheres with strategies at each of the other levels. Variation no.2 came into effect on 19th June 2020 and the therefore the Development Plan has been brough in line with the NPF and RSES. The submitted Material Contravention statement is deficient and does not take account of the full extent of Material Contraventions.
* Material contravention of the LAP and provisions relating to Corballis area and visual sensitivity and cannot be justified by reference to s37(2) or s28 guidelines.
* Material contravention with respect to phasing, Section 9 of the LAP and Objective SS17. Road is approved as a dual carriageway and only constructed as a single carriage way currently. Therefore the qualified infrastructure is not in place.
* Material contravention of objective DONABATE 3 with respect to omissions given the scale of the development and lack of information in respect of existing capacity within schools.
* Material contravention of Objective DMS59.
* Material Contravention Statement is substandard as does not clearly identify what matters are ‘material’ contraventions, leaving this to the Board. It does not quantify the degree of contravention in relation to population growth. In relation to density, the calculation is incorrect so degree of materiality unclear.
* Scheme contravenes national policy objectives 13, 33, 35.
* Query the passing of time between the pre-application and the submission of this application.
* Inconsistencies in the application – address in statutory notices fail to identify that the red line includes lands in the attendant grounds and curtilage of the Protected Structure at Smyths Bridge House; and legal interest / letter of consent, query ownership of the car park associated with Smyths Bridge House, as car park in red line but buildings associated with the car park are not in a blue line.
* 10yr timeframe is overreaching and not reflective of the many changes, nor facilitating or guaranteeing the amenities required.
* The proposal would create an undesirable precedent for the area.
* If approved, a condition should be included requiring contribution or mechanism for the inclusion of a connection to the foul water main for the residents of Corballis given the impact this development will have on their homes.
* Unclear whether the proposal will preserve opportunity for future widening of the distributor road.
* Proposal provides 101% of the dwellings envisaged in the LAP on Corballis East over 70% of the developable land. Exceeds the Core Strategy growth allocation for Donabate by 1,669 or 47%. The proposal is a material contravention of the Development Plan / LAP in relation to growth rate and cannot be justified with reference to s37(2) or s28 Guidelines.
* LAP requirement for provision of a reservation along the existing rail line for future widening of the rail tracks is not observed, building 2 is 1.4m from the site boundary adjoining the railway line.
* High Court ruling to uphold development plan in relation to public transport criteria and material contravention, SHD ref.305312, same issue for this case.
* Proposed development cannot be granted with under s37(2)(b) as it is not of strategic or national importance.
* The application documents do not comply with the requirements of the Planning and Development Regulations 2001 (as amended), does not comply with the 2016 Act, with respect to the requirements for detailed plans and particulars.
* Reference to Planning Application TA06F.304289, to amend ‘Semple Woods’ development (Ref. F17A/0113) to increase the number of units, refused by ABP. Same reasons would apply to the current proposal.
* Unlawful for Fingal County Council to allow a private planning application to be made for a housing development which incorporates land acquired compulsorily for road construction. The application is therefore invalid as the consent from FCC is unlawful and must be disregarded and the purpose development is in conflict overlapping development that has commenced and that FCC is obliged to complete.
  1. Enclosures

Collection of signatures and comments on the Corballis East SHD; Flood Event Report Form in relation to the Corballis lands; Photos of flooding on and around the subjection site; Extracts from Groundwater Data Viewer; Extracts from weather station at Dublin Airport for Donabate; Indication of Infrastructure not provided within Donabate as per LAP; Comments from residents on capacity of the railway; letter from FB Logue Solicitors including correspondence with Byrne Wallace solicitors representing Fingal CC in relation to the Distributor Road; and Traffic and Transportation Assessment Technical Note produced by MPA Consulting Engineers.

1. Planning Authority Submission
   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:
   2. Compliance with Development Plan zoning

* The proposal as it relates to use class and the zoning(s) of the site accords with the Fingal Development Plan 2017-2023.
  1. Compliance with Core Strategy/Donabate LAP
* Allocation of units: The subject site accounts for approximately three quarters of Corballis East (for which a total of 1,3000 no. units are identified for) yet 1,365 no. units are proposed on the site. The proposal therefore does not accord with the Donabate LAP in this regard.
* Specific Objectives of LAP: The LAP provides that no buildings should be built above the 20m contour line and that the maximum ridge / roof height should be 26m OD, as to be below the ridge height of the existing houses at ‘The Strand’. A number of the proposed dwellings are above the 26m OD, but the applicant states that some dwellings within The Strand have ridge heights above 26m (up to c.29m).
* Density: The proposal is not considered to accord with the density required under the Donabate LAP.
* Phasing: For the most part the applicant’s phasing proposal complies with the parameters set out in the Donabate LAP in terms of the sequencing of key elements. The number of units in phase 2 does not accord with that set out in the LAP due to the proposal to construct more units than envisaged in the LAP. The LAP states that planning applications for residential development shall generally not exceed 150 units to facilitate detailed assessment of each application, unless clear justification is provided. Noting that the proposal is being made as a Strategic Housing Development application, the proposal is considered reasonable in this context.
  1. Density
* Following National Planning Policy Guidance and with reference to the Circular Letter NRUP 02/2021, the full range of outer suburban density, from a baseline figure of 30 dwellings per hectare (net) may be considered, in recognition of the visual sensitivity of the Corballis East lands, the LAP assigns a density of 35 uph.
  1. Urban Design and Placemaking
* Context: Concern in relation not the density and intensity of development towards the south of the site. The urban form, block design and scale of this part of the scheme is very urban and more akin to a town centre type environment and not to a sloping site in a transitional area in proximity to an ecologically and visually sensitive estuarine landscape.
* Connectivity and permeability: The proposal demonstrates a high level of connectivity and permeability. The routes align with destinations in terms of desire lines and a logical route hierarchy is evident.
* Legibility: No concerns raised.
* Building form: Concern in relation to the scale, massing and design of a number of the apartment blocks. Lack human scale appropriate to the location and appear incongruous with other parts of the scheme. Repetitious nature of the facades (for example block 2), and particular concern in relation to blocks 2, 3, 6, 7, 8, 11, 12, 13 and 14.
  1. Visual Impact and Landscape
* The applicant refers to blocks on the southern part of the site as having a shoulder height of 5 storeys plus a set-back storey. However in reality this set-back floor when viewed from medium-long distances will be perceived as 5 storeys as the perception of depth will diminish over distance. View VP 10 appears to be missing from the submitted view points. Of most concern are VP1, VP2 and VP3. Much of the development will remain prominent even on the establishment of trees to a height of 10m. From VP12, the proposal remains prominent until trees reach a height of 10m. The Architects Report states that trees will take c. 15-18 years to reach a height of 7m and c.22-25 years to reach 10m. Considered likely that the development will be prominent from other un-identified locations in the vicinity of the site and importantly when viewed form the estuary. Serious concerns in relation to the proposal, specifically the 5 storey blocks along the southern boundary of the site and their impact on the landscape character and visual amenity of the area.
  1. Unit typologies and mix
* The unit typology should include a greater proportion of 3 bed+ units and houses.
  1. Residential Amenity
* The submitted Architects Report complies with Objective DMS03. Based on the submitted Quality Housing Assessment, the scheme accords with the requirements of Objective DMS24 or the Apartment Guidelines. Complies with Objectives DMS28 and DMS29, and private open space is generally in accordance with DMS87, with the exception of the 9 no. 2 bed dwellings identified in the Material Contravention Statement. Concern regarding deck access to the sheltered accommodation block and its location in a remote part of the site in relation to the town centre / public transport / facilities.
  1. Open space and landscaping
* The proposal accords with Objective DMS57B having c.12% of public open space provision within the residentially zoned development site areas (in excess of the 10% requirement). Within the 13ha Nature Park on ‘HA’ lands, 4.34ha is allocated to the proposal (with the balance being allocated to ‘future Class 1 open space allocations’) the proposed development is considered acceptable in terms of provision of public open space providing c.7.633ha.
* Play provision: The requirement is for 5,460sqm, the applicant is proposing 3,015sqm, the Natural playground within the Corballis Nature Park could be increased to cater for the shortfall in play provision, however this should be balanced against the aim of the nature park. A minimum of 25m required between play facilities and residential units to protect amenities. Final details should be agreed with Parks and Green Infrastructure Division.
* Planting: Details comments of specifications, no objections raised.
* Corballis Nature Park: Preference for segregated pedestrian and cycle paths rather than combined routes. An off-leash dog area should be provided.
  1. Access and Transportation
* Further clarity required on tie-in details with the Distributor Road junctions to be agreed with the PA.
* Requirement for continuous off-road cycle provision along the Village Link street to be agreed with the PA.
* Provision for future signalisation of the junction and associated infrastructure for the access road to the New Road, a pedestrian crossing is also required, details to be agreed with the PA.
* Road Hierarchy and Internal Road Layout: In general in accordance with the principals of the LAP and DMURS. Concern design too focused on vehicles. Amendments recommended to reflect the NTA’s Cycle Manual. The location of pedestrian cross facilities and traffic calming measures should be agreed with the PA.
* Cycling Infrastructure: Amendments recommended in relation to the continuous provision and widening of routes, final details to be agreed with the PA.
* Parking: Considered acceptable.
* Bicycle Parking: Considered acceptable.
* Traffic Impact Assessment: No concerns raised.
* Taking-in-charge: Proposals generally acceptable, concerns in relation to the banks of car parking which are not proposed to be taken in charge, which would cause difficulties in relation to access and maintenance of the public infrastructure.
* Road Safety Audit: No concerns raised.
* Request minimum 10% EV parking, and facilitate future connection for remaining spaces, to be agreed with the PA.
* Construction Management Plan: Proposal acceptable. Final details should be agreed with PA.
* Bridge: The planned pedestrian and cyclist bridge over the rail line should be provided for during the construction stage of phase 1.
* Rail line: With reference to the submission from Irish Rail, recommend removal of Building 2.
  1. Drainage/Flooding
* No concerns raised in relation to foul sewer or water supply with reference to Irish Water comments.
* Final details of surface water management to be agreed, no concerns raised.
* The submitted FRA is acceptable and in accordance with the Planning system and Flood Risk Management Guidelines.
  1. Conservation
* The amount of car parking will detrimentally impact on the character of the proposed ‘Village Square’. There is also a considerable dependency on the feasibility and implementation of a proposed landscaping plan to try to conceal or soften the extent of parking. A large area of parking (which appears to be required to serve Smyth’s Public House to meet a legal agreement between the developer and the owners of Smyth’s Pub) spread across both sides of the access road are indicated for the sole use of the public house. Parking in this area of the site should be considerably reduced. Car parking should also be reduced at the proposed plaza/seating area.
* The Obelisk on the east side of the road should be reduced as this is highly visible.
* The small triangular plaza space will be an island surrounded by the road, parking circulation routes and parking bays. The replacement/removal of a number of the proposed parking bays for an enlarged, adequately-sized public realm area is recommended.
* The parking on the east side of the road to the north of Block 1 should be reduced for the creation of a more appropriately sized public realm space/plaza.
* Regarding the design of plaza and sculptural feature its design should be agreed with Fingal’s Arts Office.
* The arched, ground floor openings to the front elevation of Block 2 should be amended to flat-headed openings and the brick detailing to the heads of the openings should be omitted. The roofing material for Block 1 and 2 should be natural slate, blue/purple in colour similar to the Welsh Blue Bangors used traditionally in the area.
* Protective measures maybe required during construction to preserve the Smyth’s Pub. Historic buildings at the Donabate Village entrance may also require protective measures. Request engagement of a conservation professional to specify required measures.
  1. Archaeology
* Concur with proposed mitigation, however the pre-development fencing of the ‘Corballis 6’ site should be an explicit objective / condition of Construction & Environmental Management Plan. Note that ‘Corballis 14’ does not appear in the Landscape Development Report and it is not clear what is intended for this area, this requires clarification and the pre-development fencing should also be explicit in the Construction & Environmental Management Plan. Recommend condition in relation to monitoring.
  1. Community Infrastructure
* No concerns raised.
  1. Part V
* Request planning condition to secure Part V units.
  1. EIA and AA
* No comments.
  1. Conclusion

The PA recommends that permission if REFUSED for the following reasons:

1. Having regard to the density, significant number and location of apartment blocks and quantum of development proposed, with specific reference to the apartment blocks in the southern section of the site proximate to the Donabate Distributor Road and the proposed school site, and the inability of the development to be successfully assimilated into the receiving landscape, the proposed development is considered to be a material contravention of Donabate Local Area Plan Objectives 5.2 regarding protected views and prospects, Objective 5.3 regarding the need for development to reflect and reinforce distinctiveness of landscape character, Policy 8.2.4 regarding development quantum, density and family home provision and Policy 8.3.1 regarding building heights in Corballis. Consequently the proposed development is a material contravention of Objective Donabate 10 of the Fingal Development Plan 2017-2023, which requires the implementation of the Donabate Local Area Plan 2016. Furthermore, the design, height and significant visual impact of the development is contrary to the ‘Urban Development and Building Heights Guidelines for Planning Authorities 2018’ issued under Section 28 of the Planning and Development Act 2000 as amended regarding SPPR3 where the development proposal does not respect the receiving landscape character relevant to the town of Donabate. The proposed development in its current form would therefore be contrary to the proper planning and sustainable development of the area.
2. Having regard to its form, massing and overall height, the proposed development, and in particular the proposed apartment blocks to the south of the site, would fail to respond to the baseline environment, topography and surrounding natural environment of the site as identified in the Fingal Development Plan 2017-2023 as being located within a designated Coastal Type Landscape Character area of exceptional landscape value and high landscape sensitivity as identified in Table LC01, and which is supported by objectives to preserve views across the site. The proposed development would be wholly inconsistent with and detrimental to the Coastal Landscape Character type within which the site is located, causing serious harm to the visual amenities of the area, in particular Malahide Estuary. Having regard to the above, the building heights proposed and massing of apartment blocks, particularly when viewed from the south, the proposed development would materially contravene Fingal Development Plan Objective NH34, Objective NH35, Objective NH36, Objective NH37, Objective NH38, Objective NH40 and specifically Local Objective 40 which aim to protect sensitive landscapes, views and prospects from inappropriate development, particularly at this identified site. The proposed development would set a poor precedent for other similar development in Donabate and would be contrary to the proper planning and sustainable development of the area.
   1. Conditions
   2. Included in Appendix 5 of the submitted report, 34 conditions recommended, of note are the following:

* Condition 3 requiring removal of apartment blocks 2, 3, 6, 7, 8, 11, 12 and 14;
* Condition 4 requiring removal of Building 02.
* Condition 5 concerning phasing.
* Condition 9 concerning amendments to cycle and road infrastructure as referenced in the summary of the Chief Executive report above.
* Condition 12 concerning safe operation of the railway line and reflecting matters raised by Irish Rail.
* Condition 34 concerning a financial contribution.
  1. Departmental Reports
* Water Services Section – proposed development generally acceptable subject to conditions.
* Conservation Officer – proposed development generally acceptable subject to amendments as referenced in the summary of the Chief Executive report above.
* Parks and Green Infrastructure Division – proposed development generally acceptable subject to conditions.
* Transportation Department – generally acceptable subject to comments and conditions as referenced in the summary of the Chief Executive report above.
* Environmental Department – generally acceptable subject to conditions.
* Housing Department – no report received.
* Architects Department – no report received.
* Heritage Office / Community Archaeologist – generally acceptable subject to conditions.
* Economic, Enterprise, Tourism & Cultural Development – generally acceptable subject to conditions.
  1. Elected Members
  2. A summary of the views of elected members as expressed at the area committee meeting on the 9th September 2021 is included in the Chief Executive Report and summarised below:
* Proposed development is inappropriate having regard to its density and unit mix;
* Proposed development would contravene the Donabate LAP and Development Plan standards;
* Concerns regarding the impact of the proposal on views, Malahide SAC/SPA;
* Inadequacy of infrastructure (transport and social);
* Concerns regarding the scale of the proposal;
* Calculation of density queried;
* Open space standards queries;
* Lands are highly sensitive;
* Contravenes LAP in respect of density;
* Drawings unclear (separation distances ambiguous);
* Potential impact of proposal on Semple Woods raised;
* Provision of Part V queried.

1. Prescribed Bodies
   1. Department of Housing, Local Government and Heritage (DHLGH)

* Archaeology – recommend conditions in relation to monitoring.
* Nature conservation – The experience of NPWS staff observing over many years the behaviour of waders, wildfowl and other waterfowl species exposed to the noise of industrial and building operations around Dublin Bay is that they soon habituate to such noises. This Department does not therefore consider it likely that machinery noise arising from the development of the Nature Park will have significant detrimental impact on SCI birds occurring on the Outer Malahide Estuary. Provided monitoring of bird numbers on the adjacent sections of the Malahide Estuary are carried out in the course of the construction works to check for any disturbance impacts development of the Nature Park may proceed from spring to autumn. Agree with FCC suggestions with regards to the management of dogs in the Nature Park. Favour FCC proposals in relation to management of land through cattle grazing to encourage use by bird species. The Department also considers that it would be desirable to retain some of the plant communities which have developed on the Nature Park site in recent years because of their value for invertebrates and nesting birds, and it is therefore recommended that as well as the 10% of the Nature Park which the developer is proposing to retain undeveloped, that proposed tree planting in the Nature Park is minimised to provide only sufficient trees as are required to screen the park and Malahide Estuary from the proposed residential development, no more planting in particular to be carried out along the eastern boundary of the park, and the areas freed up from tree planting to remain undeveloped or allowed to revegetate without interference. Conditions recommended relating to approval of final construction management plan with provision for the employment of an ecologist; surveys of winter birds during the course of construction and for five subsequent winters on adjacent areas; revised details for redevelopment of the Nature Park to include enclosed dog run, reseeding of enclosure for conservation cattle grazing with grass seed mix, omission of tree planting along eastern boundary of Nature Park, reduction of tree planting elsewhere, with areas freed up to remain undeveloped or revegetate without intervention.
  1. Iarnród Éireann / Irish Rail
* Notification of this application has not been provided to Iarnród Éireann a prescribed body. The proposed development has the potential to significantly impact the safety of the operational railway.
* The site boundary shown on the plan drawings and cross sections, assumes that the property boundary to railway lands corresponds with OSi mapping and this is unreliable and does not take account of historical drainage channels running parallel to the railway at the crest of cuttings and the toe of embankments which fall within the original land take for the railway corridor. It is therefore probably that the development encroaches onto CIÉ/Iarnród Éireann lands. The drawings / cross sections do not specify a dimension between the proposed boundary wall and track, or alternatively GPS coordinates for the line of the wall that would allow for comparison with the Railway’s records for the boundary line along this section.
* The applicant identifies FCC as the legal owner of the public road to the north of the site. The letter of consent from FCC incorrectly identifies the extent of Council ownership. The approach to the road and embankments to the Railway Bridge is in full ownership of CIÉ/Iarnród Éireann. Consent has not been sought for the inclusion of lands in CIÉ ownership in the application. Any works to the approach road and embankments including resurfacing, laying of ducts or services etc. will require written consent from CIÉ/Iarnród Éireann.
* The roadworks to the L2170 in front of the entrance to Donabate Station is of concern given the additional traffic generated by the development. There is potential conflicting movements arising from the new development in relation to existing movements in and out of the station and along the main road where sighting distances are already compromised due to the vertical alignment over the railway bridge. The Traffic Impact Assessment does not comment on what impact the proposals will have for traffic entering and existing the Railway Station car park.
* Mixed use Building 02 is very close to the top of a steep railway cutting. There is a significant risk of slope failure during and after construction due to the inappropriate clearance to the railway. Risk of derailment. Building 02 needs to be positioned further away. Future maintenance of the railway line is also not accounted for in the position of Building 02.
* Proposed Catchment A attenuation wetland to the south of the development is positioned directly adjacent to the railway corridor which lies in a cutting to the north of the wetland and is supported on a soil embankment directly adjacent. Stability can be compromised by water ingress and saturation of surrounding lands. Cross section A-A shown on drawing DR-0585 does not encompass the railway corridor and provides no meaningful ground levels to national grid for the proposed inverts and water levels shown. Not clear if the railway embankment will be impacted by the 100 year return period.
* The developer should consult with IÉ in relation to the output of the option selection study for the DART+ Coastal Project (Northern Line), together with all other aspects of the project.
* A 2.4m high appropriately design, solid block/concrete boundary treatment, should be erected by the applicant on the applicants’ side of the boundary to the Railway.
* The landscaping plan should avoid deciduous trees along the railway boundary to reduce risk of low rail adhesion during leaf fall season which can have a detrimental impact on the breaking performance of trains and block sight lines to signals. Indicative planting arrangements are shown adjacent to the railway which is not acceptable.
* Provision should be made for maintaining the security of the railway boundary during the construction phase and the agreed permanent boundary treatment.
* The Railway Safety Act 2005 places an obligation on all persons carrying out any works on or near the railway to ensure that there is no increase in risk to the railway as a consequence of these works.
* Access for Iarnród Éireann staff to culverts / bridges under the Railway should not be hindered.
* Railway mounds and drainage ditches are to be preserved except with written consent.
* No additional liquid, surface water or effluent shall discharge to or seep onto railway property or railway drains / ditches.
* Excavations which infringe upon the Track Support Zone require permission and approval from the Senior Track and Structures Engineer.
* No buildings shall be constructed within 4m of the Boundary Treatment on the applicants’ side to allow for maintenance.
* Agreement required for use of cranes that could swing over railway property.
* Wayleave agreement required for services that cross over or under railway property.
* Glint and glare survey required to confirm light during construction and operation will not cause glint or glare to impair vision to train drivers or personnel operating on track machines.
* Development should account for possible noise and vibration impact resulting from 24hr maintenance activity of the railway.
* Height restricted bridge under the railway should be accounted for during the construction phase and a traffic management plan should be drawn up to prevent construction traffic having to traverse under bridge UBB32.
  1. Irish Water
* Wastewater – connection is feasible subject to completion of the Donabate Distributor Road Wastewater Network including all relevant wastewater pumping stations. Prior to agreeing the proposed connection(s), the infrastructure must be completed and in operation. Planned for completion Q4 2023 (subject to change). Note connection is via a third party and evidence of all relevant permissions will be required.
* Water – connection is feasible.
* Design Acceptance – the applicant has been issued with a Statement of Design Acceptance for the development.
* Recommend conditions with respect to connection agreement, not building over assets, separation distance and development to be carried out in compliance with standards and codes of practice.
  1. National Transport Authority
* The proposed development would meet transport and land use objectives in relation to diversity of tenure, a wider demographic profile, social inclusivity.
* Cycle parking – Recommend setting a higher number of cycle parking (in accordance with the Sustainable Urban Housing Guidelines) to further encourage the mode share target for cycling and create a safe, secure, and pleasant environment for vulnerable road users.
* Cycle infrastructure – recommend that the cycle path continues to meet the junction with the Donabate Distributor Road and the toucan crossing in the interests of providing a safe cycle network. The applicant should demonstrate how the Village Link Street will provide a safe environment for pedestrians and cyclists particularly in light of the importance of this route to access Donabate Train Station and Village. Consideration should be given to the inclusion of a signalised junction at the Main Street or the movement of the Toucan crossing to the west side of the junction. The junction of the cycle track with Village Green Link Street should be redesigned to introduce filtered permeability which eliminates vehicular conflict by routing domestic vehicular traffic to the north and south of the junction. The east-west cycle track through the Linear Park should be 4m in width to allow for two way movement. Additional north-south connectivity through the site should be provided for pedestrians and cyclists particularly from the 2nd Entrance Street and greater use of filtered permeability, shared street design, pedestrian crossing points and raised tables could be provided.

1. Oral Hearing Request
   1. One formal request for an Oral Hearing was received in relation to this application. Section 18 of the Act provides that, before deciding if an oral hearing for a strategic housing development application should be held, the Board:
2. Shall have regard to the exceptional circumstances requiring the urgent delivery of housing as set out in the Action Plan for Housing and Homelessness, and
3. Shall only hold an oral hearing if it decides, having regard to the particular circumstances of the application, that there is a compelling case for such a hearing.
   1. Having regard to the circumstances of this case, to the issues raised in the observations received by the Board, and the assessment set out in section 12 below, I consider that there is sufficient information available on the file to reach a conclusion on the matters arising. I do not consider therefore that there is a compelling case for the holding of an oral hearing in this instance.
4. Assessment
   1. The planning issues arising from the proposed development can be addressed under the following headings-

* Principle of Development
* Housing Growth in Donabate and the Proposed Density
* Heritage Considerations
* Height, Scale, Mass, Form and Design
* Neighbouring Residential Amenity
* Proposed Residential Standards
* Traffic and Transport
* Material Contravention
* Planning Authority’s Reasons for Refusal
* Other Issues
  1. **Principle of Development**

Land use zoning

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.

The subject site is bisected by the Donabate Distributor Road (DDR) with the proposed development comprised of a primarily residential development to the northern part of the site, and a Nature Park within the south of the site.

The majority of the northern portion of the site is zoned RA ‘Residential Area’ with the associated land use objective ‘*to provide for new residential communities subject to the provision of the necessary social and physical infrastructure’.* A small section of the north west of the site is zoned TC – ‘Town and District Centre’ with the associated land use objective ‘*to protect and enhance the special physical and social character of town and district centres and provide and or improve urban facilities.’* Residential is a permitted in principle use for these zonings and in terms of land use, I am satisfied that the proposal for residential development on this portion of the site, is in accordance with these land use zonings.

The north eastern portion of the site is zoned OS ‘Open Space’ with the associated land use objective ‘*to preserve and provide for open space and recreational amenities’*. It is proposed to locate an access road through this open space zoned area and the Development Plan includes a designated Road Proposal indicated on the zoning map related to serving the zoned residential lands through this open space area.

The portion of the site south of the DDR is zoned HA – ‘High Amenity’ with the associated land use objective ‘*to protect and enhance high amenity areas’.* I am satisfied that the Nature Park is appropriate within this land use zoning and responds to the requirements Donabate Local Area Plan designation for this part of the site for ‘Corballis Nature Park’.

The zoning map also indicate a Proposed School within the applicant’s landownership extent, however the subject site red line boundary bypasses a section preserved for future provision of a school, situated adjacent to the railway lines to the west of the site. Therefore, the school zoning does not fall under the current application red line boundary extent, although the future provision of a school is part of my wider planning assessment considerations described below.

A small section of the north west of the site is partially within the area identified for an Urban Framework Plan. The intention of the Urban Framework Plan is described by Fingal CC as providing a vision for the Donabate town centre which will improve and enhance the Main Street area and guide careful urban improvement. The plan is not yet finalised. The subject site takes in a small section of Main Street and does not form a fundamental element of the area to be prescribed under that plan, as such, the submission of this application prior to the adoption of the Urban Framework Plan is not significant in my view.

Validity of the Application

I note a third party representation querying the passing of time between the pre-application consultation and the submission of this application. There is no time limit in relation to the submission of an application for SHD to An Bord Pleanála following the pre-application consultation taking place. As such, I am satisfied that there is no question of validity of the current application in this regard.

Third party response also raise concern regarding what they consider to be inconsistencies in the application, specifically the address in statutory notices which does not identify that the redline boundary includes lands in the attendant grounds and curtilage of the Protected Structure at Smyths Bridge House; and what the legal interest is over this part of the site. The query arises as the car park is outlined in redline (indicating application extent) but the buildings associated with the car park are not in a blueline (indicating landownership extent). It is questioned whether there is need for a letter of consent for submission of the application over this part of the site.

In relation to landownership of the car park, the submitted application form states that the owners of the subject site redline boundary extent are comprised of the applicant, in control of the majority of the lands, and Fingal County Council and Glenveagh Homes, with respect to additional lands. Drawing no. 0921-SHD-S-150 rev.C illustrates the ownership extent for Fingal CC and drawing no. 0921-SHD-S-151 rev.C illustrates the ownership extent for Glenveagh Homes. Letters of consent are included in the application from both of these ‘other’ landowners. Neither of the ‘other’ landownership extents include the car park for the Smyths Bridge House pub. As a result, the application submission is made on the basis that the applicant is the landowner of that portion of the site, along with the majority landholding area making up the red line boundary and I have not been presented with any evidence to the contrary. In terms of implementing any planning permission resulting from this current application, the granting of planning consent would not supersede landownership entitlements, and therefore there is no prejudice in that regard. In this sense I note provisions of section 10 subsection 6 of the Planning and Development (Housing) and Residential Tenancies Act 2016 which states that *“A person shall not be entitled solely by reason of a permission under*[*section 9*](https://www.irishstatutebook.ie/2016/en/act/pub/0017/sec0009.html#sec9)*to carry out any development.”*

In relation to the address of the site in statutory notices, this is described as bounding the Smyths Bridge House which is identified as a Protected Structure, with the development description clearly describing reconfiguration works to the existing car park for Smyths Bridge House (a Protected Structure). The development description, site layout plan and all drawings submitted clearly indicate the extent of the development. The exact site outline is also available to view on both the hard copy and via the website for the application. As such, I am satisfied that there is no question of validity of the current application in this regard.

A further matter with respect of landownership arises in relation to the submission received from Iarnród Éireann / Irish Rail. This states that the landownership extent indicated by the applicant is incorrect, and that it is probable that the development encroaches onto CIÉ/Iarnród Éireann lands. I note that the site plans indicate a landownership (blueline) extent up to and abutting the railway line for much of the western boundary of the site, with an application site (redline) area that is set in slightly from that landownership extent, with the exception of the north western end of the site. Irish Rail also state that they are the legal owners for an area of land indicated by the applicant and Fingal CC to be within the ownership of Fingal CC, with an associated letter of consent attached to the application from Fingal CC. I deal with Irish Rails submission in detail in section 12.8 below. With respect to the validity of the application, the resolution of landownership disputes does not form part of the planning application process. I am satisfied that the applicant has met the obligations concerning demonstration of consent of landowners for lands within the redline boundary extent, based upon their understand of the landownership extent of these areas. As stated above, the granting of planning permission does not superseded landownership entitlement and would not entitle the developer to undertake works outside of their ownership without legal consent of relevant landowners. Again, in this regard I note provision in section 10 subsection 6 of the Planning and Development (Housing) and Residential Tenancies Act 2016 as quoted above, confirming that the grant of consent for SHD does not entitle a development to be carried out. For the purposes of my assessment of the current application and based upon the information submitted, I am satisfied that I can continue with my assessment.

Third party responses also query the validity of the application with respect to lands adjacent to the DDR. It is suggested that it is unlawful for Fingal County Council to allow a private planning application to be made for a housing development incorporating land acquired compulsorily for road construction, and it is unclear whether the proposal will preserve opportunity for future widening of the distributor road. The proposed residential blocks and houses do not extend into the area illustrated as being within the ownership of Fingal CC and adjacent to the DDR. Within those areas adjacent to the DDR and in the ownership of Fingal CC, works are confined to soft landscaping and road / pedestrian access points. Fingal has confirmed they are the legal landowner of this area and have provided a letter of consent which forms part of the application submitted. The Planning Authority and its Transport section have not raised any concerns in relation to conflict with the DDR as a result of the development proposals. It is my understanding that the DDR as it adjoins the development site, has been completed as per its planning consent, and there is no future works proposed to the DDR that the current application works would conflict with. I am therefore satisfied with the validity of the application in this regard.

Finally, a third party representation states that the application documents do not comply with legislative requirements in relation to detailed plans and particulars. The application documents are comprehensive, with exact details for the proposed development of the site, particularly in relation to the north of the DDR where new structures, roads, and infrastructure connections are planned. As such, I am satisfied that the application complies with planning regulation legislative requirements in this regard.

Overall, I am satisfied that on the basis of the information currently before me that the application is valid and can be determined by the Board.

* 1. **Housing Growth in Donabate and the Proposed Density**

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 Policy 8.2.4 regarding development quantum, density and family home provision, and should be refused, in part, in for this reason. I address the Planning Authority’s recommended reasons for refusal in detail in section 12.10 below. The applicant has also provided a Material Contravention Statement with respect of density and growth rate, and I deal with material contraventions in detail in section 12.9 below.

Regional Planning Policy in the Eastern and Midlands RSES identifies Donabate as a strategic development area with significant residential capacity, and as being a strategically located rapidly growing coastal village. Variation no.2 of the Fingal County Council Development Plan 2017-2023 identifies Donabate as a Self-Sustaining Growth Town with an appropriate population growth rate of 10%. Remaining capacity for 3,532 residential units is identified in Table 2.4 of Variation no.2 for Donabate. Page 58 of Variation no.2 also states that *‘Donabate, on the edge of the Metropolitan Area, is identified as a Self Sustaining Growth Town which will act as a district growth centre with high quality linkages and increased densities at nodes on public transport corridors.’* The Donabate Local Area Plan identifies an approximate unit number of 1,850 for the Corballis area within which the subject site is located. Section 9 of the LAP describes the phasing and implementation of development, with sequencing described for Corballis East and the development of c.300 dwellings in phase 2 and 1000 dwellings in phase 3. The subject site is situated within the area that would be defined as Corballis East.

I note third party concern that on the basis of the LAP sequencing, the proposal provides 101% of the dwellings envisaged for Corballis East over only 70% of that area. The proposal also exceeds the Core Strategy growth allocation for Donabate of 10%.

In terms of national and regional planning policy, this encourages 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. In relation to the LAP, the current application would exceed the units described in section 9 in relation to development sequencing and phasing, although this figure in the LAP is an approximation. Furthermore, the number of units proposed would exceed the phasing sequencing alongside infrastructure described in Table 9.1 of the LAP, as a result of the overall density and number of units proposed on the site.

In my opinion, an overly constrained approach to housing capacity in suitable locations would be contrary to the overarching approach described national policy and guidance. The application site is in an existing residential settlement area, on the edge of, and part overlapping, the zoned town centre and proximate to 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. I also note that the location of the site immediately proximate to mainline rail infrastructure, makes the site a sustainable location for increased densities as highlighted in Variation no.2 of the Development Plan. 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 set out this qualitative assessment below and throughout my report.

In relation to the phasing and sequencing of housing delivery alongside infrastructure delivery, I address existing infrastructure surrounding the site as part of my EIA and consideration of population and human health. In summary, the site is situated adjacent to the existing town centre area, with access to shops, cafes, supermarket, pharmacy and other services. The proposed development will also include delivery of commercial uses and childcare that will also be available to the wider population of Donabate, as well as a new Natural Park. I also address phasing as part of section 12.9 of my report below.

In relation to the proposed density, the Development Plan states that *“In determining densities, regard should be given to Sustainable Residential Development in Urban Areas (2009) and its companion document Urban Design Manual. The Council promotes higher densities at suitable locations such as along public transport corridors and in main town centres”* (page 71) and Objective PM41 encourages increased densities at appropriate locations. Page 257 of the Development Plan also states that in relation to rail infrastructure, high-density development is required within the catchment of stations in order to obtain the high passenger numbers required to make it viable and sustainable. The Donabate LAP also refers to the Sustainable Residential Development in Urban Areas guidance in relation to appropriate densities, reflecting the guidance that densities in the range of 35-50 dwellings per hectare are appropriate in ‘Outer Suburban / Greenfield Sites’. A general overall density of 35 dwellings per hectare is targeted for LAP lands.

In terms of National Planning Policy, Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. Of relevance, objectives 33 and 35 of the NPF seek to prioritise the provision of new homes at locations that can support sustainable development and seeks to increase densities in settlements, through a range of measures. In relation to Section 28 Guidelines, the ‘Urban Development and Building Height, Guidelines for Planning Authorities’ (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.

The subject site is situated a short walking distance to Donabate rail station providing commuter services. The site is also partially situated within, and a short walking distance to, the zoned town/district centre areas for Donabate with access to the range of commercial, social and amenity infrastructure there. The site is therefore categorised as a ‘Intermediate Urban Location’ under the Apartment Guidelines. These include areas within walking distance of principle town or suburban centres (up to 10 mins) and/or walking distance (10-15 mins) of high-capacity urban public transport stops such as commuter rail services. These locations are stated to be generally suitable for smaller-scale, higher density development that may comprise apartments, or alternatively, medium-high density residential development of any scale that includes apartments to some extent, with densities broadly in excess of 45 dwellings per hectare. The proposed development has a net density of 51.1 units per hectare.

The Planning Authority define the application site as an ‘Outer Suburban / Greenfield Site’, as described in the Sustainable Residential Development in Urban Areas Planning Guidelines, and this is also reflected in the classification described in the Donabate LAP. The Guidelines define such sites as being on open lands on the periphery of cities or larger towns, whose development will require the provision of new infrastructure, roads, sewers, and ancillary social and commercial facilities, schools, shops, employment and community facilities. Densities in the range of 35-50 units per a hectare are considered appropriate for such areas.

I have had regard to the Sustainable Residential Development in Urban Areas Planning Guidelines and Circular NRUP 02/2021, and I do not agree with the Planning Authority that the site can be solely classified as an ‘Outer Suburban / Greenfield Site’. In my view, the subject site can also be considered under the ‘Public transport corridor’ and ‘Inner Suburban / Infill’ classifications. This is because of the proximity of the site to the railway station and the inclusion of the northern section of the site within the designated Development Boundary under the zoning maps. Taking an approximate mid point within the residential development portion of the site, as the crow flies, a distance of less than 500m can be measured to the train station. The Guidelines state that sites within 1km of a rail station may be considered to be walking distance to a public transport node. In addition, the residential development portion of the site is situated on the edge of the existing residential settlement for Donabate and within its Development Boundary as defined on the zoning map. The Guidelines distinguish sites within inner suburban areas of towns, proximate to existing public transport corridors that can utilise existing social and physical infrastructure. In such locations, the guidelines would encourage minimum densities of not less than 50 units per hectare. The zoning and characteristics of the portion of the site proposed for residential development, all support a classification under the Guidelines that would encourage increased densities in my view, and not clearly reflective of an Outer Suburban / Greenfield Site. Therefore, the proposed density of just over 50 units per hectare is appropriate in my view and balances the characteristics of the site, which while comprised of open lands on the edge of the existing settlement, can connect into existing infrastructure (road and sewer), situated within the defined development boundary for Donabate, partially within the zoned town centre area and a short walking distance to the train station. In any case, even if considered under the ‘Outer Suburban / Greenfield Site’ classification in the guidelines, the proposed density of 51.1 uph is marginally above the upper range of 50 uph for such locations.

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. Donabate is designated ‘Self-Sustaining Growth Town’ under variation no.2 of the Development Plan and is not considered to be a ‘village’ in the context of the guidance.

I note third party concern that the density calculation for the proposed development is based upon a net area inclusive of features that should be excluded in accordance with the Sustainable Residential Development Guidelines. Page 4 of the submitted Design Statement confirms that the net site area for the purposes of density calculation is 26.707ha, which is based upon the total site redline boundary, minus the Nature Park and Fingal CC lands. The Fingal CC lands are formed of the DDR and portions of the site that overlap New Road and Main Street. Drawing 0921-SHD-S-157 also illustrates those areas of the site which have been excluded for density calculations including the Glenveagh Homes Lands, which form an infrastructure connection, the road link to the north of the site, and the car park areas adjacent to Smyths Bridge House pub. The Guidelines state that net site areas will include access roads, private garden areas, car parking areas, incidental open space and landscaping and children’s play areas. Net areas exclude major / local distributor roads, schools / churches etc, open space serving a wider area and significant landscape buffer strips.

I am satisfied that the net site area as described by the applicant is in accordance with this guidance, with open space that is incidental to the development for use by future occupiers included, and the open space to serve the wider area (i.e. the Nature Park), and the DDR, excluded. As described above, it is my opinion that National Planning Policy and Guidance supports increased density on the site, and the proposed density of just over 50 units per hectare is acceptable as a result.

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 12.5, 12.6 and 12.7 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 12.4 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.

* 1. **Heritage Considerations**

I note third party concern regarding negative impact as a result of the proposed development upon the Protected Structure at Smyths Bridge House and its curtilage areas. I have also addressed heritage considerations as part of my EIA in section 13 in this report below as part of my assessment of ‘Cultural Heritage and Archaeology’. That section should be read in conjunction with this part of my planning assessment.

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.”*

The application is accompanied by an EIAR that includes an assessment of heritage impacts in Chapter 13, as well as photomontages and verified views that inform a landscape and visual impact assessment. 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.

There are a number of protected structures within Donabate, however the only RPS proximate enough to the subject site to potentially be impacted, is Smyth’s Public House / Bridge House (RPS no.0509). Smyth’s pub is dated at between 1830 and 1850 on the National Inventory of Architectural Heritage (NIAH). The description on the NIAH is focused primarily on the main detached public house itself.

The application site transverse the car park for the pub, which is currently informally laid out. The redline boundary for the application site includes the car park which is situated between the pub (protected structure) and its ancillary outbuildings (curtilage features to the protected structure). The car park itself can be defined as falling within the curtilage of the protected structure and section 13.3.10 of the EIAR specifically states that the proposed development is in the curtilage of the protected structure. As such, the submitted EIAR has considered the impact of the proposed development on the protected structure and its curtilage, including recognition of the location of the site within the curtilage to the protected structure. While the car park area and wall form curtilage features, this does not preclude alterations or removal / development of those areas, and an assessment is first required of the overall impact that results upon the protected structure. Section 13.3.25 of the Architectural Heritage Protection Guidelines describes how this assessment should be carried out and this has informed my appraisal of the proposed works.

The existing condition of the car park is in informal use. A low stone boundary wall fronts onto the road and connects to an outbuilding, both of which form historical features associated with the protected structure. The proposed development includes the removal of this boundary wall, to allow the formal layout of the space, creating a new access road to the development lands, as well as pedestrian route and formal landscaping. A tree is also removed in the car park as part of these works. New tree planting is then included in the proposed landscaping for this part of the site.

The low boundary wall has potential to contain historical footings for former outbuildings for the pub. The EIAR describes building recording / monitoring, should such features be exposed. The boundary wall does not form an intrinsic feature to the appreciation of the protected structure in my view. Therefore, I am satisfied that it’s removal may be accepted, where it is necessary in order to achieve development of the site. The removal of the wall is required to create an access road into the development site and provide a formal pedestrian link to the town centre and train station. This link is particularly important to the creation of a sustainable development on the site, with pedestrian and cycle accessibility to rail transport and the amenities within the centre of Donabate. Therefore, good reason exists to remove the wall in my view. The formal landscaping of the former car park area, with access road, footpaths and planting, does not significantly alter the appreciation of the protected structure in my view. The open character of this area remains and the original outbuildings are unimpacted by the proposed works. The proposed landscaping works are good quality and will be maintained to a more formal standard than the current site condition. Overall, I am satisfied that the proposed development would not harm the setting of the protected structure, and that the proposed works to, and within, curtilage features are acceptable and enhance the setting of the Protected Structure.

As such, in my opinion the proposed development would be compatible with objectives CH20, CH21, CH22 and CH25 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 impacting the curtilage of a Protected Structure.

* 1. **Height, Scale, Mass, Form and Design**

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 due to the sensitive location of the site in the Coastal Type Landscape Character area, with exceptional landscape value and high landscape sensitivity.

Objective DMS39 in the Development Plan states that new infill development shall respect the height and massing of existing residential units. The subject site is categorised in the Plan as being within the Coastal Character Type to the northern portion of the lands, and Estuary designation to the southern portion of the lands, which are areas with exceptional landscape value. The Plan describes that this value is arrived at due to the combination of visual, ecological, recreational and historical attributes. The proposal is to locate a Nature Park within the southern portion of the lands in the Estuary character area. To the northern portion and within the Coastal character area new residential development is proposed which accords with the land use zoning for this part of the site. Objectives NH59 and NH60 relate to development within coastal areas, and the prevention of inappropriate development, with the requirement that development be of the highest standards and sited so as not to detract from the visual amenity of the area.

The zoning map includes a ‘preserve views’ designation along the southern boundary of the site adjoining the proposed Nature Park. The designation runs from the railway line east along the coast towards The Island Golf Club. This road provides views over the Malahide Estuary. There is also a Development Plan objective to preserve views from the coast road in Malahide looking north over the Estuary towards Donabate. Objective NH40 provides for the protection of views and prospects that contribute to the character of the landscape, particularly those identified in the Development Plan, from inappropriate development. The area of the site to the south of the DDR where the Nature Park is proposed is also zoned as a High Amenity Area under the Plan, with related Objectives NH51 and NH52 concerning the protection of such areas from inappropriate development and reinforcement of the distinctiveness and sense of place.

The Donabate LAP states specific requirements in relation to the heights, form and massing of new development within the Corballis Coastal LAP lands and Nature Park, which the subject site forms part of. It asks for particular care along the southern edge of the LAP lands, facing the Malahide Estuary, with the requirement for a detailed Visual Impact Assessment. The LAP also states with respect to development adjoining the railway line though the Corballis lands, that adequate set back distance is provided, to allow for future widening of the rail tracks and temporary access during construction. In relation to building heights, section 8.3.1 of the LAP states that due to the highly visually sensitive sitting of the Corballis lands, the height of buildings along the southern and eastern edges should be carefully considered and that building heights will be predominately two storeys with opportunity for increased heights in specific locations, including adjacent to the proposed local centre which is indicated to south west corner of the residentially zoned lands. Objective 8.8 of the LAP asks for the implementation of a strategic landscape scheme on the lands at Corballis, in advance of any development above the 20m OD line to mitigate / soften the visual impact of the existing houses at ‘The Strand’.

It is therefore clear that the local planning policy focus for this site is to ensure that development is sensitive to the highly sensitive landscape setting of the site. In terms of national planning policy relating to the height and scale of new development, 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. SPPR 1 of the Building Height Guidelines supports increased height and density in locations with good public transport accessibility and SPPR 4 relates to the development of greenfield or edge of city/town locations for housing, where a greater mix of building heights should be secured and an avoidance of mono-type building typologies (e.g. two storey or own-door houses only).

SPPR 3 requires development proposals to describe compliance with the Development Management Criteria under section 3.2 of the Building Height Guidelines. It states that development may be approved in consideration of this criteria, even where specific objectives of the relevant development plan or local area plan may indicate otherwise. The criteria include consideration of the response to the overall natural and built environment within which the site is situated.

My assessment has therefore been informed by the criteria in section 3.2 of the Section 28 Building Height Guidelines, and I note the applicant addresses this criteria in detail in the submitted Architect’s Report. This is alongside consideration of other relevant national and local planning policy standards described above. 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.

The proposed development is for buildings between 2 and 5 storeys in height, formed of a mix of housing, duplex and apartment typologies, set within new landscape areas including parks and playspace areas. Non-residential buildings include residential amenity facilities, creche and café/retail units.

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 12.3 above, that the site well served by commuter rail services. While I note third party concern regarding the capacity of this, rail services are considered to be high-capacity forms of public transport, although I recognise that capacity will vary across the day. The site is also partially within, and a short walking distance to the town centre area and served by a bus stop also situated adjacent to the train station. I consider public transport capacity further as part of section 12.8 and my EIA in section 13 below. Overall, I am satisfied that the site characteristics accord with the criteria under section 3.2 and SPPR 1 concerning links to public transport, as it is located a short walk from the Donabate rail station.

The second criterion relates to the character of the area in which the development is located, including regard to topography, cultural context and setting of key views.

The submitted Architect’s Statement describes that the proposed 5 storey buildings are mainly clustered around the ‘local centre’, to the south west corner of the site, where the retail, café, residential amenities and management facilities are proposed. This is also the end of the site proximate to the reserved location for a primary school (outside of the redline boundary). The location of these taller elements within the scheme is in response to the topography of the site, which rises from south to north and the indication of the Local Centre under the LAP, where the plan states that there is opportunity for increased height. The proposed development includes a dense belt of new tree planting along the northern boundary closest to The Strand, an existing neighbouring residential development. This responds to the local planning policy requirements for a strategic landscape scheme to soften and mitigate the visual impact of the ridgeline to The Strand dwellings upon the more sensitive wider landscape. The visibility of this exiting The Strand residential estate is highlighted in views from the south in the estuary as a result of the topography of the area.

The proposed Nature Park within the portion of the site to the south of the DDR will provide an important ecological and visual buffer to the residential development proposed to the north of the DDR. The topography of the lands to the south of the proposed residential development also assist in obscuring its appearance in some views from the estuary. The DDR itself rises from the west to the east in front of the site, thereby creating some screening of the extreme south western corner of the site in views from the estuary. In addition, to the east of second access road from the DDR into the site, development within the residentially zoned lands is screened by the topography of the proposed Nature Park (south of the DDR), with a mound screening views from the estuary to the proposed development to the north. However, between these higher topographical points, i.e. between the DDR as it rises to the east to west, south of the proposed residential site, and to the west of the mound in the proposed Nature Park, there is a dip in topography, exposing the site at this specific point to greater visibility from the estuary. This is also the location that the proposed development includes 4 and 5 storey apartment blocks, with proposed apartment blocks 6 and 8 prominent in views from the estuary to the south, as well as the top storey to proposed blocks 4 and 5. As a result, the proposed development is more heavily reliant upon trees to provide screening at this point and this is demonstrated in VVM 12 in the submitted verified view document.

The effectiveness of this topographical screening and the impact of the overall design upon views from the coast is evident in VVM 1, 2 and 3. It is also well illustrated by the lack of visibility of the recently constructed houses to the west of the site, which are well screened in views from the south as a result of the topography of the area. However, in front of the subject site, lower land levels for the estuary mean that the proposed development has greater reliance upon trees to screen the development.

This is problematic in my view, as it is clear that tree planting in the proposed Nature Park and elsewhere on the site, will take a considerable number of years to reach its full value in terms of screening. The EIAR explains as part of the landscape and visual assessment in Chapter 14, that a number of views are provided demonstrating proposed tree screen planting at 7m, representative of the appearance of trees after 15-18 years, and 10m representative of tree appearance after 22-25 years of planting. As a result, both a short term and long term categorisation of effect is provided. I have studied the submitted views in detail and visited the site. I am cognisant of the LAP identification of a Local Centre to the south west corner of the residentially zoned lands where there is opportunity for increased height, and it was apparent to me from my visit to the site, that this location would benefit from some screening in views from the estuary due to the topography of the DDR. I am also satisfied from the submitted views that the southern edge of the proposed development as it extends further east, will be screened by the topography of the Nature Park. However, in my opinion, proposed apartment blocks 6 and 8 to the south west of development site are not acceptable, given the exceptional landscape quality of the Coastal area to the south.

VVM 13 demonstrates the visibility of the proposed development to the south west corner of the site. The fact that the proposed development is visible in this view is not problematic in itself, the site being zoned for residential development and therefore a degree of change in these views is inevitable, planned for and expected. However, as a result of the surrounding low lying topography of the estuary, apartment blocks 6 and 8 at this end of the site are extremely visible, and have a scale, design and form that is alien to the area, and as a result the visual impact is one of stark contrast. The top storey of apartment blocks 4 and 5 are also readily visible (VVM12 2.5m trees) until screening reaches 7m in height (VVM 12 7m trees). The top storey is a set back zinc clad element that is an incongruous form for the area in my opinion. This impact can be compared to VVM 16, which whilst representing a similar degree of change, demonstrates how the incorporation of a design and building form that is more reflective of the established character of the area, and includes the incorporation of pitched roofs, can assist in reduce the overall visual impact of the blocks in view.

To be clear, I am satisfied that there are parts of the site that could accommodate the proposed apartment design in the scheme, however, in my view, the situation of these blocks to the south west where they will be readily visible in views from the estuary is not appropriate. For example, reference to VVM 6 is useful, illustrating the proposed development as it appears to the northern end of the site, and again, incorporating a 5 storey apartment block that introduces a new typology to the area, including flat roofs and zinc cladding. However, the context at this end of the site is less sensitive and therefore the 4 and 5 storey apartment blocks at this end of the site are much more easily absorbed into the landscape. Proposed apartment blocks 10, 11, 12, 13 and 14 also appear to be screened by the topography and existing tree planting in areas to the south of the site, however further views from the south would be useful to confirm this.

It is clear that the residential zoning of the site will necessitate an efficient redevelopment that will inevitably change views in the wider area, however this degree of impact needs to balance against the highly sensitive landscape character of lands to the south. The LAP states in relation to protected views that,

*“In assessing views and prospects it is not proposed that this should give rise to the prohibition of development along these routes, but development, where permitted, should not hinder or obstruct these views and prospects and should be designed and located to minimise impact.*” (para.5.1.3)

In my view, the applicant has not achieved the right balance when considering views of the development as it is proposed to the south west of the residentially zoned part of the site. The applicant has focused the taller elements of the scheme in areas where ground levels are lower, and around the Local Centre, which is a rational approach to an initial design appraisal of the site. However, as proposals for this site evolved, consideration should have been focused on the wider topography of the area, particularly in this exceptional landscape area, with low lying topography around the estuary that accentuates the visibility of development in longer views. In my opinion, the submission would also have benefited from additional views to illustrate the impact upon protected views as designated under the Development Plan. While the submitted views illustrate the appearance of the proposed development to the south west, greater illustration of views from the south is necessary, as there is a large expanse of frontage without focused viewpoints.

There are screening opportunities provided by the topography of the DDR and the mound in the Nature Park, however apartment blocks 6 and 8 are located in a more exposed position. The top storey of apartment blocks 4 and 5 is also apparent until trees reach a sufficient maturity. In general, there is also an over reliance upon the effectiveness of trees to screen the visual impact of the development as it appears to the south west of the residentially zoned lands in my view, with trees taking around 20 years to provide an appropriate level of screening. The damage to the visual context of this highly sensitive landscape in the intervening period that this screening takes to establish, could become irreversible, with precedent created for further future intrusions into views and the landscape setting.

The submitted EIAR concludes that the short term impact of the proposed development in VVM 12 is slight negative / neutral in the short term and slight and positive in the long term after the establishment of planting. The impact for VVM 13 is categorised in the EIAR as significant/moderate negative, and that this would likely reduce to slight/moderate and negative in the long term. Which would be after at least 15 years, and up to 25 years, being the period it will take for tree screening to mature. It is also concluded that VVM 14 demonstrates that the proposed development will have moderate and negative impact in the short term, likely reducing to slight and negative in the long term, also associated with the maturity of tree planting. The indicative phasing plan provided as part of the application indicates that the blocks proposed to the south west corner of the site would be delivered in phase 3, of 5 total phases, with the Nature Park delivered in phases 1 and 2. Therefore, there would be some planting growth in the Nature Park providing an element of screening prior to the construction of apartments in phase 3. However, the landscaping strip immediately in front of the apartment blocks are part of the same phase 3 as the apartments themselves, and therefore would only mature after construction of the proposed apartment blocks. There is no clear indication of timeframes associated with the phasing plan provided and the permission applied for is for a ten-year period, so the degree of establishment of planting to provide some screening of the apartment blocks is ambiguous. In any case, the long-term effect in views to the south west corner of the site remain negative even after the establishment of planting. While the EIAR categorises this negative effect as slight in the long-term, I disagree and in my opinion the negative effect would remain significant in the long-term.

There are other views which the submitted landscape and visual assessment conclude to represent slight/moderate negative effects of the proposed development, however as described above, these are in parts of the site that in my opinion, have less sensitivity and with greater ability to absorb new forms into the landscape (VVM 6, VVM 7 and VVM 11); or where the proposed design lessens the impact in my opinion (VVM 16).

The section 3.2 criteria in the Building Height Guidelines also include the requirement for larger urban redevelopment sites to make a positive contribution to place-making, incorporating new streets and public spaces, and creating visual interest in the streetscape. The proposed development incorporates good permeability and connectivity through the site, with a clear hierarchy of networks and good pedestrian alignment for routes to the train station and thought the ‘local centre’ part of the site. Routes between the proposed open spaces are also accommodated through footpaths, with the proposed dwellings all situated a short walking distance to some form of open space. I note that the NTA has indicated in their submission that cycle networks through the site are not adequate, and I address this further as part of my consideration of transportation matters in section 12.8 below. Overall, the principal arrangement of streets, connections, opens spaces and the plaza in the proposed development would make a positive contribution to placemaking and legibility in my view.

The response of a proposed development to the overall natural and built environment also forms a section 3.2 criterion under the height guidelines. In terms of an assessment of the contribution of the proposed development to the urban neighbourhood, the existing built context to the site is formed of The Strand to the north, as well recent development to the west and on the opposite side of the rail line. I have already described above the sensitive environment to the south of the site, and the less sensitive context to the north and west, where I consider there to be more opportunity for absorption of new development into the landscape. This is most evident in VVMs 9 and 11. I also consider the relationship of the proposed development in the context and curtilage of the Smyth’s pub protected structure in section 12.4 above. In terms of contribution to the built environment, urban neighbourhood and streetscapes, the development is positive in my opinion. However, for those reasons outline above, it is my opinion that the overall contribution of the proposed development to the natural environment is negative.

In terms of the detailed appearance of the blocks (3.2 criteria including avoidance of uninterrupted walls, contribution to space and materials), the general design approach across the subject site is positive and incorporates materials and forms that reflect the establish context (in terms of brick) or introduce new typologies that are appropriate for the evolving urban landscape. However, as outlined above, in my opinion, the design of apartment blocks to the south west of the site is less successful given the sensitivities to the landscape to the south. The apartment block form is incongruous in the landscape here, with a scale and mass that does not readily absorb into the landscape. The set back top storey, while attempting to mitigate the impact of the height, incorporates a zine cladding material that adds to this overall incongruous appearance. The pitched roof to the proposed sheltered housing block is more successful, and is more reflective of the established built context. Similarly, the duplex blocks and houses along this end of the site are more appropriate in my view. However, in my opinion there are areas within the site that have the capacity to successfully accommodate the type of apartment design proposed. Specifically, to the north of the site, where the apartment blocks appear more successful even while introducing new design and housing typologies to the area. In these locations the incorporation of the proposed apartment blocks 1, 2 and 3 would not be incongruous in my view. Similarly, due to the screening effect of surrounding topography and landscape, apartment blocks 10, 11, 12, 13 and 14 do not appear to have a negative impact in my opinion, with reference to submitted views.

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 12.6 and 12.7 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.

Overall, I am not satisfied that the proposal adequately responds to the sensitivity of the landscape, with regard to topography and the setting of the site in High Amenity, Estuary and Coastal Character landscapes. I have considered how this might be addressed by way of amendment and whether a condition could adequately resolve these negative impacts. I do not think that there is sufficient certainty around what the impact of the development would be with the removal of the apartment blocks 6 and 8 to the south west of the site. It is not clear to me what the screening effect these apartments might be having upon blocks beyond, particular apartment block 7. Therefore it is unclear to me how the appearance of the development would change in the selected viewpoints. In my opinion there is scope for development within the south west corner of the site, but the current proposal is not appropriate for the reasons described above. I also do not consider that the removal of storey(s) would sufficiently address the negative impact I identify, as it is not only the scale that is visually incongruous in my view, but also the design. It would be important to consider the relationship of any development in the south west corner of the site in context with the development as a whole, and how it will be viewed across this exceptional, sensitive landscape setting. I also note there are wider matters raised by Irish Rail that I consider below. For this reason, I am not recommending that the development be amended, and I am recommending that the application be refused, in part, as a result of this adverse impact upon the sensitive context of the site.

In relation to the other national planning policy guidance relating to design, the Urban Design Manual Best Practice guide describes 12 criteria that inform good quality design. Much of the criteria overlaps with the assessment I describe above. The proposed street layouts, housing typologies, housing design and public realm would combine to create a distinctive well designed development. The variety of housing proposed also responds to the changing needs of different household types over time. Accessibility has also been considered in the landscape, with connections and open spaces that can be utilised by all users. The application also includes a Universal Access Statement describing the accessibility of the proposed development. I also address wider quality of accommodation and transportation considerations in sections 12.7 and 12.8 below.

I also note the LAP requirement that development of the site be set back a suitable distance from the railway line, and Irish Rails submission that includes commentary on this point. Irish Rail and the Planning Authority request the removal of proposed Mixed Use Building 02 due to the its inappropriate location proximate to the railway line. Irish Rail also outline further concerns that I address in more detail in sections 12.8 and 12.11 below. While the removal of Building 02 could be secured by condition, I note the general concern raised by Irish Rail in relation to the proximity of the proposed development to the railway line. In my opinion, there are other structures and features proposed in close proximity to the railway and may not be sufficiently distanced to the railway to allow for future upgrade works and/or maintenance. This includes proposed apartment block 1, the Village Link Street as well as bicycle stores and an ESB substation. In my opinion, further assessment is required in consultation with Irish Rail in relation to the proposed development along this western edge of the site. As a result, in my opinion, the proposed development is contrary to the LAP in relation to the set back required to the railway line, and I consider this further in sections 12.8 and 12.11 below.

In summary, national planning policy describes criteria that requires development to respond positively to the natural environment within which it is situated. Local planning policy specifically identifies an exceptional landscape quality for the area within which the subject site is situated, with protected views to the south of the site and adjoining the proposed Nature Park. The proposed development introduces a typology of housing which is visually incongruous in terms of design, scale and mass to the south west of the site, where the visibility of proposed apartment blocks 6 and 8 and the top storey to blocks 4 and 5 is particularly apparent as a result of surrounding topography. Therefore, in my opinion, the proposed development is contrary to Objective NH34, Objective NH35, Objective NH36, Objective NH37, Objective NH38, Objective NH40 and specifically Local Objective 40 in the Development Plan and Objective 5.2 of the LAP, in relation to the protection of sensitive landscapes, as well as SPPR 3 and the criteria described in section 3.2 of the Section 28 Building Height Guidelines.

The proposed development also incorporates an insufficient set back from the railway line, particularly in relation to proposed Mixed Use Building 02, and consultation is required with Irish Rail to ensure that development of the site does not adversely impact the safe operation of the railway network. As a result, in my opinion, the proposed development is contrary to the LAP in this regard.

* 1. **Neighbouring Residential Amenity**

The representations received raise a number of concerns relating to noise disturbance, loss of privacy and general residential amenity as a result of the proposed development both during construction and operation. I address these matters with reference to relevant national and local planning policy below.

Daylight and Sunlight

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 existing properties, the BRE guidelines describe that in the first instance, if a proposed development falls beneath a 25o angle taken from a point 1.6m above ground level from adjacent existing properties (being representative of the midpoint to ground floor windows), then no further analysis is required as adequate skylight will still be available with the proposed development in place.

The BRE guidelines go on to recommend that where a proposed development does meet or extend above this 25o angle, then a further test of VSC (vertical sky component) levels is required. Where a development wouldnot reduce daylight levels to a VSC 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.

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 90o 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.

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.

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 properties in The Strand, the recently construction / under construction houses to the west of the site and the railway line (approved under ref.F17A/0113), and in relation to the future school site.

The submitted analysis demonstrates that as a result of the separation distance to surrounding properties and future school site, the proposed development will have an imperceptible impact upon daylight, sunlight and overshadowing of those existing and future surrounding sites tested.

Overall, I am satisfied that the proposed development would not negatively impact existing / future properties or the future schools sites daylight, sunlight or result in unacceptable overshadowing, and consider the proposal compliant with the BRE criteria, Building Height Guidelines and Fingal Development Plan in this regard.

Overlooking (Privacy)

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.

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.

At its closest, the proposed development is situated 29.6m away from the newly constructed / under construction properties to the west (ref. F17A/0113). The proposed building 02 for mixed use (2 storeys), is situated 22.2m away from buildings associated with Smyths Bridge House pub. In relation to existing residential properties in The Strand, the proposed development incorporates 2 storey housing along most of the boundary where it is closet to these properties. Proposed mixed use building 01 is 3 storeys in height to the north, 2 storeys to the south (resulting from level changes) and has its side elevation facing the rear of properties in The Strand. It is situated a minimum of 14.7m away from the rear of the closest properties to the east within The Strand. There are no habitable room windows or terrace / balconies situated in this side elevation, with only an opaque window serving circulation area within a proposed residential unit. Along the north boundary, there are proposed houses with rear elevations facing the side elevation of an existing property in The Strand with a separation of between 12.7m and 14.2m, however these proposed houses either have no rear facing windows at first floor or are served by a single opaque window for a non-habitable area. Further along the northern boundary of the subject site, separation distances increase to The Strand, exceeding 22m in all cases.

Overall, I am satisfied that the separation distances to existing properties and properties under construction to the proposed development are acceptable and would not result in undue overlooking or adverse impacts upon privacy.

Noise

I note third party concerns regarding the change in the quiet character of the area, and resulting noise from the proposed development. I do not consider the increased population of the area and associated change in character to be a negative consequence of the development. The site is zoned for residential development and will naturally result in increased population with associated footfall and traffic. The noise associated with this population will be at a standard residential level and not unusual for the area. In terms of noise from plant associated with the development, assessments have been submitted in relation to this which I address as part of my EIA in section 13 below. Overall I am satisfied that the proposed development would not result in undue noise and disturbance in terms of existing residential amenity.

Construction

Representations have been received regarding adverse impact from the proposed development during construction, particularly as a consequence of the 10 year consent sought. A Construction Environmental Management Plan has been submitted with the application. Measures for the management of noise and suppression of dust are described. Vehicle site access and traffic management is also addressed. I also address construction impact in detail in sections 13 and 14 of this report as part of my EIA and Appropriate Assessment below. The submitted plan also outlines measures for the control and monitoring of noise and dust.

A condition could secure these arrangements, with the submission of a final construction management plan for approval by the Planning Authority, should the Board determine to grant consent. With the application of mitigation measures, I have no concerns regarding construction impacts (or construction transport impacts) resulting from the proposed development. I acknowledge that the application will result in some disturbance to adjacent residents, which would be for an extended period, however given the large scale of development, this extended period is necessary in my view. Impact would be on a temporary basis and move across the site as each phase is commenced and completed. Therefore, impact would not be constant across the entire site for the whole 10 year period. This type of disturbance is an inevitable and typical consequence of any development. All contractors on the site will be required to adhere to mitigation described in the Construction Management Plan which will also reflect mitigation described in the submitted NIS.

* 1. **Proposed Residential Standards**

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. I note that the applicant has submitted a Material Contravention Statement with respect to some of these matters, and I address material contraventions specifically in section 12.9 below.

Daylight, Sunlight and Overshadowing

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.’

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, where kitchens form part of living areas the applicant has applied an ADF of 2% to these areas. The applicants assessment presents analysis of ‘worst case scenario’ rooms, which have been selected due their deep plan and where there is greater potential for obstruction. Rooms at ground level have been analysed, as it can be taken that units of the same type above will also achieve the BRE target level where ground floor compliance is demonstrated. Where these ‘worst case scenario’ rooms achieve BRE target levels, it is assumed that other rooms, with less potential for obstruction, will also therefore achieve the recommended minimum ADF value. The submitted report demonstrates 100% compliance against BRE recommended minimum ADF targets in the proposed development.

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 report demonstrates that 57% of analysed windows achieve the recommended APSH value for an annual period with 64% of windows during winter months. The shortfall can be attributed to the projection of balconies impacting sunlight levels to rooms below. As balconies are an important amenity required under planning policy, it would not be appropriate to prioritise sunlight levels over the provision of balcony amenity space in my view, therefore this impact is unavoidable. The achievement of APSH target values for the majority of windows tested in the proposed development is acceptable in my view and reflective of what might be generally achieved in good quality developments when balancing a range of factors that influence site layout design. In this sense, 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.*

**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).

In relation to overshadowing, the submitted analysis is of communal amenity areas to the proposed apartment blocks and duplexes, with a selection of ‘worst case scenario’ private amenity areas for proposed houses. This demonstrates that all proposed communal external amenity areas for apartment blocks and duplexes in the proposed development will achieve BRE target levels. In relation to the proposed houses, there are 9 private garden areas of the 35 selected gardens for testing, that do not achieve BRE minimum target levels for overshadowing. The majority of these gardens achieve over 40% of the garden area with at least 2 hours of sunlight on the 21st March, with all above 34%. These gardens will also meet the target level in summer. Whilst BRE minimum levels are not demonstrated in all cases, this is a consequence of the orientation of these houses, with north facing gardens, rather than as a result of the mass or scale of blocks. As outlined above, the BRE guidelines are clear that natural light is one of many factors in determining site layout, and I am satisfied that the proposed development achieves acceptable conditions for the proposed accommodation in relation to overshadowing.

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 may aspects of site layout planning.

Dual Aspect

The Apartment Guidelines state that in SPPR 4 that a minimum of 50% dual aspect apartments is required in suburban or intermediate locations, such as where the subject site is located.

The applicant has stated that based on the total number of apartments proposed, 51.3% of units are dual aspect. This increases to 67.9% when considering duplex/triplex units as well.

However, I note a third party submission that states that the proposed development is relying upon own door accessed apartments for purposes of calculating dual aspect, which do not come within definition of apartment in the guidelines, as they have no common access. The Apartment Guidelines do not define the term ‘apartment’. A general understanding of this term, and my own understanding, is that it relates to a dwelling that forms part of a group of units. Apartments can be accessed by their own door, but are usually situated within a block.

There are 26 no. own door ‘apartments’. These are situated at the end of duplex / triplex blocks and are categorised as apartment type M by the applicant. The drawings of these units demonstrate a layout similar to a small house, with ground floor living space and first floor bedrooms. The key difference from a house being that the amenity area provided is in the form of terrace instead of garden. Some types are also accessed via a deck shared with the adjacent duplex block. In my opinion, these dwellings and have a closer relationship in design to the duplex blocks to which they are attached in my opinion. Subtracting these type M ‘apartments’ from the overall total apartment number of 667, gives a total of 641, of which 316 are dual aspect (discounting type M), which equates to 49.2% dual aspect. This would then increase to the 67.9% figure described by the applicant when including the duplex units. This is a marginal shortfall from the required 50% under the Apartment Guidelines.

In any case, there are no separate design standards for duplex / triplex units, and therefore the Apartment Guidelines are used to guide an assessment of the quality of these types of homes. The duplex style of housing often being categorised as a type of apartment. Therefore, in my opinion, there is no problem with the inclusion of these units within the overall calculation for dual aspect purposes, and even if they are discounted, the proportion of dual aspect is less than 1% short of the minimum described under the guidelines. Overall, I am satisfied with the proportion of dual aspect units in the proposed development.

Private Amenity Space

All apartment and duplex/triplex 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 Development Plan and Apartment Guidelines. In relation to houses Objective DMS87 describes the minimum garden size for 3 bedroom houses or less at 60sqm and for 4 bedroom houses at 75sqm. All houses in the proposed development comply with this standard, with the exception of 9 no. 2 bedroom houses with rear gardens at 55sqm. Objective DMS88 allows for a reduced standard of private open space for 2 bedroom units, to no less than 48sqm, where it is required as a design solution, such as to develop small infill/corner sites. The subject site is not a small infill/corner site and the applicant has submitted a Material Contravention Statement in this regard with I address in section 12.9 below. In my opinion, the degree of divergence from this standard is marginal and the overall quality of private amenity space is acceptable in my view, particularly as the majority of private amenity spaces complying with minimum standards.

Communal and Public Open Space

I note third party concern that the proposed Nature Park is included to fulfil open space requirements for the proposed development and I address this as part of my assessment below.

Communal amenity space is provided for apartment blocks and duplex units complying with the minimum requirements of Table 12.6 of the Development Plan. Drawing 0921-SHD-S-158 submitted with the application documents illustrates the location of communal open space and public open space within the proposed development.

Objective DMS57 requires a minimum of 10% of the development site area to be provided as public open space. The proposed development incorporates a total of 3.293ha of public open space arranged in 11 different areas distributed around the residentially zoned portion of the site and north of the DDR. This equates to 12.3% and therefore complies with Objective DMS57B, the high amenity zoned lands making up the Nature Park to the south of the DDR do not contribute to this requirement. In accordance with the objective requirements based upon occupancy rate and the population of the proposal, a total open space provision of 7.63ha arises from the proposed development, which when discounting the public open space provided as part of the residential development amounts to 4.4337 outstanding. In accordance with the objective, there is ‘*discretion for the remaining open space required under Table 12.5 to allow provision or upgrade of small parks, local parks and urban neighbourhood parks and/or recreational/amenity facilities outside the development site area, subject to the open space or facilities meeting the open space ‘accessibility from homes’ standards for each public open space type specified in Table 12.5.’* The proposed development accommodates this additional open space requirement within the high amenity zoned lands to the south of the DDR for the proposed Nature Park, and therefore complies with Objective DMS57. Additional area also remains in the proposed Nature Park to serve future development lands.

I note objectives DMS73 and DMS74 of the Development Plan in relation to SuDS and open space, and that underground tanks and storage systems will not be accepted under public open space. The Eastern Park in the proposed development includes provision of surface water storage below ground level. However, if this area was discounted from the overall provision, the proposed development would still provide 10% of the developable site area as public open space, and there is ample space within the Nature Park to uplift the Class 1 type open space. In any case, I note that the preamble to these objectives states that the determination will be a the discretion of the Planning Authority, which implies flexibility in how these standards are applied. As such, I do not consider the provision of surface water storage between the Eastern Park to be problematic, as it is formed of an informal kick about area and does not make up a significant portion of the overall open space area.

Formal play facilities are also incorporated within the proposed open spaces, specifically in the Central Par and the Local Centre Park areas complying with Development Plan standards. Additional play equipment and exercise stations is also provided throughout other open space areas in the proposed development in a more informal arrangement. Open space areas are overlooked by dwellings providing good natural surveillance.

Overall, I am satisfied that the proposed development satisfies Development Plan standards with respect to the quality and quantity of public open space.

Mix

I note third party concerns regarding the mix of dwellings proposed, specifically in relation to a lack of family housing. SPPR 1 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.

The proposed development is formed of apartments, duplexes and houses. In relation to the total apartment units proposed 29.1% are 1 bed, decreasing to 24.9% when including 1 bed duplex units, and equating to 18.6% of the total units in the proposed development. The proposed development therefore complies with SPPR 1.

In relation to the overall housing mix, the LAP promotes a mix of dwelling types without minimum requirements in relation to bedroom number. Objective PM40 of the Development promotes a mix and range of housing types in all residential areas to meet the diverse needs of residents.

The proposed development incorporates a mix of housing typologies, with apartments, duplexes / triplexes and houses, making up an overall bedroom mix of 18.6% 1 beds, 44.5% 2 beds, 27.2% 3 beds and 9.5% 4 beds. Roughly half of the development is formed of apartments, with duplexes / triplexes and houses making up around a quarter respectively. This represents a range of housing types and sizes that can respond to a variety of housing need. Therefore I am satisfied that the proposed housing mix is acceptable and in accordance with policy requirements.

Floor Area

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. I note that there are a limited number of 2 bedroom 3 persons units proposed, which is permissible with reference to Appendix 1 of the guidelines.

In relation to the proposed houses, all units comply with the minimum standards described in Table 12.1 of the Development Plan.

Floor to Ceiling Height

The proposed development provides for acceptable ground to ceiling heights of a minimum 2.7m at ground floor as described in SPPR 5 Apartment Guidelines.

Number of Apartments to a Core

Objective DMS23 of the Fingal Development Plan 2017-2023 permits 8 apartments per individual stair/lift core within apartment schemes. The proposed development includes up to 10 units per a core in the upper levels of some apartment blocks (12, 13 and 14). The Apartment Guidelines allow for up to 12 apartments per a core in SPPR 6 and the proposed development complies with this. The applicants Material Contravention Statement addresses Objective DMS23 and I detail this further in section 12.9 below.

Privacy

I note Objective DMS28 in relation to a separation distance of at least 22m between directly opposing rear first floor windows. The applicant states that a minimum 22m is provided between directly opposing rear first floor windows in the proposed development and that in addition, distances of 2.3m is provided between the side walls of semi-detached and end of terrace units in accordance with Objective DMS29. I have checked the submitted drawings and I am satisfied that the minimum distances are achieved ensuring adequate privacy and prevention of direct overlooking between habitable windows within the proposed development.

* 1. **Traffic and Transport**

Traffic Impact

I note third party concern regarding the impact that the proposed development would have upon vehicular congestion in the area and that it would result in a traffic hazard / dangerous traffic conditions.

I set out a detailed assessment of the potential impact from the proposed development upon junctions proximate to the subject site as part of my EIA in section 13 below. In summary, the impact of the proposed development will not be significant. While adverse effects will arise, in my opinion this impact will not be so significant as to warrant a refusal of the application based upon traffic impact. There is existing congestion on the peninsular and for some junctions, traffic congestion will grow exponentially regardless of whether the development went ahead or not. The degree to which the proposed development contributes to this congestion is not significant when considering the overall traffic accommodated at these junctions.

I note Irish Rails response in relation to the proposed roadworks to the L2170 in front of the entrance to Donabate Station and the increased traffic movements as a result of the proposed development. In my opinion, the proposed development would not significantly impact traffic movements in and out of the station. This is because the main vehicular access / egress points for the site are onto the DDR to the south or further east along New Road. The layout of the proposed development excludes most internal traffic from the vehicular access to the entrance closest to the train station and adjacent to Smyths Bridge House. With only a small collection of proposed houses and two mixed use buildings served by that access. The road layout is arranged to funnel the vast majority of internal traffic to the other three access points located further away from the railway station. Therefore, in my view the fact that the submitted assessment omits assessment of traffic entering and exiting the station car park is not fundamental.

I note third party concern that the recommendations of the submitted Road Safety Audit are not reflected in the proposed design as they post date the drawings submitted. As a general comment, I note that the evolution of a design proposal for housing development, particularly on the scale of the current application, is an iterative process with groups of technical consultants working together to update proposals according to recommendations of specialists in any particular field. While the proposed date for the submitted Road Safety Audit document is more recent than the date on the drawings, that does not necessarily mean that recommendations are not reflected in the design in my view. I have reviewed the drawings and am not aware of any conflicting matters between the two, in any case, a condition would be appropriate to secure the recommendations set out in the road safety audit and there would be no need for fundamental design alterations to comply with the suggested amendments – if – indeed, they have not already been incorporated. As a result, I am satisfied that the proposed development would not generate hazardous or dangerous traffic conditions.

DMURS

I note third party concern that the proposed development does not comply with DMURS. The applicant has submitted a DMURS Compliance Statement. This demonstrates that the proposed development is in compliance with DMURS. The Planning Authority has not raised any objection to the proposed development in relation to DMURS compliance. I am satisfied that the proposed development is in accordance with minimum DMURS requirements, and therefore is satisfactory in this regard. I do however note both the Planning Authority’s and NTA’s comments in relation to the prioritisation of non-vehicular traffic, and I address this in more detail as part of my consideration of connections below.

Car Parking

The Development Plan standards for car parking equate to a provision of 1,689 spaces for the proposed apartment and duplexes in the development and between 683-692 spaces for the proposed houses.

In respect to the proposed apartment / duplexes proposed, there is a reduced quantum of car parking when compared to standards described in the Development Plan, with 1,085 spaces included. 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 cycle parking provision, and incorporation of car club space, is an acceptable approach to facilitate 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.

Similarly, in relation to the car parking for the proposed houses, there is a shortfall from the Development Plan standards with 622 spaces proposed. The applicant includes data in relation to exiting car ownership and car usage trends as part of submitted documentation to support this shortfall. The proposed approach is again a reflection of the characteristics of the site, situated in immediate proximity to main line rail services and with a car parking provision that is intended to promote more sustainable modes of transport. I also note that the site is located in Zone 1 under the Development Plan, where fewer car parking spaces are permissible under the plan.

In relation to the other uses proposed, 44 no. existing spaces will be resurfaced at Smyth’s pub, 23 no. spaces are proposed for the 3 creches in the scheme, 5 no. on-street carshare spaces are included and 107 no. on-street spaces are also included for visitors. The result is a total site wide provision of 1,886 car parking spaces, with a ratio of 1.8 spaces per a housing unit and 0.99 spaces per apartments, increasing to 1.06 spaces inclusive of visitor spaces for apartments. In the event that the Board determined to grant planning permission, a minimum proportion of 10% accessible bays and 10% electric charging bays, can be secured by condition. Overall, I am satisfied that the car parking proposed responds in a sustainable manner to the proposed developments needs and characteristics of the site.

The applicant has submitted a Material Contravention Statement with respect to the proposed car parking quantum proposed, and I address this in section 12.9 below.

Bicycle Parking

I note third party concern that the application submission lacks clarity with respect to the proposed bicycle parking included. I also note that the NTA recommend an increase in the number of bicycle storage spaces in the propose development. The submitted Planning Report and Statement of Consistency, and Architects Report, both confirm that a total of 2,613 no. bicycle parking spaces, comprising 1,926 no. sheltered spaces and 687 no. short stay/visitor spaces are included, exceeding standards set out in the Development Plan. A breakdown of cycle storage provision according to the proposed apartment / duplex blocks is also included in Appendix A of the Architects Report. The submitted drawings correspond with this allocation and provision as described. The provision of cycle storage for the proposed Sheltered Housing has been calculated separately due to the specific housing requirements of that form of housing. Cycle storage for the propose houses are also not included, as it is intended that individual occupiers accommodate this, where desired, within the curtilage of their property.

The Apartment Guidelines do not include specific planning policy requirements for cycle storage, but provide general specifications. Consequently, in relation to cycle storage quanta, while a general standard of 1 space per bedroom is described, this 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 the train station and short walking distance to the town centre, 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.

Connectivity

As indicated in section 12.5 above, the general connectivity though the site and to surrounding areas is good in the proposed development, however I note concern from the Planning Authority and the NTA that non-vehicular modes of transport are not prioritised though the proposed layout.

The proposed development includes a north – south cycle connection though the site from the L2170 to the DDR. The initial portion of this connection is a shared cycle and car route, serving a limited number of houses and the mixed use buildings as described above. Therefore, I am satisfied that with the shared nature of the route at this point. As the route runs parallel to the main vehicular connection through the site, the cycle route is segregated from vehicle and pedestrian traffic. The NTA have requested to the south of this connection as it links into the DDR, the cycle path continues to meet the junction and the toucan crossing. Currently the path terminates slightly earlier than the junction and is situated on the other side of the road to the toucan crossing. In my opinion, it would be ideal to connect the cycle path into the junction and toucan crossing, however, the consistency of this cycle path route from north to south through the site is the priority. Therefore, a condition could require further investigation of the potential to achieve this amendment described by the NTA, but in my view, it should not be required if it would hinder the achievement of a consistent alignment of the route though the site.

The NTA also asks the applicant to demonstrate how the Village Link Street will be a safe environment for pedestrians and cyclists, with the consideration of including signalised junctions. It is not possible to condition a further assessment of this nature, and my appraisal of the proposal is based upon the information before me in the application submission. I also not the NTAs requested amendments with respect to the junction with Village Green Link Street and additional north-south connectivity through the site.

I am satisfied that the proposed design does promote a safe environment for pedestrians and cyclists, with the inclusion of footpaths throughout and a dedicated cycle route. Further permeability of cycle traffic into the remaining streets in the proposed development will be reflective of general residential environments. I also note the inclusion of home zone areas in some locations that promote the safety of non-vehicular traffic. The shared portion of the cycle route for Village Green Link Street will also serve as a traffic calming measure. This filtering of cycle traffic through the regular street environment will promote a general slow down of vehicular traffic to the safety and benefit of all users in my view.

In relation to the NTA comments regarding the width of the east-west cycle track through the Linear Park and the greater use of filtered permeability, shared street design, pedestrian crossing points and raised tables, this could be secured by condition, in the event that the Board determined to grant planning consent.

Public Transport

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 or NTA, regarding capacity of the public transport network to support the future population of the development. Irish Rail have provided a detailed submission outlining a number of concerns, and I address this in detail below.

In relation to capacity impact, the proposed development will result in increased demand on mainline commuter rail services. There are however planned future improvements to the line which would increase the frequency of services. The submitted Mobility Management Plan describes planned improvements to expand the DART service to Drogheda, which will include service of Donabate, increasing the frequency and capacity of services. In my view, this would likely counter act any perceived negative impact as a result of increased demand on rail infrastructure arising from the proposed development. Bus connects will also include connections from Donabate to the Airport, Swords and Portrane at 30min intervals in each direction, and a connection to UCD via the city centre. Given the scale of the proposed development, the 10 year consent sought, and the time it would likely take for all units to be constructed and occupied, some of these improvements would likely be in place prior to complete occupation of the site. In any case, I am satisfied that there is sufficient existing public transport services to accommodate the proposed development, particularly in light of expected long-term changes to working patterns and associated commuting patterns following the covid-19 pandemic.

Iarnród Éireann / Irish Rail provide a comprehensive submission of the application. This outlines a number of areas where the proposed development conflicts with the requirements of Irish Rail. I also note that the LAP states with respect to development adjoining the railway line though the Corballis lands, that adequate set back distance is provided, to allow for future widening of the rail tracks and temporary access during construction. In relation to other relevant consultees, I note that Irish Rail state that proposed development has the potential to significantly impact the safety of the operational railway. The Commission for Railway Regulation require notification of SHD applications that could impact the safe operation of the railway, and Transport Infrastructure Ireland (TII) require notification of SHD applications that have an impact on rail-based transport, under s.8(1)(b)(ii) of the Planning and Development (Housing) and Residential Tenancies Act 2016, as set out in s.295(1) of the Planning and Development (Strategic Housing Development) Regulations 2017. These prescribed bodies have not been notified of the application and have not made a submission with respect to the proposals.

Irish Rail highlight the position of proposed Mixed Use Building 02 which is close to the top of a steep railway cutting. Irish Rail is concerned that the locating of this proposed building could create risk of slope failure with risk of derailment. The Planning Authority have suggested that this building be removed by condition as a result, should the Board determine to grant planning consent.

Irish Rail also state that the position of the proposed Catchment A attenuation wetland to the south of the development is directly adjacent to the railway corridor supported on a soil embankment. Irish Rail is concerned that stability can be compromised by water ingress and saturation of surrounding lands.

Irish Rail also indicate a number of specific requirements in relation to the carrying out of works and landscaping adjacent to the railway line.

The applicant has set back the proposed works from the boundary with the railway line, with a blueline ownership extent shown up to the railway embankment edge, and the redline boundary line set in approximately 2m from this. A landscaped edge is then also included along much of this edge of the site, with the exception of Mixed Use Building 02 which is situated closer to the boundary as highlighted by Irish Rail. Irish Rail is also disputing the location of the boundary, and I address this in terms of the validity of the application in section 12.2 above.

I have considered whether Irish Rails concerns could be adequately addressed by way of condition. I find this approach problematic for two reasons. Firstly, the boundary line for Irish Rail lands is disputed. This does not impact the validity of the application as described above, however it is difficult to determine exactly what the impact would be of prescribing an exclusion zone to the boundary by condition. It is not clear whether sufficient setback space is accommodated by the development when compared to Irish Rails understanding of the ownership. Certainly Mixed Building 02 would require removal as a minimum, but it is not clear what else would need to be extended further east, or indeed removed, in order to achieve suitable clearance.

I have highlighted design concerns regarding the proposed development to the south west of the site, so one approach might be to remove, by condition, all development along the western edge of the site. This could however have implications for the Village Link Street, which is a key connection for the site to the train station, a connection upon which much of the justification of the acceptability of the scheme hinges, particularly in relation to density and housing capacity. There would be a resultant reduction in density and housing capacity with the removal of development along the western edge, but this would in turn impact an assessment of the efficient delivery of housing on this site. Irish Rail require a buffer zone to the boundary to accommodate further maintenance and improvement works, and therefore the provision of a link road in this area could in my view, conflict with that requirement. It is also worth considering that the LAP specifically identifies the requirement to set in from the boundary with the railway lines. Therefore, the applicant should have given this matter greater consideration in my view.

The applicant does not provide any evidence of engagement with Irish Rail as part of the preparation of the application or EIAR. While there is reference made to Irish Rails requirements in the Planning Report, these do not appear to be based upon engagement as part of the current application. I note that a previous submission was made by Irish Rail on a previous application on the site, which was subsequently refused on appeal (ABP Ref. 304904-19). That application did not include the same extent of development as described under the current application and therefore in my view, should not have formed the only reference point for determining an appropriate relationship with the railway as part of the current development proposals.

The subject site shares a boundary of approximately 800m along the western edge adjacent to the railway. This is a major infrastructural connection serving the Dublin to Belfast route and the need to take adequate account of the railway forms part of the local planning policy considerations for the site as described in section 8 of the LAP. Therefore, engagement with Irish Rail on these proposals should have been a priority for the applicant in my view.

A second complication is the implication that the removal of the proposed Catchment A attenuation wetland to the south of the development could have in terms of surface water drainage from the site. Irish Rail have identified that this wetland could cause stability issues for the embankment here, but it is not clear the extent to which an amendment could resolve this, what this amendment would be, or the implications of the entire removal of this attenuation area upon the wider scheme and associated flood risk, which I address in section 12.11 below. The consequential impacts of altering this attenuation area could also have implications for my Appropriate Assessment in section 14 of this report, due to the interrelated issues around drainage of the site and potential effects upon the Malahide Estuary.

As a result of the foregoing, in my opinion, it would not be possible to adequately address Irish Rails concerns by condition. In addition, and as highlighted above, as there is no submission from other transport focused consultees that relate to the operation of railway infrastructure, there is a lack of certainty in my view, as to whether Irish Rail’s response represents an exhaustive list of matters that need to be addressed.

I am recommending that the application be refused, in part, as a result of the proposed developments potential negative impact (during both construction and operation) upon the safe operation of the railway network. In my opinion, the proposed development is therefore contrary to section 8 of the LAP in relation to preserving an adequate set back to the railway line, Objective DONABATE 12 of the Development Plan in relation to promotion of improved rail services, and the NPF in relation to key growth enablers identified for Dublin, which includes delivering key rail projects such as DART expansion.

* 1. **Material Contravention**

Section 9(6)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 states that subjective to paragraph (b), 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’.

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’.

The applicant has 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, as well as suggesting additional matters that equate to material contraventions of the plan, and I set out my assessment of the application in relation to this below.

Density

In relation to density, the Development Plan’s Core Strategy identifies land capacity on the basis of an average density of 35 uph. The LAP states that an overall residential development density of 35 uph is targeted for the LAP zoned lands. An overall approximate unit figure for the Corballis lands (of which the site forms a part of) is identified based upon a density of 35 units per hectare. In addition, the phasing for the LAP lands set out in Table 9.1 is based upon a density that varies between 33 and 38 uph, with an average of 34.3 uph. Therefore, I agree with the applicant that a target of 35 uph is identified for the subject site as part of the LAP zoned lands, under both the Development Plan and LAP. However, the density is expressed as a target or average, and not as a maximum, and does not form a specific objective under either of the Plans. Therefore, in my view while it may be considered that a contravention of the Development Plan and the LAP results from the proposed density at 50.1 uph, this is not a material contravention where there is no associated objective in the plan. There is also no material contravention of the phasing described in the LAP in my view, as this similarly does not form an objective of the plan, and while the proposed development exceeds the unit numbers for each phase, the infrastructure described in table 9.1 is delivered. I described in detail in section 12.3 above, why I am satisfied that the proposed density is acceptable for the characteristics of the site, with reference to national planning policy requirements. Overall, while I consider that a contravention to the Development Plan and LAP arise with respect to density, I do not consider this to be material, and I am satisfied that this contravention is justified in light of national planning policy.

Growth Rate

In relation to growth rate, Donabate is identified as a ‘Self Sustaining Growth Town’ with a 10% increase in population described as appropriate, as part of the Settlement Strategy for the plan. Table 2.4 identifies remaining residential capacity in Donabate as 3,532 units. Objective SS02 states that proposals for residential development should accord with the County’s Settlement Strategy and are consistent with Fingal’s identified hierarchy of settlement centres. In my opinion, the identified unit capacity number of 3,532 described in the Development Plan does not flow from the 10% growth rate. As such, there is disparity between these two expressions of growth for Donabate. There is also no indication of the time period over which this growth would be expected to be achieved. Therefore, while the proposal would appear to materially contravene Objective SS02 in terms of the settlement strategy and associated population increase identified for Donabate, it does not exceed the remaining unit capacity identified for Donabate. The proposal does exceed the unit number identified for Corballis under the LAP, however this is not an objective of the plan and is expressed as an approximate figure. I have described in detail in section 12.3 above why I am satisfied that the proposed development is acceptable in terms of housing capacity and in light of the national and regional planning policy approach. I also consider that the objectives for growth in Donabate are not clearly stated in the Development Plan, as the 10% population increase does not align with the identified remaining residential unit capacity for the area. As a result, should the Board determine to grant consent, a material contravention with respect to growth rate would be justified in my opinion under the following sections of the Act:

1. 37(2)(b)(i) as Donabate is recognised as a strategic development area under the RSES and the proposed development is at a strategic scale, with 1,365 homes included.
2. 37(2)(b)(ii) the Development Plan contains conflicting objectives or objectives are not clearly stated in relation to the envisaged growth rate for Donabate, with the identified unit capacity number of 3,532 described in the Development Plan not flowing from the 10% growth rate.
3. 37(2)(b)(iii) the characteristics of the subject site reflect the national planning policy approach in relation to compact growth and density, as described in Rebuilding Ireland, An Action Plan for Housing and Homelessness and Project Ireland 2040 – National Planning Framework; the Sustainable Residential Development in Urban Areas Planning Guidelines 2009; Design Standards for New Apartments, Guidelines for Planning Authorities (2020); and the Urban Development and Building Height, Guidelines for Planning Authorities (2018). Specifically as a result of the sites characteristics, being situated a short walking distance to Donabate rail station providing commuter services and the zoned town/district centre areas for Donabate with access to the range of commercial, social and amenity infrastructure there, as well as employment opportunities.

Building Typology & Building Height

The LAP describes guidance in relation to the acceptable building heights for Corballis, which the subject site forms a part of. This includes reference to a predominate two storey height to buildings, with opportunities for increased heights at specific locations. This includes the Local Centre highlighted to the south west corner of the portion of the subject site north of the DDR. The majority of the proposed development site area is occupied by the proposed 2 storey houses. There are also 3 storey duplex blocks and 4 and 5 storey apartment blocks proposed. The apartment blocks are primarily situated to the west of the site (with the exception of apartment blocks 13 and 14). In my opinion, the proposal would not materially contravene the LAP with respect to building typology and building height. This is because there is no specific objective prescribing heights for the subject site. There is also reference within the LAP for opportunities for increased height adjacent to the Local Centre, and the proposal reflects this approach. While I outline in section 12.5 above why I consider the proposed development to be unacceptable overall, with respect to building typology and height, specifically to the south west end of the site, this would amount to a contravention of the development plan in my view, and not a material contravention.

Car Parking

Table 12.8 of the Fingal Development Plan provides car parking standards which vary from 1 to 2 no. spaces per unit, depending on house type and size, with an additional requirement for visitor parking for apartments. The Donabate LAP requires that all development on LAP lands conform to the Development Plan Standards for cars. The proposed development has residential car parking levels below the standards stated in the Development Plan. Page 458 of the Development Plan describe the car parking standards in Table 12.8 as a *‘guide to the number of required off-street parking spaces acceptable for new developments.’* With the principle objective being consideration to the number of vehicles attracted to the site *‘within the context of existing Government policy aimed at promoting modal shift to more sustainable forms of transport.’* The site is also situated in Zone 1 where the plan indicates that fewer car parking spaces will be permissible. Table 12.8 describes the standards for residential car parking quotas as a ‘*norm’*. The standards are not expressed as a minimum and residential car parking does not form an objective under the Development Plan. The LAP does not require adherence to car parking standards through objectives under that plan. I have outlined in section 12.8 above, why I am satisfied with the proposed parking provision, in light of the national planning policy approach and in the context of the characteristics of the site, accessible to the train station, bus stops and town centre, and with suitable bicycle storage. While the proposed parking for the development can be considered to contravene parking standards in the Development Plan, I do not consider this to be a material contravention. I consider there to be flexibility in the application of car parking standards expressed as a ‘guide’ and a ‘norm’ standard for residential development, and not a minimum number.

Visual Sensitivity

The Donabate LAP provides that in the interests of protecting residential and visual amenities, no buildings shall be built above the 20 m contour line, and the maximum ridge / roof heights at this location shall be limited to the ridge height of the existing houses at ‘The Strand’ (stated as 26m OD). The proposed development includes buildings that exceed 26m OD. This is not a material contravention of the LAP in my view, as the specification is within the text of the plan but does not form an objective of the plan. I have provided a comprehensive assessment of the visual impact of the proposed development in section 12.5 above. In my opinion, while the proposed development is not acceptable in terms of visual impact, this does not equate to a material contravention of the development plan and is based upon my professional judgement and a qualitative, subjective assessment of the scheme.

Apartment Standards

Objective DMS24 of the Development Plan requires new residential units to comply with or exceed the minimum standards as set out in Tables 12.1, 12.2 and 12.3 of the plan. Table 12.2 of the Fingal Development Plan provides minimum standards for apartments. The Development Plan does not include the provision for a reduced size two-bed apartment, 63 sqm GFA, which is suitable for 3 persons. The proposed development includes 19 no. two beds which were deemed to be 3 person two-bed units. Objective DMS23 of the Fingal Development Plan seeks to ‘permit up to 8 apartments per floor per individual stair/lift core within apartment schemes’. Apartment Blocks 12, 13 and 14 have 10 no. units per core at some of the upper levels. The proposed development has been designed to reflect standards described in Section 28 guidelines, and specifically the Apartment Guidelines. These standards take precedence over the standards set out in the Development Plan, and reflect a more up to date approach to development management standards for new apartment development. I have described in detail my assessment of the proposed development against standards in the Apartment Guidelines and I am satisfied that the proposed development is acceptable in this regard. As a result, should the Board determine to grant planning consent, a material contravention of Objectives DMS24 and DMS23 would be justified under the Act for the following reasons in my view:

1. 37(2)(b)(i) as Donabate is recognised as a strategic development area under the RSES and the proposed development is at a strategic scale, with 1,365 homes included.
2. 37(2)(b)(iii) the characteristics of the subject site reflect the national planning policy approach in relation to compact growth and density, as described in Rebuilding Ireland, An Action Plan for Housing and Homelessness and Project Ireland 2040 – National Planning Framework; the Sustainable Residential Development in Urban Areas Planning Guidelines 2009; and the proposed development accords with the Design Standards for New Apartments, Guidelines for Planning Authorities (2020) with respect to unit size and number of units to a core.

Rear Garden Size

Objective DMS87 of the Fingal Development Plan requires that houses of 3-bedrooms or less have a minimum of 60sqm of private open space. There are 9 no. 2 bedroom houses which have rear gardens of 55sqm. I have described above in section 12.7 why I am satisfied with the proposed quality of accommodation, including the size of private amenity areas. Whilst the proposed development materially contravenes Objective DMS87, this is a minor deviation in my opinion. The vast majority of garden areas in the proposed development comply with the minimum standards, and it would be disproportionate to refuse a development on the basis of the material contravention described. As a result, should the Board determine to grant planning consent, a material contravention of Objective DMS87 would be justified under the Act for the following reasons in my view:

1. 37(2)(b)(i) as Donabate is recognised as a strategic development area under the RSES and the proposed development is at a strategic scale, with 1,365 homes included.
2. 37(2)(b)(iii) the characteristics of the subject site reflect the national planning policy approach in relation to compact growth and density, as described in Rebuilding Ireland, An Action Plan for Housing and Homelessness and Project Ireland 2040 – National Planning Framework; the Sustainable Residential Development in Urban Areas Planning Guidelines 2009.

Other Potential Material Contraventions

I note that third parties have raised a query as to whether a number of matters in the application submission amount to material contraventions of either the Development Plan or LAP and I address these further below.

In relation to Objectives DMS73, DMS74, DMS75, DMS76 and the provision of SuDS and playspace in public open space, I address this in section 12.7 above. Similarly, Objective DMS59 is satisfied with open spaces distributed throughout the development and a short walking distance to all proposed dwellings. In relation to Objectives DMS57, DMS57A and DMS57B I also address public open space quanta as required under the plan in section 12.7 above. The proposed public open spaces are also adequately overlooked and there is good permeability and connections throughout the development and proposed open spaces in accordance with Objectives PM60 and PM61. The proposed public open space meets minimum requirements under the Development Plan.

In relation to PM40 and the mix of housing types, I address this in sections 12.5 and 12.7 above. The proposed development is in accordance with this objective and incorporates a housing mix and typologies in accordance with national planning policy.

I address the Urban Framework Plan designation to a small portion to the north of the site in section 12.2 above. I am satisfied that the proposed development does not materially contravene Objective DONABATE 9 of the Development Plan.

In relation to the phasing strategy described in the LAP I have described above why in my opinion a material contravention does not arise. In relation to Objective SS17 of the Development Plan, I have set out in this report in sections 12.3 and 12.11 the infrastructure context for the site and I also discuss this in section 13 as part of my EIA below. I am satisfied that a material contravention of Objective SS17 does not arise.

In relation to DONABATE 3 and the provision of educational facilities, this is not specific to the subject site and the proposed development has accommodated future provision of a school by third parties. It is not within the remit of this developer to provide national educational facilities. I am satisfied that a material contravention does not arise with respect to this objective.

I have outlined above where I consider national planning policy to take precedence over objectives in the Development Plan thereby justifying a material contravention in certain instances. In my opinion, it does not follow that the Development Plan is in accordance with national planning policy and section 28 guidelines, simply as a result of the publication of Variation no.2 in 2020, after the NPF, and this alignment cannot be taken as implicit. As a result, I have outlined specific circumstances where alignment, in my view, is not evident. Overall, I am satisfied that the applicant has identified potential material contraventions that has allowed third parties to consider those matters as part of their submissions on the application. I have then outlined my assessment in this report, and should the Board determine to grant planning consent, I have set out why material contraventions in respect of growth rate, apartment size / number to a core and rear garden size would be justified in this instance.

The Planning Authority have also suggested additional matters that amount to material contraventions of either the LAP or Development Plan. In relation Objectives 5.2 and 5.3 of the LAP, this relates to the protection of views and prospects that contribute to the character of the landscape and the protection of high landscape quality, high amenity zoned lands. The application of this policy requires a subjective qualitative assessment of a proposed development, therefore it cannot amount to a material contravention of the plan in my view. I have set out a comprehensive assessment of the impact of the proposed development upon views, and those areas where in my opinion, the proposed development is unacceptable in this regard, while this is not tantamount to a *material* contravention of the plan – it is a contravention. Similarly, the Planning Authority states that the proposed development is a material contravention of “*Policy 8.2.4 regarding development quantum, density and family home provision and Policy 8.3.1 regarding building heights in Corballis”* in the LAP. These are not expressed as policies within the LAP. These are sections / paragraphs of text within the LAP that guide development proposals. As they are not included as objectives or clearly expressed as policy, while a contravention might arise, this is not material in my view. Consequently, there is also no material contravention of DONABATE 10 in the Development Plan in my view, which requires a subjective qualitative assessment. Finally, the Planning Authority states that the proposal materially contravenes Development Plan Objectives NH34, NH35, NH36, NH37, NH38, NH40 and Local Objective 40. Again, whilst a contravention of the plan might arise, this is not material in my view as the application of these objectives requires a subjective qualitative assessment of the plans and particulars lodged.

* 1. **Planning Authority’s Reasons for Refusal**

The Planning Authority have recommended that the application be refused for 2 reasons. I have addressed 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.

In relation to the first recommended reason for refusal concerning the density, number and location of apartment blocks and quantum of development proposed. I address this in section 12.3 above. I do not agree with the Planning Authority that the proposed density of 51.1 uph is inappropriate for this site, which is a short walking distance to mainline commuter rail services and the town centre, and therefore reflects characteristics of sites identified as suitable for compact growth. In my opinion, the location of the site is capable of supporting additional growth and the number of units proposed does not exceed the total unit capacity identified for Donabate. In any case, to unduly constrain development delivery at a sustainable level comparative to a sites location, would be contrary to the national planning policy approach in my view.

In relation to the visual impact of the proposed development, I have provided a comprehensive assessment of this in section 12.5 above and as part of my consideration of landscape and visual impact in my EIA in section 13 below. I share some of the concerns described by the Planning Authority in relation to visual impact given the sensitivity of the area, with a clear planning policy context that intends to protect views from the south and ensure the sensitivity of new intrusions into the landscape. I do not concur with the Planning Authority that the development across the entire southern edge of the site is unacceptable, but I do agree that the south western end is most problematic. However, it should be acknowledged that the Planning Authority’s LAP includes a Local Centre designation in this area, alongside explicit reference to the acceptability of increased heights in such locations. Therefore, while I consider there to be unacceptable elements within the proposed development (specifically apartment blocks 6 and 8 as well as the top storey to blocks 4 and 5), I do not agree with the authority that the inclusion of apartment blocks in principle in this location is unacceptable.

The second recommended reason for refusal relates to the form, massing and overall height, of the proposed development, particularly the proposed apartment blocks to the south of the site. This overlaps somewhat with the first reason described above, and as already outlined, I address the design, form, scale and massing comprehensively in section 12.5 above. In my opinion, while there are areas where the proposed development is unacceptable, particularly apartment blocks 6 and 8 and the top storey to apartment blocks 4 and 5, I am satisfied with the remainder of the proposed development in terms of form, massing and height – albeit, this acceptance is caveated on the basis that I am unclear to the extent that apartment blocks 6 and 8 may be screening other blocks behind (particularly apartment block 7), and I consider additional views from the south would be useful to illustrate the overall impact of the development on protected views. Therefore, in my opinion, further visual assessment would be required to be certain as to the overall acceptability of the scheme in the absence of blocks 6 and 8.

* 1. **Other Issues**

Flood Risk

This section of my report should be read in conjunction with section 13 and my EIA with respect to water quality and infrastructure. I note third party submissions relating to flood risk and that flooding occurs on the existing site and that the proposed development could increase risk of flooding elsewhere. There is also suggestion that the submitted documentation for the application relating to flood risk is inadequate.

I note that the application of Flood Risk Management Guidelines to development proposals forms one of the criteria under section 3.2 of the Building Height Guidelines. The Development Plan also includes objectives relating to flood risk and the incorporation of SUDS. The LAP includes a specific Objective 7.13 in relation to the provision of a proposed Regional SUDS wetland at Corballis (Nature Park).

The applicant has submitted a site specific flood risk assessment as part of the application documents. This identifies the risk of flooding associated with the site, with reference to OPW Flood Maps and historical flood events. I note that third parties are concerned with the accuracy of this data, however, I have checked the OPW flood maps and concur with the information provided by the applicant. I also observed pooling of water on the lands during my site visit, it is therefore possible that during rainfall events the lands in their existing condition become saturated, and this would reflect the low lying nature of the lands compared to surrounding areas and the lack of any specific surface water drainage measures currently. This would correlate with local knowledge of ‘flooding’ on the site.

In relation to the OPW maps and records, this indicates that in terms of fluvial flooding, the area of the site north of the DDR where residential development is proposed is situated in Flood Zone C. To the south of the DDR the proposed Nature Park is mainly Flood Zone C with some areas to the south end situated in Flood Zone B. The proposed uses of these respective parts of the site are therefore appropriate for these flood zonings and a justification test is not required. There is no historical records of flood events on the site itself, however the applicant identifies 4 flood event instances in proximity to the site.

Flood mapping demonstrate that the subject site is not identified as residing in an areas prone to pluvial flooding and is not affected by groundwater flooding.

In my opinion, the pooling of water that I observed on the site is a consequence of poor drainage conditions, and this would be rectified by the proposed development and the incorporation of specific surface water drainage, SuDS, attenuation and storm water drainage measures.

I note the submission from Irish Rail and concerns raised regarding the proposed location of a large attenuation feature in the wetland area of the proposed Nature Park. Irish Rail state that this wetland could cause stability issues for the embankment here, consequently the safe operation of the rail network could be compromised as a result of the proposed development.

This wetland area responds to the requirements of Objective 7.13 in the LAP and ‘Catchment A’ attenuation is a fundamental component of the overall drainage strategy for the proposed development. Therefore, its removal or relocation would not be possible without further assessment. The alteration or removal of this attenuation area could have implications in relation to flood risk either on the site or to surrounding areas. It is also uncertain whether the amendment or removal of this attenuation area would have consequential impact upon conclusions reached as part of my Appropriate Assessment as described in section 14, as that includes consideration of drainage from the site in relation to potential effects upon European Sites.

Therefore, I am not satisfied with the drainage strategy submitted for this specific reason. Based on potential adverse impact upon the railway as a result of the proposed development, including this attenuation feature, I am recommending that the application be refused.

Energy and Sustainable Design

The proposed development includes passive design measures to reduce energy demand, and low carbon energy sources. All dwellings will be Nearly Zero Energy Building (NZEB) compliant with a Building Energy Rating (BER) of A2.

School and Childcare Demand

I note third party concern relating to the capacity of existing educational and childcare facilities in the area.

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.

New school sites are identified in the LAP lands, including provision for a primary school on the subject site. Two new school sites (primary and post primary) are also identified as part of Phase 3 of the Ballymastone development.

The applicant has submitted a School and Childcare Demand Assessment with the application. This describes existing childcare facilities and schools (primary and post primary) in the area. The demographic profile of Donabate is also detailed, with explanation around projected future demand for childcare and education in the area. Population projections are provided in the context of the proposed development to determine anticipated education and childcare demand. The submitted report also includes consideration of other residential development coming forward in the area. The submitted report concludes that the proposed development will generate demand for 2 childcare facilities (146 childcare spaces) and addition post-primary school places (349 spaces). This demand is catered for within the development itself in terms of provision of three creches (for 297 children), and with the provision of a new post primary school as part of the Ballymastone development. Capacity exists within existing primary schools in the area to accommodate demand from the proposed development and there is also planned expansion of primary facilities in future in Donabate.

Overall, I am satisfied that there is capacity within existing and future / planned for childcare and primary / post primary school facilities in Donabate to accommodate the proposed development.

Trees and Hedgerows

I address biodiversity impact comprehensively in section 13 and my EIA below, including the removal of habitats such as trees and hedgerows from the site and that section of my report should be read in conjunction with this part of my assessment.

Objectives NH27, DMS77 and DMS78 of the Development Plan require development to protect and preserve woodland, trees and hedgerows of value. The proposed development requires the removal of 46 trees, 8 tree groups / hedgerow and part removal of 9 tree groups / hedgerow. The majority are classified as category C (49 removed, 7 part removed), with no category A trees identified on the site. 1 category B group is identified for removal, and 2 for part removal. The remaining identified for removal are category U. 94 trees / groups / hedgerow are identified for retention. Methods for the protection of trees during construction works are described in the submitted Arboricultural Report and associated tree survey drawings.

While the proposed development requires the removal of trees from the site, the lands are zoned for residential development and therefore this will necessitate a degree of tree removal. The proposed development also incorporates extensive replacement planting across the residentially zoned lands, as well as the Nature Park to the south of the DDR. This forms adequate compensation and mitigation in my view, for the extent of tree / hedgerow removal required to facilitate the development.

Part V

The applicant has submitted Part V proposals as part of the application documents. 136 no. units are currently identified as forming the Part V housing.

I note the recent Housing for All Plan and the associated Affordable Housing Act 2021 which requires a contribution of 20% of land that is subject to planning permission, to the Planning Authority for the provision of affordable housing. There are various parameters within which this requirement operates, including dispensations depending upon when the land was purchased by the developer. In the event that the Board elects to grant planning consent, a condition can be included with respect to Part V units and will ensure that the most up to date legislative requirements will be fulfilled by the development.

1. Environmental Impact Assessment

This section sets out an Environmental Impact Assessment (EIA) of the proposed project. The development provides for the construction of 1,365 no. new residential dwellings in the form of houses and apartments up to 5 storeys in height, as well as 3 no. childcare facilities, 7 no. commercial units and a Nature Park, together with ancillary infrastructure and open space provision. A 10-year permission is sought on the site comprising an overall area of c.43ha, comprised of 27.3ha to the north of the Donabate Distributor Road (DDR) for the main development area and 13ha to the south of the DDR forming the Nature Park. The application site also includes part of Main Street and New Road to facilitate upgrade works, extends eastwards to facilitate connection to the recently permitted wastewater pumping station (reg. ref. F19A/0472) and also includes lands immediately adjacent to the DDR to facilitate landscaping works. 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.

* 1. Paragraph 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:

1. *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.*

* 1. The proposed development provides for some 1,365 residential units on an application site of some 43.1ha and therefore exceeds the statutory thresholds under paragraph 10(b), triggering the mandatory requirement for EIA. Accordingly, an Environmental Impact Assessment Report (EIAR) has been submitted with the application.
  2. The EIAR comprises a non-technical summary, a main volume and supporting appendices. Chapter 16 of the main volume provides a summary of the mitigation measures described throughout the EIAR. Each chapter describes the expertise of those involved in the preparation of the EIAR.
  3. 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.
  4. 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.
  5. Vulnerability of Project to Major Accidents and/or Disaster
  6. 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.
  7. Chapter 5 ‘Population and Human Health’ of the submitted EIAR addresses this in a section entitled ‘Unplanned Events: Risk of Major Accidents and Disasters’ and with cross reference to chapters concerning soils, land, geology, water, air, dust, climatic factors, traffic, transportation and utilities. Chapter 8 Water: Hydrology and Hydrogeology and Chapter 7 Soils, Land and Geology of the EIAR address seismic activity, landslides, pollution risk and the issue of flooding. There is no risk of landslide or risks associated with seismic activity. There is a risk of pollution arising from the accidental spillage / leakage of oils and fuels, however impacts from accidental spillages are unlikely to occur due to the implementation of mitigation measures. The proposed residential development is located within a low risk area in Flood zone C. Chapter 9 Air, Dust and Climatic Factors identifies climate change as the primary risk for major accident, disaster and unplanned events, with increased rainfall linked to potential for flooding. Flooding is addressed specifically in chapter 8 as previously described. Chapter 11 Material Assets: Traffic and Transportation found low risk of increased road traffic accidents, with proposed works expected to improve the safety of cyclists and pedestrians. Chapter 12 Material Assets: Utilities details the primary risk of accidents, disasters and unplanned events to arise from extreme rainfall events and that infrastructure is designed to respond to this. I am satisfied that the proposed use, i.e. residential, is unlikely to be a risk of itself. Having regard to the location of the site and the existing land use as well as the zoning of the site, I am satisfied that there are unlikely to be any effects deriving from major accidents and or disasters.
  8. Alternatives
  9. 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;*

* 1. 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.*

* 1. Chapter 4 of the EIAR provides a description of the main alternatives considered. The EIAR describes the Corballis Nature (Wetlands) Park as identified in the LAP as the Class 1 open space to serve the future residential population of Corballis and to create an ecological buffer to the adjoining estuary. The LAP is prescriptive as to the function of the park and as such, there was limited scope for alternative proposals for this parkland. The EIAR goes on to identify that as part of the Strategic Environmental Assessment (SEA) of the County Development Plan and LAP alternatives were considered. The New Residential and High Amenity land use zonings of the main development site and Nature Park are subsequently consistent with the preferred strategy of the plans and therefore alternative sites have not been considered in the EIAR.
  2. A sequential phasing plan for the development is considered preferrable to a single phase construction which would potentially prolong the duration of construction related noise and disturbance.
  3. Alternative layouts and design iterations were considered and the final proposed iteration was selected in order to respond to provisions of local and National Guidance and relating to environmental, density, visual impact, traffic safety and human health considerations. The proposed development has also evolved following consideration of alternative transportation options.
  4. Alternative arrangements for the Nature Park were also considered. A range of alternative management regimes were also considered. The proposed Nature Park details are informed by the preservation of archaeological material, reduced potential for disturbance of wildlife, nesting birds etc. and maximising the ecological potential of the area.
  5. The ‘Do Nothing’ alternative is also explained as being an unsustainable use of land and infrastructure resources. The EIAR concludes that the ‘do nothing’ scenario would result in the inefficient use of a strategically located and serviced landbank of zoned residential lands, which would also frustrate the delivery of strategic planning objectives for the area and region.
  6. Overall, I am satisfied that, the Directive requirements in relation to the consideration of alternatives have been satisfied.
  7. Consultations
  8. 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.
  9. Likely Significant Direct and Indirect Effects
  10. 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.
  11. Population and Human Health
  12. Population and Human Health is considered in Chapter 5 of the submitted EIAR. This chapter uses census population data, economic activity data and the identification of social and community facilities to inform the potential impacts of the proposed development upon population and human health. The EIAR predicts that the impact of the proposed development during operational phase upon population and human health are either insignificant or positive. As such no mitigation is described for operation of the development beyond those measures identified separately in remaining chapters of the EIAR. During construction phase, mitigation measures are identified in table 5.8.1 of the EIAR and will be required to limit disturbance caused during the construction phase. The measures largely relate to good practice construction management to limit noise, pollution and disturbance. Residual impacts are described in the EIAR and relate mainly to construction activities, such as noise and air pollution particularly through dust. However any likely adverse and significant environmental impacts will be avoided through the implementation of mitigation measures. During the operational phase, the delivery of 1,365 residential units is considered in the EIAR to be a significant contribution to the housing stock in the area, with proposed open spaces, commercial units and childcare facilities contributing to the provision of services I the area. The EIAR concludes that no residual negative impact is expected as a result.
  13. I note submissions from observers stating that local infrastructure is insufficient to support the expected needs of the future population of the development (alongside existing populations), with specific reference to childcare, schools, shops, other community amenities, facilities, services and traffic congestion. Section 5.3.5 of the EIAR considers existing social and community facilities in Donabate. A Childcare and School Demand Assessment is also submitted with the application. Services infrastructure is also considered in Chapter 8 Water: Hydrology and Hydrogeology, and Chapters 11 and 12 on Material Assets, including transportation and utilities. I address chapters 8, 11 and 12 separately below. In relation to the social and community facilities in Donabate, a range of sports, recreation, health care, community, education and childcare facilities are identified in the area. There are also a range of shops, pharmacy, café and other amenities available in the town centre.
  14. I address specific matters arising from infrastructural capacity considerations below in this EIA (on water, transport and utilities) and in related sections within my planning assessment above, specifically sections 12.8 and 12.11. In summary, I am satisfied that the applicant has presented sufficient information to support their conclusions that capacity exists to cater for the demands of the development. This conclusion is also reached in consideration of other development permitted in the area. I also note that the proposed development itself will facilitate delivery of a school by other parties in future, and includes delivery of a new public park, other open space areas, commercial units and a creche, all of which can be utilised by both the existing population and the proposed future population of the development. Therefore, I concur with the submitted EIAR conclusions regarding the existence of infrastructure in the local area to accommodate the development.
  15. Biodiversity
  16. Chapter 6 of the submitted EIAR addresses biodiversity. It describes desktop study and on-site surveys of habitat, hedgerow, birds (including wintering birds), mammals, otter, bats, bees, bumblebees, amphibians, and reptiles. 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 below.
  17. The EIAR describes the existing habitats on the site, north of the DDR the application site consists primarily of Improved Agricultural Grassland (GA1), Cropland (BC3) and Semi-natural Grassland (GS2)/grassland reverting to Scrub (WS1), associated hedgerow/treeline habitat (WL1/Wl2), with a small area of Built Land and Artificial Surfaces (BL3) in the north eastern corner of the application area. The eastern boundary of the site is identified as being particularly important to biodiversity representing ‘edge’ GS2 habitat adjacent to woodland habitat. To the south of the DDR the site was in intensive agricultural use until recently, but has been left unmanaged for the last 2-3 years. The EIAR describes that in that time a complex mosaic of habitats comprising largely recolonising bare ground and semi-natural grassland (GS2/GS1) with areas of GS4 developing in wetter parts of the site.
  18. Hedgerows and treeline areas for the site are also described in the EIAR. The hedgerow/treeline habitat is identified as being almost exclusively associated with the boundary of the site. The hedgerow area adjacent to the railway line is identified as of particular importance to the north of the DDR as it provides nesting opportunities.
  19. Allium triquetrum, a species of invasive alien plant listed on part (1) of the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations 2011 (as amended), was found to be present on the site. There was no observation of Japanese Knotweed, Himalayan Balsam or Giant Hogweed within the site. An Invasive Species Management and Control Plan for the site is included in Appendix 6D of the EIAR.
  20. The EIAR describes the bird surveys undertaken. A total of 46 species of bird were observed including five red listed species and 13 amber listed species within the footprint of the site or within 100m of the edge of the site. Winter bird surveys were also carried out and recorded during different tidal periods and during nocturnal times. The results are presented in tables 6.4.3.2.1.1, 6.4.3.2.1.2 and 6.4.2.4.1.1 of the EIAR. There were no species representing a Qualifying Interest (QI) for which the proximate SPAs are designated utilising the habitats present within the application site. However, ‘fly over’ survey results did record five QI bird species for the Malahide Estuary and/or Rogerstown Estuary SPAs flying over the site. I consider potential impact upon the Natura 2000 sites further in my AA in section 13 of this report below.
  21. Badgers, Otters and Bats are protected species under Wildlife Acts in Ireland and mammal and bat survey results are described in the EIAR. Direct evidence was observed for fox, badger, Irish hare, rabbit, hedgehog, brown rat, wood mouse and pygmy shrew, mainly within to the south of the DDR within the Nature Park. The EIAR describes that north of the DDR there was limited evidence of mammal activity, beyond abundant brown rat activity, alongside limited fox and rabbit activity. The EIAR describes the site as being currently unsuitable for otter, and there were no recordings of otter on the site itself. Otters are however known to occur adjacent to the Estuary and otter spraint was observed along the road to the east of the application site adjacent to a culvert. The EIAR identifies that it is likely that the proposed development would likely encourage future use by otter of the south portion of the site in the Nature Park area.
  22. Bat survey results are also described, with six species of bat recorded foraging within the habitats present on the site (Common Pipistrelle, Soprano Pipistrelle, Nathusius’ Pipistrelle, Leisler’s Bat, Brown Long-eared Bat and Whiskered Bat). There was no evidence of bat roost within or adjacent to the application site. The vast majority of bats recorded were the three ubiquitous species in Ireland – Common Pipistrelle, Soprano Pipistrelle and Leisler’s Bat. The EIAR describes that it is likely that the DDR has had a negative impact on the usage of the area by light-sensitive species such as Whiskered Bat and Brown Long-eared Bat (and Natterer’s Bat) with only 9 passes noted for the two aforementioned species.
  23. The EIAR also describes survey results for butterflies, bees and bumblebees. Activity was mostly recorded within the site to the south of the DDR. Amphibian and reptile survey results found frog spawn most commonly within the area north of the DDR, with no evidence of any Common Lizard on the site.
  24. Overall, the survey results identify key receptors for the application site, which are formed of habitats/flora, fauna and ecological receptors of local importance (higher), with one being of international importance (higher) in relation to overwintering birds. Key ecological receptors of international importance are also identified in the form of surrounding SPA, SAC and pHNA areas. With reference to these key ecological receptors, potential impacts during construction and operation are described, along with the identification of mitigation where relevant. In the case of SACs proximate to the site, the potential impacts during construction and operational phases are related primarily to impacts on ground and surface water. In the case of SPAs impacts are related to ground and surface water and disturbance of QI within the Malahide Estuary during construction / operation. Impacts on SACs, SPAs and pHNAs are detailed further in the AA in section 13 of my report below.
  25. During construction phase and in the absence of mitigation, short-term, temporary, direct, negative, very significant impact on habitat would be expected within the Nature Park part of the site south of the DDR. The loss of habitat across the total site area is also identified during construction phase as a direct, negative, profound, permanent effect of the proposed development, specifically in relation to 6ha of GS2 habitat. Direct short-term impacts on fauna of conservation concern, primarily breeding birds is also identified with the loss of 4.5ha of GS2/ED3 mosaic habitat, 2.6ha of GS2/WS1 mosaic and 0.4ha of WS1 habitat. Direct, negative, significant, medium-term effect from removal of 1044 linear meters of WL1/2 habitat (hedgerows) is also identified. Potential spread of Allium triquetrum listed on Part (1) of the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations 2011 (as amended) as an alien invasive plant is also identified as a potential impact during construction in the absence of mitigation.
  26. During the operational phase it is expected that the proposed development would have a direct, positive, profound, permanent effect on the Nature Park environment, with no operational phase impact identified upon categorised habitat areas. Hedgerows are anticipated to recover and would provide potential nesting habitat in various green spaces within the development.
  27. In the absence of mitigation, negative, sometimes significant and permanent impacts are described in the EIAR during construction in relation to breeding birds, overwintering birds, non-volant mammals, bats, butterflies, bees, bumblebees and amphibian. Largely as a result of the removal of habitat, construction related activities and risk to ground and surface water as described above. During operational phase, both negative and positive impacts are described, as a result of the introduction of human related activity / lighting / structures and provision of open space areas. In the absence of mitigation, some negative impacts would be significant, ongoing and irreversible. The introduction of the Nature Park is expected to have a significant positive impact upon biodiversity, with anticipated expansion of species such as bats, otters, badgers, fox, hare, rabbit, hedgehog, invertebrates, amphibians etc using the area. I also note that the residential development is confined to the north of the DDR where limited mammal activity was observed (particularly a lack of badger activity).
  28. Potential for negative impacts arising from bird strikes is considered in section 6.7.11 of the EIAR. The results of surveys undertaken over the site evidence that the site is not utilised as a regular flight path by any QI bird species and only small numbers of birds were observed flying over the site at height on a small number of occasions. The site is not utilised by Qis of Malahide Estuary of the purposes of foraging and/or roosting. Therefore potential threat of collision risk or alterations in flight paths is not considered in the EIAR to be an issue with this site, however precautionary measures are recommended in relation to the fitting of cranes with lighting to make them more visible at night.
  29. Mitigation measures are described in section 6.10 of the EIAR. In relation to SAC, SPA and pHNA areas, construction management mitigation measures are outlined to minimise risk of disturbance of QI species and ensure management of water discharges from the site to prevent changes to water quality. During operational phase, the appropriate management of the Nature Park is identified as an ecological buffer to the Malahide Estuary that will ensure a minimisation of disturbance to QIs of the Estuary. Implementation of a Biodiversity and Habitat Management Plan is described as part of this, and the plan forms part of the application submission documents.
  30. I note that the applicant has described an intention to limit works to the April to September period in order to minimise potential disturbance during construction, however the Department of Housing, Local Government and Heritage has stated in their response that such a limitation is not necessary as birds will adapt to the disturbance from construction related activity in terms of noise etc. While I accept the Departments professional advice in relation to this matter, I note that the allowance for works through autumn to spring is dependent upon further surveys / monitoring during construction phase, with the view to alter construction related activities according to the results of these surveys. As a result, I consider the approach outlined by the applicant to be preferable, as it is not reliant upon additional surveys, and although might be considered more precautionary, ensures greater certainty that disturbance would not result to QI species. As such, I accept the applicant’s suggestion that works should be limited to the period between April and September (inclusive). However, the Board may wish to secure the amendment suggested by the Department, in preference to the mitigation measure as put forward by the applicant in the EIAR, if they grant planning consent, and this can be done though condition. The Department also considers that it would be desirable to retain some of the plant communities which have developed on the Nature Park site in recent years because of their value for invertebrates and nesting birds, and it is therefore recommends that proposed tree planting in the Nature Park is minimised to screen the park and Malahide Estuary from the proposed residential development, with no more planting in particular to be carried out along the eastern boundary of the park. Conditions are recommended relating to approval of final construction management plan with provision for the employment of an ecologist; surveys of winter birds during the course of construction and for five subsequent winters on adjacent areas; revised details for redevelopment of the Nature Park to include enclosed dog run, reseeding of enclosure for conservation cattle grazing with grass seed mix, omission of tree planting along eastern boundary of Nature Park, reduction of tree planting elsewhere, with areas freed up to remain undeveloped or revegetate without intervention. In the event that the Board determines to grant consent, these recommendations can be secured by condition.
  31. In relation to the overall impact upon the above categorised habitats on the site, during construction it is proposed that an area of approximately 1.3ha is retained along the eastern boundary of the Nature Park site as a ‘refugia’ (an area where organisms can survive unfavourable conditions). Implementation of the Biodiversity and Habitat Plan with associated monitoring is also identified as mitigation during the operational phase. No mitigation is described in relation to the loss of habitat as it is considered a short-term impact with the Nature Park providing an optimal area for species in the medium-long term, with a significant positive impact anticipated in the EIAR. In relation the alien invasive plant species listed on Part (1) observed on the site, the implementation of an Alien Invasive Plant Species Management and Control Plan is identified as mitigation to prevent spread of this species during construction phase, with no operational phase mitigation required.
  32. Implementation of the Biodiversity and Habitat Management Plan for the Nature Park during both construction and operation is identified as mitigation to reduce potential for disturbance of breeding birds. Mitigation measures during construction for overwintering birds are largely reflective of those identified in relation to SPA and SAC areas, relating to ensuring no negative impacts upon water quality of the Malahide Estuary and implementation of construction management measures to prevent disturbance. During operational phase, implementation of the Biodiversity and Habitat Management Plan is intended to mitigate impacts. This includes recognition of potential cumulate impacts associated with increased footfall in the vicinity of the Estuary, as well associated impacts from dogs. This includes restricting members of the public to the western side of the site and prohibiting dogs. I note that FCC and the Department have suggested that it is preferrable to have a dedicated off-lead dog area, rather than prohibit dogs entirely, in recognition of the practicality and reality of use of the Nature Park. I concur with the recommendations from FCC and the department in this regard and the Board may wish to specify a requirement for an off-lead dog area within the Nature Park, with dogs permitted on-lead elsewhere, by condition, in the event that they grant permission for the application.
  33. In relation to non-volant mammals, the main mitigation during construction relates to the 1.3ha ‘refugia’ area along the eastern boundary of the Nature Park. During operation, mitigation forms the implementation of the Biodiversity and Habitat Management Plan and installation of road underpass areas to minimise road collision. I note that FCC has requested they approve the locations of these underpass areas and this can be secured by condition should the Board determine to grant planning permission. For bats, during the construction phase mitigation comprises the implementation of relevant guidelines (National Roads Authority Guidelines for the treatment of bats during the construction of national road schemes 2005). The potential for lighting associated with the proposed residential development to impact upon the Nature Park through ‘light pollution’ is considered. This is particularly in light of Objective 8.1 of the LAP, the EIAR states that following assessment of this, no impact is identified associated with light spill. This is as a result of the existing streetlighting along the DDR, and that any additional light spill generated by the proposed residential development would be insignificant alongside this existing lighting. In relation to risk of collision with buildings by bats, no mitigation is deemed necessary as the materials for the proposed development have been selected in light of recent studies, and large curtain areas of glazing or smooth materials have been avoided. During the operational phase, implementation of the Biodiversity and Habitat Management Plan for proposed Nature Park is intended to enhance habitat for bats.
  34. Implementation of the Biodiversity and Habitat Management Plan for the Nature Park also forms the mitigation both during construction and operation for the development in relation to impact upon butterflies, bees, bumblebees, amphibians and invertebrates in general. A survey for frogspawn will also be undertaken prior to construction with translocation of any discovered to the wetland areas of the Nature Park.
  35. Following the implementation of mitigation as described above, the EIAR anticipates the residual impacts of the proposed development to be positive, with the Nature Park and management of it in accordance with the Biodiversity and Habitat Management Plan, providing an area of nationally, and potentially internationally important conservation value.
  36. The EIAR conclusion on biodiversity is that with mitigation in place, there are long-term significant positive impacts expected. I have given consideration to third party objections in relation to negative ecological impact, however overall, I concur with the conclusions described in the EIAR and consider there to be no negative residual impact upon internationally or nationally significant receptors with mitigation in place. While I note the removal of some habitat areas and related disturbance as described above, the provision of the Nature Park is a substantial benefit and more than adequate in terms of compensatory value for this short-term negative impact arising from the development. 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.
  37. Land, soil, water, air and climate
  38. Chapter 7 of the submitted EIAR considers ‘Soils, Land and Geology’. This identifies that the importance of geological features on the site are rated as ‘medium’ based on the NRA (2009) methodology. The loss of agricultural land is acknowledged; however the zoning of the site supports residential development and the Nature Park will increase the recreational value of the site. The type of soil and geological environment across the site is considered ‘Type A – Passive geological / hydrogeological environments’. The EIAR does not anticipate the proposed development having any significant impact on these areas due to the nature of the development and distance to the nearest County Geological Site. Soil quality was also tested and the EIAR describes the results as demonstrating that soils can be classified as inert with little or no elevated contaminant levels recorded. Potential environmental receptors on the site are identified as underlying bedrock aquifer and the nearby Malahide Estuary. There are no known groundwater supply wells as the in the wider area is generally served by public watermains. During construction phase, potential impact from excavation and infilling impact on the aquifer vulnerability is identified, as well as accidental spills, leaks and soil removal / infill. This would equate to long-term, negative, slight impacts in the absence of mitigation. During the operational phase, neutral imperceptible impact is identified. Mitigation is described in section 7.6 and forms largely the implementation of the Construction and Environmental Management Plan (CEMP) and SUDs. The EIAR concludes that the proposed development will have imperceptible residual impact on the lands, soil and geology environment due to implementation of mitigation measures.
  39. Chapter 8 of the EIAR concerns ‘Water: Hydrology and Hydrogeology’. This describes that the majority of the site is drained through a network of existing agricultural ditches to a stream running eastwards through Balcarrick Golf Course and south to the Malahide Estuary. To the northwest of the site, surface water is shed towards Main Street, which drains northwards via storm sewers and the Beaverstown Stream to Rogerstown Estuary. To the northeast, a section of the site drains towards New Road which further drains eastward and then southwards through Balcarrick Golf Course to the outer Malahide Estuary. The southern part of the site drains southwards directly towards the outer Malahide Estuary. The adjacent Strand estate drains surface water through the subject lands with a final discharge to the Malahide Estuary at Coast Road. The Ballalease Stream, which is located within the Balcarrick Golf Course is located c.1.4km south east of the proposed development site. A local unnamed watercourse is located at the eastern boundary of the development site which drains eastwards towards the Balcarrick Golf course and ultimately discharges to the Malahide Estuary.
  40. In relation to surface water, the site is located within the ERBD as defined under the Water Framework Directive. There are no water quality monitoring stations located on the local watercourses in the immediate vicinity of the proposed development. The nearest EPA monitoring station is situated along the River Broadmeadow (Poor Status) to the southwest of the site. The EPA classifies the Water Framework Directive Ecological Status for Ballalease Stream as having no Status assigned to the waterbody, with a WFD River Waterbody risk score of ‘At Risk’ (in red) of achieving good status. In terms of flood risk, the area proposed for residential development within the site north of the DDR is in Flood Zone C, with a small portion of the southern part of the site (the Nature Park) residing in Flood Zone B. The proposed uses are deemed appropriate according to the flood status for the respective parts of the site. I consider flood risk in further detail in section 12.11 of this report. The proposed development intends connection to public water supply and foul networks. The bedrock aquifer underlying the site is classified as Locally Important Aquifer – Bedrock which is Moderately Productive only in Local Zones. The bedrock aquifer in the region of the site is classified as having a (L) Low – (M) Vulnerability status. As identified above, there is a direct pathway from surface water from the site to the Malahide Estuary and Rogerstown Estuary SPAs, SACs and pNHAs. The regional groundwater body underlying the site is the Swords GWB, which is assigned as ‘Not at risk of achieving Good Status’. The EIAR describes the site as having a rating of Type A – Passive hydrogeological environment of ‘medium importance’. Potential impacts from the development are identified during construction phase, including from increased run-off and sediment loading; excavation for foundations, services and landscaping; and contamination of local watercourses and underlying bedrock aquifer. During operational phase there will be increased foul water from the site.
  41. Section 8.6 of the EIAR describes remedial and mitigation measures, during the construction phase this largely comprises implementation of measures through a CEMP. Mitigation includes specific measures to prevent discharges into the existing ditch network and unnamed stream situated on the site. Monitoring will also be undertaken with attenuation and pre-treatment prior to discharge as necessary. During the operational phase implementation of SUDs is the main mitigation described. Increased foul water is proposed to be drained via new pumping stations and rising mains laid in the DDR, by passing the existing sewerage infrastructure in Donabate Village. I consider water infrastructure further as part of my consideration of material assets below in this EIA. With mitigation in place, the residual impact of the proposed development upon water is concluded in the EIAR to be imperceptible and neutral.
  42. Chapter 9 of the EIAR considers ‘Air quality, dust and climatic factors’. During construction phase the greatest potential impact on air quality is identified in the EIAR as arising from construction dust emissions and potential for nuisance dust, also impacted human health. There is also potential for dust emissions to impact vegetation through coating and for traffic emissions to impact air quality in the short-term over the construction phase. In terms of Climatic impacts, the potential for greenhouse gas emissions during construction is identified. During the operational phase it is predicted that there would be some small increases in NO2 concentrations associated with the site as a result of increased traffic. Additional potential for greenhouse gas emission is also identified during the operational phase. These operational impacts would have associated impact upon human health.
  43. Mitigation is described in section 9.7 and for air quality comprises active control of dust and prevention of significant emissions during the construction phase. This would be implemented through the CEMP for the development. For climate, during the construction phase, the implementation of dust management plan, prevention of on-site or delivery vehicles leaving engines idling and minimising of waste materials forms the intended mitigation. There is no site-specific mitigation during the operational phases in relation to air quality or climate. The impact of operational traffic is predicted to be imperceptible in the long-term. The proposed development is designed to reduce the impact to climate as much as possible during operation. The EIAR concludes that residual impact during construction phase on air quality is anticipated to be short-term, negative, localised and imperceptible; on climate impact is neutral, short-term and imperceptible; and on human health impact is negative, short-term, localised and imperceptible.
  44. I note third party observations that include reference to potential pollution from the proposed development. In relation to air and water quality, I have highlighted the predicted impacts, mitigation and remedial effects of the proposed development above. I am satisfied that with the application of the mitigation measures described, there is no significant risk of pollution resulting to air or water quality. Overall, I concur with the EIAR conclusions and consider that impacts from the proposed development will be within acceptable parameters, with no significant impact upon land, soils, geology, water, air quality or climate.
  45. Noise and vibrations
  46. Chapter 10 of the EIAR describes potential impact from noise and vibration associated with the proposed development. Potential impacts are mainly associated with the construction phase of the development, arising from site preparation works, foundations, general construction works, and landscaping. The EIAR identifies the sensitive receptors around the site, which are the residential dwellings closest to the boundaries of the site. In the absence of mitigation, impact upon noise sensitive receptors during the construction phase is predicted to be negative, significant and short-term. In terms of vibration, potential impact would arise during construction works as a result of rock breaking as part of foundation works. It is outlined in the EIAR that mitigation measures will be required to ensure vibration is below the recommended criteria (table 10.2.2.1 of the EIAR). During operation phase, potential noise impact is identified in relation to mechanical plant and services required to serve the commercial, amenity and residential parts of the development. This equipment / machinery will be designed to control impact. Traffic noise associated with the occupation of the development is also described. The EIAR demonstrates that noise from plant / services and traffic during operation of the development has a predicted impact is neutral, imperceptible and permanent / long-term. There is no vibration that would result from the proposed development during the operational phase.
  47. The potential impact of noise upon future occupiers of the development is also described in the EIAR, in relation to noise resulting from the surrounding highway and rail network. The development is categorised as Low to Medium Risk with an Acoustic Design Strategy required to mitigate and minimise noise impact. The specifications of the facades in relation to acoustic design is also set out in the EIAR and demonstrates that suitable screening from transport noise sources in the form of roads and rail close to the site is achieved. In relation to vibration and potential impact upon future occupiers of the development, the vibration arising from the rail line is identified as a potential impact within the EIAR.
  48. Mitigation is described in section 10.7 of the EIAR. During construction phase mitigation is largely formed of the application of best practice control measures for noise and vibration from construction sites (BS 5228 [2009 +A1 2014] Code of Practice for Noise and Vibration Control on Construction and Open Sites Parts 1 and 2). Measures include the selection of quiet plant, enclosures and screens around noise sources, limiting hours of work and noise and vibration monitoring. During operational phase, facades that have been identified as vulnerable to noise due to proximity to road and rail sources, are design with glazing and ventilation that achieves the minimum sound insulation performance (table 10.7.2.1 of the EIAR). Mechanical Plant is also design to minimise noise and vibration.
  49. During construction phase, residual impact from noise upon surrounding occupiers with mitigation in place is anticipated in the EIAR to be negative, significant or moderate (depending upon proximity to the site) and short-term. Residual impact from vibration would be negative, not significant and short-term.
  50. During operational phase, residual impact from noise upon surrounding occupiers from mechanical plant and traffic is predicted to be negative and permanent, ranging from imperceptible to moderate. In terms of conditions for future occupiers, residual noise impact is predicted to be neutral, not significant and permeant, while vibration impact is predicted to be neutral. I am satisfied that with the application of the mitigation measures described, there is no significant permanent impacts resulting from noise and vibration associated with the development, or that future residents would be exposed to.
  51. I have given consideration to the third party concerns raised in relation to construction impacts, including noise, dust and traffic (with specific consideration of construction related traffic in the transportation section of my EIA below). 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 development, 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.
  52. Transportation
  53. Chapter 11 of the submitted EIAR considers transportation impacts associated with the proposed development. The EIAR has selected a ‘study area’ where impact is most likely to arise. Outside of the study area, it is expected that generated traffic will dissipate considerably and therefore have a negligible impact on the operation of the wider network. During the construction phase, the traffic movements associated with site arising from workers associated with construction activities as well as HGV / construction vehicle movements and all construction associated deliveries to the site are considered in the EIAR. Routes for construction traffic will not conflict with pedestrian or cycle infrastructure and no risk to vulnerable road users is identified. The anticipated transportation impact of the proposed development during construction is described in the EIAR as moderate and short-term.
  54. During the operational phase, impact is analysed with respect to vehicular traffic. This impact is described for the year of opening (estimated to be 2027) and with future year assessments carried out the design year (estimated 2037). Hearse Road, Main Street, Turvey Avenue and Distributor Road are the local links assessed in the EIAR, along with junctions as followings:
* Junction 1: Hearse Road South, The Square, Hearse Road Northeast;
* Junction 2: Turvey Avenue East, The Square, Turvey Avenue West;
* Junction 3: Hearse Road, Turvey Avenue, Main Street;
* Junction 4: Main Street North, Chapel View, Main Street West;
* Junction 5: Portrane Road East, St Patrick’s F.C, Portrane Road West\*;
* Junction 6: Distributor Road West, Corballis East (West Entrance), Distributor Road East;
* Junction 7: Distributor Road West, Corballis East (East Entrance), Distributor Road East;
* Junction 8: Distributor Road North, New Road East, Distributor Road South, New Road West;
* Junction 9: New Road East, Corballis East, New Road West;
* Junction 10: R126 East, Corballis East, R126 West;
* Junctions 11, 12, 13 are not modelled as the EIAR describes that these junction are either part of future developments or not affected by the proposed development;
* Junction 14: Distributor Road West, Hearse Road, Distributor Road East.

*\*NB the junction description for Junction 5 in the EIAR appears to be an error, and this junction is correctly described (as set out above) in the submitted Traffic Impact Assessment. This typographical error in the EIAR has not impacted my assessment of the proposed development.*

* 1. Beyond the local links and junctions assessed, traffic associated with the proposed development is expected to dissipate and would therefore have a negligible impact. The EIAR demonstrates that the proposed development can operate without congestion impact upon The Distributor Road and that proposed entrances will operate with reserved capacity and negligible queuing in the future scenario (2037). In relation to existing junctions, significant reserve capacity and limited queueing in the future scenario is demonstrated to most junctions assessed. The exceptions are junctions 3 and 14 where operation would be above capacity. In relation to junction 3, this is demonstrated to operate above capacity in the ‘do nothing’ scenario and without the proposed development in place, the additional loading generated by the proposed development would have negligible impact relative to the anticipated congestion at that junction in the absence of the development. In relation to junction 14, this is anticipated to be over capacity in the future scenario. The EIAR suggests that the impact upon junction 14 may be less in reality given changes to commuting patterns following the covid-19 pandemic, but this is not substantiated. This assessment in the EIAR included consideration of the cumulative impact comprising the build out of all LAP lands. The EIAR concludes that future cumulative impact on traffic will be likely, adverse, long term but not significant.
  2. Mitigation measures are described in section 11.7 and comprise implementation of measures outlined in the Construction Management Plan for the proposed development, that would be agreed in final form with the Local Authority. Operational stage mitigation is in the form of ensuring pedestrian and cycle connectivity to public transport infrastructure, the town centre, through the site and to the proposed nature park.
  3. Overall, I concur with the conclusions of the EIAR with respect to anticipated impact of the development during construction and upon the vehicular highway network during operation. However, I note that third parties have raised concern regarding a lack of a multi-model transport assessment in the submitted EIAR, including potential impact upon rail capacity. Concern is also raised that the Ballisk Development (PA ref. F17A/0373, ABP Ref. 249206) for 151 residential units and located to the north east of the subject site, has not taken into account in future scenarios for the vehicular assessment provided. However, the EIAR is clear that the future growth scenarios are based on both an assumed growth rate for the area, alongside the build out of the LAP lands, this in my view is sufficient.
  4. There is no analysis or discussion within chapter 11 of the EIAR of potential impact during operation of the development, upon other forms of transport. While mitigation is identified in the form of enhanced pedestrian and cycle connectivity, operational impact upon the same, and upon public transport, is not described. It is not necessarily an expectation that proposals for SHD to assess the capacity of surrounding public transport or pedestrian / cycle infrastructure, however given the scale of the current proposal and the reliance upon non-vehicular forms of transport to serve the future population of the development, this might reasonably have formed part of the analysis presented by the applicant. Although I do not consider the omission of this to necessarily represent a fundamental failing of the current application.
  5. Of more importance in my view, is that the EIAR is silent upon potential construction impact upon the adjacent railway network, despite rail lines adjoining much of the western boundary of the site.
  6. The observation from Iarnród Éireann / Irish Rail, identifies a number of conflicts with the proposed development form as it abuts Irish Rail land with safety and operational concerns raised. Irish Rail also contest the landownership boundary along the western edge of the site as it meets Irish Rail lands. I consider Irish Rail’s observation in more detail in sections 12.8 and 12.11 of my report above. I also note that the prescribed bodies for the purposes of s.8(1)(b)(ii) of the Planning and Development (Housing) and Residential Tenancies Act 2016, to which a copy of the application is to be sent, as set out in s.295(1) of the Planning and Development (Strategic Housing Development) Regulations 2017, include the Commission for Railway Regulation in relation to SHD that could impact the safe operation of the railway, and the commission has not been sent a copy of the application. In a similar regard, I note that Transport Infrastructure Ireland has also not been consulted or provided an observation, and the aforementioned regulations ask for consultation with TII on SHD proposals that which have an impact on rail-based transport.
  7. As described in section 12.8 of my report above, the applicant has not included any evidence of engagement with Irish Rail on the current development proposals despite there being approximately an 800m interface with this major infrastructural connection for the Dublin to Belfast railway. While the site redline is set in from the landownership extent as understood by the applicant, this has not adequately addressed Irish Rails requirements for a set back to the railway line as indicated in their submission on this application. Section 8 of the LAP also clearly states that careful consideration is required of treatment along this edge to the railway and therefore in my view, the application should have engaged with Irish Rail in relation to the current development proposals for the site. While a previous submission was made by Irish Rail on a previous application for the site (refused on appeal ABP Ref. 304904-19) that previous application does not reflect the current proposals before the Board.
  8. In my opinion, the EIAR is incomplete in relation to these aforementioned matters. This is particularly in light of the relationship of the site to the railway infrastructure situated along much of the western boundary of the site, which given the proximity and extent of development works along this edge, warrants consideration in terms of implications upon the safe operation of the rail network both during construction and operation. Irish Rail have outlined concerns in this regard, and I do not consider it appropriate to condition amendments to the development or mitigation to respond to these concerns, as such an approach would not benefit from a proper assessment as is required in the EIAR, and in consultation with all relevant prescribed bodies under the regulations, including the Commission for Railway Regulation and TII. I also discuss this in further detail in sections 12.8 and 12.11 of my report above.
  9. As a result, in my opinion the development is premature by reference to the inadequacy or incompleteness of the submitted EIAR, in accordance with paragraph 5 of section 9 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended).
  10. Material assets – Archaeology and cultural heritage
  11. Chapter 13 of the submitted EIAR assesses ‘Cultural Heritage and Archaeology’. The EIAR describes field inspection, geophysical survey and archaeological test excavation undertaken at the site. Building and townland boundary surveys were also undertaken. The subject site is located outside of the Zone of Archaeological Potential associated with the medieval settlement of Donabate. There are no Record of Monuments and Places sites within the site boundary, however site DU012-019 ‘Earthwork’ is located along the south east boundary and may extend into the subject site. There is a record in the National Museum of Ireland Topographical Files relating to antiquities discovered in the southern area of the subject site (ref.1991:127-136). The results of previous archaeological excavations carried out on the site are detailed in the EIAR and demonstrate that there is archaeological potential within parts of the site. There are eight previously identified archaeological sites within the subject site boundary described in the EIAR, with no new archaeological sites or features recorded.
  12. In terms of cultural heritage, the EIAR identifies that there are existing buildings included within the Record of Protected Structures (RPS) in the vicinity of the site, with part of the curtilage to one protected structure, (Smyths Pub; RPS 509; NIAH Reg 11336022) located within the subject site itself. The other protected structures include Corballis House (RPS 504; NIAH Reg. No. 11336028) 250m to the south east of the site, a 19th century railway bridge (RPS 502) just beyond the south west corner of the site, and numerous other protected structures located further north in Donabate village.
  13. The only potential impact in relation to protected structures arising from the proposed development, is in association with the curtilage of the Smyths Pub, with all other protected structures unimpacted by the proposed development. In relation to Smyths Pub, the northern access road for the proposed development will traverse the curtilage of Smyths Pub via an existing entrance road. No works are proposed to the existing buildings, an existing informal car park is proposed to be renovated with access widened, resulting in the shortening of a low stone wall. The EIAR identifies that the proposed works may expose wall footings from outbuildings previously associated with the protected structure.
  14. In the absence of mitigation, the EIAR describes potential impact as ranging from neutral to direct, negative and permanent in relation to cultural heritage and archaeology on the site during construction and operation of the proposed development.
  15. Mitigation is described in section 13.7 of the EIAR. During the construction phase, this includes the intention that a Conservation and Management Plan be developed for the proposed works, in agreement with DHLGH. An archaeological exclusion zone is also proposed around ‘Corballis 6’ an area of archaeological significance on the site, thought to be a substantial enclosed early medieval settlement. Remaining archaeology areas on the site are proposed to be mitigated by full archaeological excavation / preservation by record. In terms of the protected structure and curtilage at Smyths Pub, mitigation is in the form of a full photographic written and drawn record of existing and any additional outbuildings uncovered during archaeological monitoring. Written and photographic record is also proposed for the townland boundaries within the subject site. During the operational phase, mitigation is in the form of topsoil, appropriate landscape management and tree planting that minimises any negative impact on below ground archaeology. Interpretative signage is also proposed. With mitigation in place, the residual impact of the proposed development is predicted in the EIAR to be imperceptible.
  16. I note third party representations in relation to the potential negative impact of the proposed development upon the curtilage of Smyths Pub a protected structure. I am satisfied that the submitted EIAR fully recognises the relationship that the proposed development has with this protected structure and its curtilage features, which the EIAR identifies as being partially situated within the application site redline boundary. I address the potential impact upon heritage assets further in section 12.4 of my report above. In relation to archaeology, I note the consultation response from the DHLGH in relation to the use of conditions to secure appropriate archaeological mitigation, including monitoring. This reflects the approach to mitigation described in the EIAR and should the Board determined to grant planning permission, a condition can secure appropriate mitigation measures with respect to archaeology.
  17. 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 cultural heritage or archaeology.
  18. Material assets – Utilities
  19. Chapter 12 of the submitted EIAR considers ‘Material Assets: Water Supply, Drainage and Utilities’. In respect of water infrastructure, potential impact is identified with respect to surface water runoff, the foul sewerage and water supply. This includes the consideration of cumulative impacts during the operational phase. Other utilities, including electricity and gas supply, and telecommunications are also described with respect of potential impact resulting from the construction and operation of the development, including consideration of cumulative impact.
  20. Mitigation measures are outlined and described in section 12.7 of the EIAR. In respect of surface water, increased silt levels could impact water quality during construction, as a result, measures are described to control and prevent overflow spills and discharge of pollutants into the system. Discharges into the sewerage system are also intended to follow the conditions of discharge licence from Irish Water, with maintenance desludging to occur every 2 months or after any on-site flooding event. Water supply during construction will also be subject to conditions of a connection agreement with Irish Water and therefore prevent reductions in service to existing customers. New connections to electricity, gas and telecommunications will be managed by services providers. Site lighting will also be installed to prevent light spill onto neighbouring properties.
  21. During the operational phase, mitigation includes the use of SUDs to control the rate and water quality of discharges from the site. New sewers are proposed to be tested to ensure that Irish Water’s standards are meet. In terms of the anticipated increase in demand on public watermains, new watermains infrastructure is identified as providing sufficient capacity for all existing development alongside development of all zoned lands on the peninsula. Increases in demand on the electricity, gas and telecommunications will be assessed and controlled by the respective networks and service providers. The design also takes into account extreme rainfall events, climate change, potential for accidental damage and unplanned interruptions to water supply. The EIAR predicts that with mitigation in place, the residual impact of the proposed development upon utilities would be negligible. I note Irish Water has confirmed that connections to waste and water infrastructure is feasible and issued design acceptance. Irish Water recommend conditions in the event that planning permission is granted to secure compliance with their requirements.
  22. I note third party concern regarding the impact of the proposed development upon utilities, particularly water infrastructure and energy networks. I am satisfied that the EIAR gives sufficient consideration of cumulative impact, with water supply for the build out of the entire LAP zoned lands accounted for. In relation to electricity, gas and telecommunications networks, connection and supply will be controlled by the service providers as described in the EIAR. The subject site is serviced with the ability to connect into existing infrastructure for energy and telecommunications supply. I am satisfied with the approach described in the EIAR, that infrastructural requirements will be assessed and controlled by the network / service provider. While I note a third party response included capacity data that suggested that there was no capacity on networks to serve any additional development, I do not consider this to be a matter within the control of the developer. The developer will have to apply to the electricity, gas and telecommunications network / service providers for connection and this will be incorporated into the cost of the housing provided on the site. The network / service providers will then accommodate capacity requirements as necessary. Instances of outages or service disruption are a matter for the service provider to resolve. The submitted EIAR confirms the intention that the proposed development will adhere to relevant standards, and I am satisfied that there is nothing further required to be demonstrated as part of the EIAR.
  23. Overall, I concur with the EIAR conclusions and consider that impacts from the proposed development will be within acceptable parameters, with no significant negative impact upon utilities, including water infrastructure.
  24. Landscape and visual
  25. A landscape and visual assessment of the proposed development is set out in Chapter 14 of the submitted EIAR. This describes the baseline environment surrounding the site, including the protected structure (Smyth’s Bridge House, including gravelled car park and boundary treatments), The Strand, Prospect Hell and Semple Woods residential developments, as well as agricultural lands to the east, Corballis Cottages Road to the south and Malahide Estuary further beyond. The rail line and associated infrastructure is also described, alongside road infrastructure including the DDR. A specific landscape character assessment and historic landscape characterisation is set out in section 14.3.6 of the EIAR. This describes that the site is classified as two landscape types in the Development Plan, with a coastal character to the northern main development area and estuary character to the southern section of the site where the Nature Park is proposed. The guiding principles that the Development Plan identifies for coastal and estuary character types are described, with recognition that these types of landscape have a high sensitivity to development. The subject site is also categorised as ‘Enclosure, straight edge large’ as its Current Land use Character Type in the Historic Landscape Characterisation for the Donabate-Portraine Peninsula and as ‘Medieval, Enclosure’ in the mid-20th c. Broad Type categorisation combined with Relict Land use. Existing trees and hedgerows on the subject site are also described as part of the landscape and visual assessment in Chapter 14 of the EIAR.
  26. During the construction phase, the impact on existing trees and hedgerows will be slight and negative prior to the establishment of proposed trees and supplementary hedge planting, when it will change to slight and positive. For the main development area of the site, perceived moderate and negative impact upon the character of the landscape is identified during construction, due to the presence of construction cranes, lighting, and other visual construction disturbances. For the Nature Park area, construction phase is expected to have a slight and negative impact on the landscape character of the area. Short to medium term visual impact is also identified during the construction phase upon views in the area. These range from imperceptible and neutral to significant and negative.
  27. During the operational phase, impact upon existing trees and hedgerows will be moderate and positive. For the main development area during the operational phase, the EIAR predicts that with the planting of the Nature Park, open spaces and site boundaries, the overall impact will be a slight and negative upon on the landscape character. For the Nature Park, the biodiversity and visual character of the landscape will be improved, with increased amenity value for the area, resulting in a slight and positive impact on the character of the landscape. The operational phase visual impact upon views in the area are also identified in the EIAR, impact on protected views designated in the Development Plan are illustrated in Visuals 1-3 and 12. Impacts vary from not significant and neutral to moderate and negative. For a number of views, the establishment of screening as tree planting matures is identified as lessening impacts. Views of the Nature Park are expected to be slight and positive in the long term.
  28. Cumulative impact of the proposed development alongside The Strand, the DDR, and the zoned LAP lands for development to the east and west are considered in the EIAR. In the absence of mitigation, the cumulative impact would be moderate and negative upon the character of the landscape and in views from areas across the estuary in Malahide. The landscape strategies for the proposed development and surrounding future development, is anticipated to reduce impact to slight and negative, with impact continuing to lessen as planting matures and establishes.
  29. Mitigation is described in section 14.7.1 in relation to the construction phase, and comprises the proper management of the construction site to reduce and prevent impact. For the operational phase, mitigation is set out in section 14.7.2 of the EIAR and largely comprises the landscape strategy. The EIAR concludes that there will inevitably be some negative impacts arising from the development in terms of visual impact, but that the benefits of the proposed development outweigh this, with the potential for the resulting residual impact to be moderate, positive, and permanent.
  30. I have outlined in detail in section 12.5 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. Overall, I am not satisfied that the proposal adequately responds to the sensitivity of the landscape, with regard to topography and the setting of the site in High Amenity, Estuary and Coastal Character landscapes. Apartment blocks 6 and 8 and the top storey to blocks 4 and 5 have an incongruous, stark appearance in the landscape in views from the south in my opinion. This is most evident from view 12, but also in views 1, 2 and 3. I also consider views 13 and 14 as illustrative of the negative visual intrusion on the landscape these proposed apartment blocks will have. Therefore, I do not entirely concur with the conclusions described in Chapter 14 of the EIAR, as I consider the severity of negative impact to be significant in the long term in these views as referenced above. 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.
  31. For this reason, I am not recommending that the development be amended, and I am recommending that the application be refused, in part, as a result of this adverse impact upon the sensitive context of the site.
  32. The interaction between the above factors
  33. A specific section on interactions between the topic areas under the EIAR is included within each individual topic chapter. Chapter 15 of the submitted EIAR is entitled ‘Interactions 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.
  34. 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, I am satisfied that residual impact resulting from interaction between all factors is minimised. However, as outlined above, it is my view that the visual impact of the proposed development would be significant and negative in the long term. I also consider the EIAR to be inadequate in relation to consideration of operational impact upon the railway line.
  35. Cumulative impacts
  36. 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. The type of development will likely reflect 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.
  37. Each topic chapter in the submitted EIAR has considered cumulative impacts and I have highlighted these where most relevant to my assessment. The proposed land use of the development is in keeping with the zoning of the site, and the proposed development is generally within the provisions of the relevant plans, with the exception of the contraventions that I outline in my assessment above, including contraventions in relation to visual impact and impacts upon the safe operation of the railway. 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.
  38. Reasoned Conclusion on the Significant Effects
  39. 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:
  40. **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. Mitigation has been incorporated into the design, 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.
  41. **Biodiversity** – with mitigation in place and the construction of an appropriately managed Nature Park, the proposed development will have a net positive impact on biodiversity.
  42. **Land, soils, geology, water, air quality or climate** - with the implementation of mitigation through management measures in the Construction and Environmental Management Plan, as well as surface water management, attenuation and drainage of foul waters, no significant negative impacts are envisaged.
  43. **Noise and vibration** – during the construction phase, negative impacts will be mitigated through measures in the Construction and Environmental Management Plan. During the operational phase, sound insultation will be incorporated into the buildings. With mitigation in place, impact will not be significant.
  44. **Transportation** – mitigation measures described in the Construction and Environmental Management Plan are intended to prevent significant impact during construction. During the operational phase, negative long-term effects are anticipated from increased congestion. However, this impact is not significant, and in the ‘no development scenario’ over capacity is still demonstrated in areas. The EIAR is silent on potential impact upon the adjacent Dublin to Belfast railway line during both construction and operation, including how future maintenance and / or improvement works can be facilitated by the development. As a result, the proposed EIAR is inadequate or incomplete in this regard.
  45. **Material Assets - Archaeology and cultural heritage** - no significant permanent adverse impacts upon archaeological cultural heritage are anticipated, with the application of mitigation measures.
  46. **Material Assets – Utilities and waste** - no significant effects are anticipated in relation to the supply of utilities. Mitigation is formed of adherence to relevant codes of practice, design guidance and consultation with local and statutory authorities
  47. **Landscape and visual impacts** – long term, negative and significant impact anticipated in relation to protected views from the south and the estuary area in general. The proposed development includes incongruous typologies in terms of scale and design along the sensitive south west end of the site, where visibility is exposed to the estuary.
  48. Having regard to the above, the likely significant environmental effects arising as a consequence of the proposed development have been identified, described and assessed in this EIA.

1. Appropriate Assessment
   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.
   2. I have had regard to the submissions of third parties in relation to the potential impacts on Natura 2000 sites.
   3. The Project and Its Characteristics
   4. See the detailed description of the proposed development in section 3.0 above.
   5. The European Sites Likely to be Affected (Stage I Screening)
   6. The subject site is not located within any Natura 2000 site. The site is located in an ecologically sensitive areas, with the Malahide Estuary adjacent and to the south of the site redline boundary. Existing residential development is situated to the north, as well as to the west and beyond the railway lines which bound the subject site landowner ownership extent to the west. Agricultural fields are situated to the east and south of the subject site. The site is currently undeveloped and comprises former agricultural fields that have been left fallow in recent years. The current primary habitats of ecological interest on the site comprise Agricultural Grassland (GA1), Seminatural Grassland (largely GS2) and recolonising bare ground undergoing succession to seminatural grassland. The southern section of the subject site, south of the Donabate Distributor Road (DDR) is floristically species-rich and represents a developing mosaic of semi-natural grassland habitats with recolonising bare earth. This habitat is of high local importance to numerous faunal species of conservation concern. An assessment of potential biodiversity impacts arising from the proposed development is set out in section 12 of this report above as part of my Environmental Impact Assessment (EIA).
   7. I have had regard to the submitted Appropriate Assessment screening report, which identifies that while the site is not located directly within any Natura 2000 areas, there are a number of Natura 2000 sites sufficiently proximate or linked (indirectly) to the site to require consideration of potential effects. These are listed below with approximate distance to the application site indicated:

* Baldoyle Bay SAC (0199) 6km;
* Howth Head SAC (0202) 12km;
* Lambay Island SAC (0204) 7km;
* Malahide Estuary SAC (0205) 11m;
* North Dublin Bay SAC (0206) 10km;
* Rodgerstown Estuary SAC (0208) 1.7km;
* South Dublin Bay SAC (0210) 15km;
* Ireland’s Eye SAC (2193) 10km;
* Rockabill to Dalkey Island SAC (3000) 5km;
* North Bull Island SPA (4006) 10km;
* Rockabill SPA (4014) 10km;
* Rogerstown Estuary SPA (4015) 1.7km;
* Baldoyle Bay SPA (4016) 6km;
* South Dublin Bay and River Tolka Estuary SPA (4025) 13km;
* Malahide Estuary SPA (4026) 11m;
* Lambay Island SPA (4069) 7km;
* Howth Head Coast SPA (4113) 11km;
* Ireland’s Eye SPA (4117) 8km;
* Skerries Islands SPA (4122) 10km.
  1. The specific qualifying interests and conservation objectives of the above sites are described below. In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to Natura 2000 sites, and any potential pathways which may exist from the development site to a Natura 2000 site, aided in part by the EPA Appropriate Assessment Tool ([www.epa.ie](http://www.epa.ie)), as well as by the information on file, including observations on the application made by prescribed bodies and Third Parties, and I have also visited the site.
  2. 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 potential impact associated with contamination of surface and/or ground water during construction and/or operation; and impacts associated with disturbance/habitat loss during construction and/or operation. This potential exists due to the location of the application site immediately to the north of the Malahide Estuary SAC and SPA, and the potential negative impacts on nearby SAC or SPA areas that share one or more Qualifying Interests (QI) with the Malahide Estuary SPA or SAC. This is as a result of the potential for increased pressure on those nearby SAC or SPA areas that might occur as a result of knock-on impact upon QIs at Malahide Estuary. Therefore, potential effect is identified in relation to the following European Sites: Malahide Estuary SPA; North Bull Island SPA; Rogerstown Estuary SPA; Baldoyle Bay SPA; South Dublin Bay and River Tolka Estuary SPA; Skerries Islands SPA; Malahide Estuary SAC; Baldoyle Bay SAC; North Dublin Bay SAC; Rogerstown Estuary SAC; and South Dublin Bay SAC.
  3. 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 and QIs of the Malahide Estuary SPA or SAC 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 SAC; Ireland’s Eye SAC; Rockabill to Dalkey Island SAC; Lambay Island SAC; Rockabill SPA; Lambay Island SPA; Howth Head Coast SPA; and Ireland’s Eye SPA.
  4. The qualifying interests of all Natura 2000 Sites considered are listed below:

Table 14.1: European Sites/Location and Qualifying Interests

|  |  |
| --- | --- |
| **Site (site code) and Conservation Objectives** | **Qualifying Interests/Species of Conservation Interest (Source: EPA / NPWS)** |
| Baldoyle Bay SAC (0199)  To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. | Mudflats and sandflats not covered by seawater at low tide [1140]  Salicornia and other annuals colonising mud and sand [1310]  Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]  Mediterranean salt meadows (Juncetalia maritimi) [1410] |
| Baldoyle Bay SPA (4016)  To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests for this SPA. | Light-bellied Brent Goose (Branta bernicla hrota) [A046]  Shelduck (Tadorna tadorna) [A048]  Ringed Plover (Charadrius hiaticula) [A137]  Golden Plover (Pluvialis apricaria) [A140]  Grey Plover (Pluvialis squatarola) [A141]  Bar-tailed Godwit (Limosa lapponica) [A157]  Wetland and Waterbirds [A999] |
| Howth Head SAC (0202)  To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. | Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]  European dry heaths [4030] |
| Howth Head Coast SPA (4113)  To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA. | Kittiwake (Rissa tridactyla) [A188] |
| North Dublin Bay SAC (0206)  To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. | Mudflats and sandflats not covered by seawater at low tide [1140]  Annual vegetation of drift lines [1210]  Salicornia and other annuals colonising mud and sand [1310]  Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]  Mediterranean salt meadows (Juncetalia maritimi) [1410]  Embryonic shifting dunes [2110]  Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120]  Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]  Humid dune slacks [2190]  Petalophyllum ralfsii (Petalwort) [1395] |
| North Bull Island SPA (4006)  To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests for this SPA. | Light-bellied Brent Goose (Branta bernicla hrota) [A046]  Shelduck (Tadorna tadorna) [A048]  Teal (Anas crecca) [A052]  Pintail (Anas acuta) [A054]  Shoveler (Anas clypeata) [A056]  Oystercatcher (Haematopus ostralegus) [A130]  Golden Plover (Pluvialis apricaria) [A140]  Grey Plover (Pluvialis squatarola) [A141]  Knot (Calidris canutus) [A143]  Sanderling (Calidris alba) [A144]  Dunlin (Calidris alpina) [A149]  Black-tailed Godwit (Limosa limosa) [A156]  Bar-tailed Godwit (Limosa lapponica) [A157]  Curlew (Numenius arquata) [A160]  Redshank (Tringa totanus) [A162]  Turnstone (Arenaria interpres) [A169]  Black-headed Gull (Chroicocephalus ridibundus) [A179]  Wetland and Waterbirds [A999] |
| Rockabill SPA (4014)  To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA. | Purple Sandpiper [A148]  Roseate Tern [A192]  Common Tern [A193]  Arctic Tern [A194] |
| Ireland’s Eye SAC (2193)  To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. | Perennial vegetation of stony banks [1220]  Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] |
| Ireland’s Eye SPA (4117)  To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA. | Cormorant (Phalacrocorax carbo) [A017]  Herring Gull (Larus argentatus) [A184]  Kittiwake (Rissa tridactyla) [A188]  Guillemot (Uria aalge) [A199]  Razorbill (Alca torda) [A200] |
| Malahide Estuary SAC (0205)  To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. | Mudflats and sandflats not covered by seawater at low tide [1140]  Salicornia and other annuals colonising mud and sand [1310]  Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]  Mediterranean salt meadows (Juncetalia maritimi) [1410]  Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120]  Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] |
| Malahide Estuary SPA (4025)  To maintain the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA. | Great Crested Grebe (Podiceps cristatus) [A005]  Light-bellied Brent Goose (Branta bernicla hrota) [A046]  Shelduck (Tadorna tadorna) [A048]  Pintail (Anas acuta) [A054]  Goldeneye (Bucephala clangula) [A067]  Red-breasted Merganser (Mergus serrator) [A069]  Oystercatcher (Haematopus ostralegus) [A130]  Golden Plover (Pluvialis apricaria) [A140]  Grey Plover (Pluvialis squatarola) [A141]  Knot (Calidris canutus) [A143]  Dunlin (Calidris alpina) [A149]  Black-tailed Godwit (Limosa limosa) [A156]  Bar-tailed Godwit (Limosa lapponica) [A157]  Redshank (Tringa totanus) [A162]  Wetland and Waterbirds [A999] |
| South Dublin Bay SAC (0210)  To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. | Mudflats and sandflats not covered by seawater at low tide [1140]  Annual vegetation of drift lines [1210]  Salicornia and other annuals colonising mud and sand [1310]  Embryonic shifting dunes [2110] |
| South Dublin Bay and River Tolka Estuary SPA (4024)  To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests for this SPA. | Light-bellied Brent Goose (Branta bernicla hrota) [A046]  Oystercatcher (Haematopus ostralegus) [A130]  Ringed Plover (Charadrius hiaticula) [A137]  Grey Plover (Pluvialis squatarola) [A141]  Knot (Calidris canutus) [A143]  Sanderling (Calidris alba) [A144]  Dunlin (Calidris alpina) [A149]  Bar-tailed Godwit (Limosa lapponica) [A157]  Redshank (Tringa totanus) [A162]  Black-headed Gull (Chroicocephalus ridibundus) [A179]  Roseate Tern (Sterna dougallii) [A192]  Common Tern (Sterna hirundo) [A193]  Arctic Tern (Sterna paradisaea) [A194]  Wetland and Waterbirds [A999] |
| Lambay Island SAC (0204)  To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. | Mudflats and sandflats not covered by seawater at low tide [1140]  Annual vegetation of drift lines [1210]  Salicornia and other annuals colonising mud and sand [1310]  Embryonic shifting dunes [2110] |
| Lambay Island SPA (4069)  To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA. | Fulmar (Fulmarus glacialis) [A009]  Cormorant (Phalacrocorax carbo) [A017]  Shag (Phalacrocorax aristotelis) [A018]  Greylag Goose (Anser anser) [A043]  Lesser Black-backed Gull (Larus fuscus) [A183]  Herring Gull (Larus argentatus) [A184]  Kittiwake (Rissa tridactyla) [A188]  Guillemot (Uria aalge) [A199]  Razorbill (Alca torda) [A200]  Puffin (Fratercula arctica) [A204] |
| Rogerstown Estuary SAC (0208)  To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. | 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 (Glauco-Puccinellietalia maritimae) [1330]  Mediterranean salt meadows (Juncetalia maritimi) [1410]  Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120]  Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] |
| Rogerstown Estuary SPA (4015)  To maintain the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA. | Greylag Goose (Anser anser) [A043]  Light-bellied Brent Goose (Branta bernicla hrota) [A046]  Shelduck (Tadorna tadorna) [A048]  Shoveler (Anas clypeata) [A056]  Oystercatcher (Haematopus ostralegus) [A130]  Ringed Plover (Charadrius hiaticula) [A137]  Grey Plover (Pluvialis squatarola) [A141]  Knot (Calidris canutus) [A143]  Dunlin (Calidris alpina) [A149]  Black-tailed Godwit (Limosa limosa) [A156]  Redshank (Tringa totanus) [A162]  Wetland and Waterbirds [A999] |
| Rockabill to Dalkey Island SAC (0300)  To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. | Reefs [1170]  Phocoena phocoena (Harbour Porpoise) [1351] |
| Rockabill SPA (4014)  To maintain the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA. | Purple Sandpiper (Calidris maritima) [A148]  Roseate Tern (Sterna dougallii) [A192]  Common Tern (Sterna hirundo) [A193]  Arctic Tern (Sterna paradisaea) [A194] |
| Skerries Island SPA (4122)  To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA. | Cormorant (Phalacrocorax carbo) [A017]  Shag (Phalacrocorax aristotelis) [A018]  Light-bellied Brent Goose (Branta bernicla hrota) [A046]  Purple Sandpiper (Calidris maritima) [A148]  Turnstone (Arenaria interpres) [A169]  Herring Gull (Larus argentatus) [A184] |

* 1. Table 14.1 above reflects the EPA and National Parks and Wildlife Service (NPWS) list of qualifying interests for the SAC/SPA areas requiring consideration.
  2. Potential Effects on Designated Sites
  3. 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. Surveys were undertaken to establish the relationship of the subject site with QI species for nearby SPAs, the most proximate being the Malahide Estuary SPA (adjacent to the site) and Rogerstown Estuary SPA (less than 2km away). For the purposes of the surveys undertaken, the barrier of the DDR through the middle of the site is acknowledged, separating the lands zoned residential and intended for redevelopment to the north, from the lands intended to form a Nature Park to the south which are adjacent to the Malahide Estuary.
  4. During surveys, no species representing a QI for which the most proximate SPAs are designated were observed utilising the habitats present within the application site or terrestrial habitats immediately adjacent. There were also no significant flocks of species representing a QI for which the proximate SPAs are designated, observed regularly flying directly over the part of the site zoned for residential development. However, ‘fly over’ survey results did record five QI bird species for the Malahide Estuary and/or Rogerstown Estuary SPAs flying over the southern part of the subject site intended for the ‘Nature Park’. Winter bird surveys were also undertaken in 2019/2020 and 2020/2021 and indicate that there are no areas of habitat within the application site or terrestrial habitats immediately adjacent, utilised in any significant capacity by any species of bird representing a QI of the Malahide Esturarey SPA or Rogerstown Estuary SPA. The results of surveys undertaken over the subject site are also discussed in my EIA in section 13 above. Historically surveys have also been undertaken of the area. A comprehensive survey of the Malahide Estuary and surrounding lands was undertaken in the winter of 2016/2017 (the Lewis and Butler 2017 survey). This recorded Shelduck (single individual) and Whopper Swan (an Annex I species family of six) within the application site area. An adjacent field to the site was also recorded in 2009 as been utilised by Brent Geese.
  5. Viewshed analysis is also described in the submitted AA Screening. This relates to the potential for the visibility of construction activity to impact on densities and behaviour of waterbirds utilising intertidal areas. Viewshed Analysis of the topography of the application site and surrounds were undertaken as part of this. The analysis concluded that any activity within the Nature Park would not be visible, with the exception of two areas, being if birds were feeding within the Nature Park itself.
  6. In terms of pathways to European Sites, the subject site is located immediately adjacent to the Malahide Estuary SAC and the Malahide Estuary SPA. There is a drainage network within the application lands to the north of the DDR that discharges to the Malahide Estuary through the Ballalease Stream. There are a total of four Natura 2000 sites within 2km of the subject site and within the same Water Framework Directive Water Management Unit (Donabate), specifically Malahide Estuary SPA and SAC and Rogerstown Estuary SPA and SAC. The qualifying interests of these sites are directly or indirectly dependant on water quality. Therefore, there is potential for indirect impacts associated with construction and/or operation associated with the proposed development though surface water discharges and associated impact on water quality (including changes to the salinity of waters occurring within the Malahide Estuary).
  7. The Malahide and Rogerstown SPAs are designated for overwintering birds which are highly mobile. There are eight species designated as QIs of both SPA areas (Malahide and Rogerstown):
* Light-bellied Brent Goose;
* Shelduck;
* Oystercatcher;
* Grey Plover;
* Knot;
* Dunlin;
* Black-tailed Godwit; and
* Redshank.
  1. Therefore, while there are no records of the application site supporting significant populations of QIs for which the European Sites are designated for, there is potential for one or more of these QIs to forage within/adjacent to the proposed application site. Golden Plover is also a QI of the Malahide Estuary SPA and frequently feeds within agricultural land in the vicinity of roosting sites post-sunset, along with several other species of conservation concern such as Lapwing. There is therefore potential for disturbance and/or loss of foraging habitat of QIs for the Malahide and Rogerstown European Site areas as a result of the proposed development associated with potential impacts upon water quality.
  2. There is also a secondary / residual potential impact, resulting from pathways to other SPA and SAC areas via mobile QIs that are shared with the Malahide Estuary SPA and SAC and Rogerstown Town Estuary SPA and SAC. In the event that there was disturbance and/or loss of foraging habitat for foraging over-wintering waders associated with the Malahide and Rogerstown Estuaries, that could displace these birds into this other Natura 2000 SPAs and SACs, putting additional pressure on the habitats within North Bull Island SPA, Baldoyle Bay SPA, South Dublin Bay and River Tolka Estuary SPA, Skerries Islands SPA, Baldoyle Bay SAC, North Dublin Bay SAC, and South Dublin Bay SAC.
  3. There is also a small population of Allium triquetrum, a species listed on Part (1) of the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations of 2011 occurring on the site. There is potential for impact associated with the spread of this species on and off the site.
  4. The submitted screening report also identifies the potential for construction activity to impact climate change, with measures required to offset against the contribution of the project to climate change.
  5. In-Combination / Cumulative Impacts
  6. The submitted AA Screening Report also considers the in combination / cumulative effect of plans and projects to Natura 2000 Sites, alongside the proposed development. This included consideration of relevant European Directives, National Plans, Local Plans and surrounding activities, such as quarrying, water abstraction, agricultural actions such as spreading organic waste and surrounding development. The primary source of cumulative impact concerns impacts on ground and/or surface water quality and impacts on the foraging and/or roosting activity of overwintering birds. The two most significant projects with potential to have cumulative / in-combination impacts are identified as the DDR and Broadmeadow Way. An AA was carried out for the DDR prior to the consent for that project and it concluded that no significant impact on the Natura 2000 site was likely to result. The Broadmeadow Way is a planned greenway (pedestrian / cycleway) between Malahide Demesne and Newbridge Demesne via the railway causeway across the Malahide Estuary that has planning permission (ABP ref. 304624-19) and is intended for construction in future. The decline in the QIs of Malahide Estuary SPA as a result of increased pressure through amenity use / recreational pressure and development is identified with reference to potential cumulative impact in the submitted AA Screening Report.
  7. The submitted AA Screening Report identifies the primary source of water contamination within Malahide Bay as being associated with non-compliance at waste-water treatment plant (WWTP) facilities in discharging to the immediate vicinity. EPA identify virtually all rivers discharging to the Malahide Estuary as ‘At Risk’ of not achieving their Water Framework Directive objectives. The River Broadmeadow was recorded as having a water quality of ‘Poor’ in 2017. The cumulative impact of agriculture, domestic wastewater and urban run-off are identified in the submitted report as the primary contributors to eutrophication (excessive plant and algal growth) within the Malahide (Broadmeadow) Estuary.
  8. The Screening Report identifies the provision of an ecological buffer zone through the Nature Park in the proposed development as key to ensuring that there would be no cumulative/in-combination impacts of the proposed development in terms of disturbance of QIs.
  9. AA Screening Conclusion
  10. The specific conservation objectives and qualifying interest 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 targeting a stable or increasing long term population trend and a distribution that is maintained in range and timing / intensity, other than occurring from natural patterns of variation. Potential effect on habitat degradation as a result of hydrological impacts, disturbance and displacement effects are highlighted above, including secondary / residual impact, with the potential to affect the conservation objectives supporting the qualifying interest / special conservation interests of European Sites. As such, likely effects on Malahide Estuary SPA; North Bull Island SPA; Rogerstown Estuary SPA; Baldoyle Bay SPA; South Dublin Bay and River Tolka Estuary SPA; Skerries Islands SPA; Malahide Estuary SAC; Baldoyle Bay SAC; North Dublin Bay SAC; Rogerstown Estuary SAC; and South Dublin Bay SAC cannot be ruled out, having regard to the sites’ conservation objectives, and a Stage 2 Appropriate Assessment is required.
  11. In relation to the remaining SAC and SPA areas considered, taking into consideration the QIs associated with the most proximate SPA sites, the distance between the proposed development site to these designated conservation sites, the lack of direct hydrological pathway or any other pathway or link to these conservation sites, as well as 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 SAC; Ireland’s Eye SAC; Rockabill to Dalkey Island SAC; Lambay Island SAC; Rockabill SPA; Lambay Island SPA; Howth Head Coast SPA; and Ireland’s Eye SPA.
  12. Stage 2 – Appropriate Assessment
  13. The receiving environments at Malahide Estuary SPA; North Bull Island SPA; Rogerstown Estuary SPA; Baldoyle Bay SPA; South Dublin Bay and River Tolka Estuary SPA; Skerries Islands SPA; Malahide Estuary SAC; Baldoyle Bay SAC; North Dublin Bay SAC; Rogerstown Estuary SAC; and South Dublin Bay SAC are described in detail in the submitted Natura Impact Statement (NIS) report.
  14. The site-specific conservation objectives and qualifying interests / species of conservation interests of the aforementioned Natura 2000 sites are described above in table 14.1. 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:
  15. **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. It is noted in the NIS that the numbers of the top ten species recorded (I-WeBS peak 15/16 – 18/19) have declined relative to the Natura 2000 data form. This may be related to increased development in the area adjacent to the Malahide Estuary SPA, in particular the DDR. This may have resulted in some movement of species to the Rogerstown Estuary site, which has seen an increase in numbers relative to Natura 2000 data form figures. It is suggested in the NIS that the provision of the Nature Park may help reverse any negative trends.
  16. **North Bull Island SPA:** 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.
  17. **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.
  18. **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 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.
  19. **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.
  20. **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.
  21. **Malahide Estuary SAC:** comprises the estuary and River Broadmeadow. The site has an important example of intertidal sand and mud flats, with Zostera spp. Salft marshes are well represented, particularly Atlantic salt meadows and Salicornia flats. The site has Viola hirta, a Red Data Book plant species. It is of high importance to wintering waterfowl, with an internationally important population of Branta bernicla horta and nationally important populations of a further 14 species, including Pluvialis apricaria. It also supports a regionally important population of Limosa lapponica and is an educationally valuable site. The conservation objectives relate to maintaining or restoring the favourable conservation condition of mudflats and sandflats not covered by seawater at low tide, Salicornia and other annuals colonising mud and sand in the estuary, Atlantic salt meadows, Mediterranean salt meadows, Shifting dunes along the shoreline with Ammophila arenaria, and Fixed coastal dunes with herbaceous vegetation.
  22. **Baldoyle Bay SAC:** 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 conservation objectives relate to maintaining the favourable conservation condition of mudflats and sandflats not covered by water at low tide, Atlantic salt meadows and Mediterranean salt meadows; and restoring the favourable conservation condition of Salicornia and other colonising mud and sand in the SAC.
  23. **North Dublin Bay SAC:** is a relatively recent depositional feature, formed as a result of improvements to Dublin Port during the 18th and 19th centuries. The site possesses an excellent diversity of coastal habitats. The North Bull Island dune system is one of the most important systems on the east coast and is one of the few in Ireland that is actively accreting. The site has five Red Data Book vascular plant species and four Red Data Book bryophyte species. It is one of the most important sites for wintering waterfowl in Ireland, with internationally important populations of Branta bernicla horta, Calidris canutus and Limosa lapponica, plus nationally important numbers of a further 14 species. 20% of the total of Pluvialis squatarola occurs on the Island and it is also nationally important for three insect species. The conservation objectives relate to maintaining the favourable conservation condition of mudflats and sandflats not covered by seawater at low tide, Annual vegetation of drft lines, Salicornia and other annuals colonizing mud and sand in the bay, Atlantic salt meadows, Mediterranean salt meadows, Embryonic shifting dunes, Shifting dunes along the shoreline with Ammophila arenaria, Fixed coastal dunes with herbaceous vegetation, Humid dune slacks, and Petalwort.
  24. **Rogerstown Estuary SAC:** comprises a relatively small estuarine system in north County Dublin. In addition to salt marsh and sand dune habitats, some agricultural fields which adjoining the estuary are included in the site – some of these have botanical or ornithological interest. It is an internationally important waterfowl site with three Red Data Book plant species. Of high importance for wintering waterfowl, with an internationally important population of Branta bericla horta and nationally important populations of a further 16 species including Pluvialis apricaria. Sterna albifrons has bred. The conservation objectives relate to maintaining the favourable condition of Estuaries, Mudflats and sandflats not covered by seawater at low tide, Salicornia and other annuals colonising mud and sand, Atlantic salt meadows, Mediterranean salt meadows, Shifting dunes along the shoreline with Ammophila arenaria, and Fixed coastal dunes with herbaceous vegetation.
  25. **South Dublin Bay SAC:** The site extends from the South Wall at Dublin Port to the West Pier at Dun Laoghaire. The site possesses a fine and fairly extensive example of intertidal flats. The site has the largest strand of Zostera on the east coast. It supports part of the important wintering waterfowl populations of Dublin Bay. Regularly is has an internationally important population of Branta bernicla horta, plus nationally important numbers of at least a further 6 species, including Limosa lapponica. It is a regular autumn roosting ground for significant numbers of Sterna terns, including S. dougallii. The conservation objectives relate to maintaining the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide.
  26. The conditions underpinning the integrity of the above SPA and SAC sites include either all, or some, of the following: water quality, pollution levels minimised, appropriate agricultural practices, surface and ground water quality appropriate levels of disturbance water levels, appropriate salinity maintained, air quality, tidal currents, erosion / sedimentation regime, appropriate development, appropriate amenity use, shooting levels, and conditions at adjacent sites.
  27. During construction, the drainage network within the lands to the north of the DDR that form part of the application site, discharges into the Malahide Estuary. The site is also within 2km of the Rogerstown Estuary (SPA / SAC) which, alongside the Malahide Estuary (SPA/SAC) is located within the Same Water Management Unit as the proposed development site. As the qualifying interests of these sites are dependant directly or indirectly upon water quality, the implementation of preventative measures is required to prevent adverse effects. Construction activities also have the potential to negatively impact QIs through disturbance, when undertaken immediately adjacent to the estuary on the proposed Nature Park area of the subject site. If undertaken in the period October – March, works would have a degree of negative impact on the use of the Estuary by QIs through disturbance. Works undertaken to the north of the DDR will not negatively impact QIs as demonstrated by the viewshed analysis described above. Survey analysis supports a conclusion that there is no use of the subject site by over-wintering waders, as such there is no potential for loss or disturbance of habitat for QIs on the site itself.
  28. During the operational phase, there is no significant impact in relation to water quality identified, with the application of SUDs and the appropriate connection of the development to foul water systems. There is potential for negative impact identified as a result of inappropriate management of the proposed Nature Park space. The activity associated with walking, including dog-walking, has been assessed to have a Moderate to High disturbance upon QIs of the Malahide Estuary SPA / SAC, increasing to high in areas proximate to the Nature Park site. An increase in presence of walkers, and in particular dog walkers, associated with the proposed development within the proposed Nature Park has a high potential for disturbance of QIs during the operational phase in the absence of mitigation measures.
  29. In relation to secondary effects, the potential negative impact upon the water quality and / or hydrological process associated with sedimentation, erosion and salinity of the water within the Malahide Estuary (SPA / SAC), as a result of the proposed development is identified. Which, if resulting in a change of distribution or abundance of habitat for which QIs rely upon for feeding etc. could, in the absence of mitigation measures, lead to impact upon Natura 2000 sites further afield owing to the mobility of species. During the construction and operational phases, disturbance to birds comprising QIs of Malahide Estuary / Rogerstown Estuary SPA, could impact on populations of birds at North Bull Island SPA; Baldoyle Bay SPA; South Dublin Bay and River Tolka Estuary SPA; Skerries Islands SPA; Baldoyle Bay SAC; North Dublin Bay SAC; and South Dublin Bay SAC, which share QIs with the Malahide and Rogerstown Estuaries SPA / SAC sites.
  30. In combination / cumulative impact is also identified in the absence of mitigation, in the form of disturbance resulting from the DDR and Broadmeadow Way, which will increase footfall in the vicinity of the Malahide Estuary.
  31. In terms of other effects, the Nature Park is highlighted as having the potential to support a wealth of floral and faunal biodiversity during the late Spring and Summer months, while providing habitat for foraging and/or roosting QIs of the adjacent Malahide Estuary SPA during Autumn and Winter (into Spring), as a result positive impact is predicted, with the provision of an ecological buffer between the DDR and Malahide Estuary.
  32. Mitigation measures are described in section 3.5 of the submitted NIS and relate to the prevention of significant impact upon the closest European Sites, being the Malahide Estuary and Rogerstown Estuary SPA/SACs. The prevention of impact upon those closest Natura 2000 sites will avoid the risk of potential impact upon those European Sites located further afield (North Bull Island SPA; Baldoyle Bay SPA; South Dublin Bay and River Tolka Estuary SPA; Skerries Islands SPA; Baldoyle Bay SAC; North Dublin Bay SAC; and South Dublin Bay SAC).
  33. During construction, the implementation of measures contained in a site specific Construction and Environmental Management Plan, will prevent the discharge of material to the Malahide SAC / SPA site. In summary, mitigation comprises the control of waste and soils on site and fuel handling, sources of imported infill, control of water, stockpile of soil and surface water run-off measures. It is noted in the NIS that no major excavation or dewatering is required as part of the site works. In terms of the potential for disturbance of overwintering waders, the site surveys (as described above) indicate that the habitat occurring within the subject site is not utilised for foraging and/or roosting by any QIs of the Malahide SPA. There will therefore be no loss of foraging/roosting habitat within the application site and no mitigation is required in that regard. However, potential impact is identified in relation to the disturbance of QIs outside of the subject site area as a result of the appearance and noise of construction activity on the section of the site to the south of the DDR in the proposed Nature Park area. To the north of the DDR, viewshed analysis supports the conclusion that impact would not result. As a result of the potential for disturbance from works within the Nature Park part of the site, mitigation is described in the NIS and comprises the limitation of major construction works to the period April – September (inclusive), with no major works undertaken in the Nature Park for the period of peak wintering wader use of the estuary. While disturbance associated with works to the north of the DDR are not anticipated, it is also proposed to erect screen hoarding around the perimeter of the site to limit visual impact. Screening using vegetation is also proposed to minimise visual disturbance associated with the footpath along the western boundary of the Nature Park. Lighting will also be designed to limit light-spill beyond the site boundary, with no artificial lighting within the Nature Park area itself. An Alien Invasive Plant Species Management Control Plan will also be implemented to prevent any secondary impacts associated with the introduction and/or spread of any species listed on Part (1) of the Third Schedule of the European Communities (Bird and Natural Habitats) Regulations of 2011 as amended.
  34. During operation, mitigation measures include the use of SUDS in accordance with the GDSDS and no bulk storage of fuel to prevent adverse impact upon water quality within the proximate SPA/SAC sites (Malahide and Rogerstown Estuaries). In relation to foul water, the total daily flow calculated for the completed development is 631m3/day and a dry weather flow of 7.3 L/s. It is proposed that the majority of the site be drained via new pumping stations and rising mains laid in the Donabate Distributor Road, thereby by-passing the existing sewage infrastructure in Donabate village. Foul water will be treated at the Portrane/Donabate WWTP, where the final effluent is compliant with the Emission Limit Values according to the 2020 Annual Environmental Report. The WWTP is also operating at approximately 50% of its P.E. capacity. Water supply will be designed in accordance with Irish Water requirements.
  35. Operational impact from disturbance is also identified and mitigation measures are proposed in the NIS. The appropriate design and management of the proposed Nature Park ecological buffer zone will minimise disturbance to QIs of Malahide Estuary. Significant use of fertiliser will be prohibited and amenity use of the park will form a secondary consideration to the ecological priorities identified. The NIS proposes that dogs be prohibited from using the park, to limit disturbance of birds. Artificial lighting will also be minimised and the preparation and implementation of a Biodiversity and Habitat Management Plan for the Nature Park is a key component to mitigating impact.
  36. Following the implementation of mitigation measures described above, no significant impacts on the conservation objectives of qualifying interests are identified. Monitoring by a suitably qualified expert is also intended to ensure the effectiveness of the mitigation measures proposed, with presentation on an annual basis to the NPWS and Fingal CC.
  37. I note that the DHLGH have stated in their consultation response, that prohibiting dogs entirely from the Nature Park is not necessary. The Planning Authority and DHLGH state that a dedicated off-leash area within the park is the more preferable, and I concur with this approach. As a result, should the Board determine to grant planning consent, they may wish to specify that the mitigation outlined in the NIS is amended as such. The DHLGH also make recommendations with respect to the limitation of works to April – September within the Nature Park area and the detailed planting and management arrangements for the Nature Park. I address those recommendations in my EIA in section 13 above.
  38. AA determination – Conclusion
  39. 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.
  40. Having carried out for a Stage 1 Appropriate Assessment Screening of the proposed development, it was concluded that likely significant effects on the Malahide Estuary SPA; Malahide Estuary SAC; Rogerstown Estuary SPA; Rogerstown Estuary SAC; North Bull Island SPA; Baldoyle Bay SPA; South Dublin Bay and River Tolka Estuary SPA; Skerries Islands SPA; Baldoyle Bay SAC; North Dublin Bay SAC; and South Dublin Bay SAC could not be ruled out, due to its hydrological link and potential secondary impact as a result of mobile QIs associated with the Malahide and Rogerstown Estuaries. 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.
  41. 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, Malahide Estuary SPA; Malahide Estuary SAC; Rogerstown Estuary SPA; Rogerstown Estuary SAC; North Bull Island SPA; Baldoyle Bay SPA; South Dublin Bay and River Tolka Estuary SPA; Skerries Islands SPA; Baldoyle Bay SAC; North Dublin Bay SAC; and South Dublin Bay SAC, or any other European site, in view of the sites Conservation Objectives.
  42. 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.
  43. Previous Refusal on the Site
  44. I note the previous appeal refused on the site by An Bord Pleanála, ref.ABP-304904-19 for the following:

*Having regard to –*

*(a) Previous recorded observations of significant numbers of wintering birds utilising the subject lands as an ex-situ feeding site, including species which are qualifying interests for the Malahide Estuary Special Protection Area (Site Code:004025) and Rogerstown Estuary Special Protection Area (Site Code:004015), in particular the Light-Bellied Brent Geese,*

*(b) the lack of adequate up-to-date, quantitative and qualitative analysis with regard to the frequency, duration and extent of such use of the lands, and*

*(c) the extended duration of construction activity involved in the provision of the nature park,*

*the Board cannot determine the significance of the potential disturbance and displacement impacts of construction activity within the proposed nature park on such species with sufficient certainty and accordingly, the Board cannot be satisfied, beyond reasonable scientific doubt, that the proposed development, either individually or in combination with other plans and projects, would not adversely affect the integrity of these European sites in view of the sites’ conservation objectives.*

I am satisfied that the submitted AA Screening Report and NIS have acknowledged the historical records of wintering birds utilising the site and provided current comprehensive survey data to support a conclusion that QIs associated with the Malahide Estuary SPA and Rogerstown Estuary SPA, including Light-Bellied Brent Geese, do not utilise the site for foraging and/or roosting. I am also satisfied that the submitted report identifies the potential impact from construction works within site upon QIs, with adequate mitigation described in this regard. As such, in my opinion, the Board has sufficient information to determine the significance of the potential disturbance and displacement impacts of construction activity within the proposed nature park on such species with sufficient certainty. It is also my view that in light of the mitigation measures identified and in accordance with my Stage 2 AA with conclusion above, the Board can be satisfied, beyond reasonable scientific doubt, that the proposed development, either individually or in combination with other plans and projects, would not adversely affect the integrity of these European sites in view of the sites’ conservation objectives.

1. Conclusion

The subject site is situated in close proximity to the Dublin to Belfast railway line, with the western edge of the site adjacent to the railway embankment for an extent of approximately 800m. This railway line is a major infrastructural connection for the country, and it is identified for future improvement works, including expansion of the DART network. The Donabate Local Area Plan (LAP) requires development of the site to incorporate an adequate set back to this railway line to allow for improvement and maintenance works. The applicant has not provided any evidence of engagement with Irish Rail as part of the preparation of this current application and EIAR.

Irish Rail has identified areas of concern regarding the set back of the proposed development and its associated features from the boundary with the railway embankment. Of particular concern is proposed Mixed Use Building 02 and the proposed ‘Catchment A’ attenuation wetland feature within the Nature Park which have the potential to compromise the stability of the railway embankment. Amendments to this attenuation feature could have consequential impacts upon conclusions reached in relation to flood risk and AA. As a result, the proposed development has the potential to negatively impact the safe operation of the railway network. In my opinion, the proposed development is therefore contrary to the Donabate Local Area Plan in relation to preserving an adequate set back to the railway line, Objective DONABATE 12 of the Fingal County Development Plan in relation to promotion of improved rail services, and the NPF in relation to key growth enablers identified for Dublin, which includes delivering key rail projects such as DART expansion.

In addition, national planning policy describes development management criteria in section 3.2 of the Building Height Guidelines that requires development to respond positively to the natural environment within which it is situated. Local planning policy specifically identifies an exceptional landscape quality for the area within which the subject site is situated, with protected views to the south of the site and adjoining the proposed Nature Park.

The topography surrounding the site to the south is low lying. While there are topographical forms such as the Donabate Distributor Road (DDR) and a mound within the high amenity lands to the south providing some screening of the residential lands north of the DDR, a break between these forms allows extensive visibility of the south west of the site from the estuary areas. The proposed development introduces a typology of housing which is visually incongruous in terms of design, scale and mass to the south west of the site, where the visibility of proposed apartment blocks 6 and 8 and the top storey to blocks 4 and 5 are particularly apparent.

Therefore, in my opinion, the proposed development is contrary to Objective NH34, Objective NH35, Objective NH36, Objective NH37, Objective NH38, Objective NH40 and specifically Local Objective 40, in the Fingal County Development Plan which relate to the protection of sensitive landscapes, Objective 5.2 of the LAP in relation to protected views, as well as SPPR 3 and the criteria described in section 3.2 of the Section 28 Building Height Guidelines.

1. Recommended Order

**Planning and development Acts 2000 to 2019**

**Planning Authority: Fingal County Council**

* 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 9th Day of August by Aledo Donabate Limited care of Declan Brassil, Lincoln House, Phoenix Steet, Smithfield, Dublin 7.

**Proposed Development**

* Construction of 1,365 no. new residential dwellings on the Main Residential Development Site.
* Comprising 194 no. one-bed apartments (including 40 no. sheltered housing units) and 447 no. two-bed apartments (including 9 no. sheltered housing units) arranged in 16 no. apartment buildings.
* Apartment Blocks 1 to 14 range in height from 4 to 5 storeys and include balconies/terraces on all elevations. The Sheltered Housing Block is 3 storeys in height and has balconies/terraces on all elevations. The Mixed-Use Block 2 is 2 storeys in height with ground floor retail use and a balcony on the south elevation. An additional 26 no. two-bed, 2 storey apartments are proposed in terraced format throughout the scheme (Apartment M Type);
* A further 60 no. one-bed apartments, 126 no. two bed apartments and 166 no. three-bed apartments are proposed, arranged in duplex and triplex format in terraces and corner blocks (including Mixed-Use Block 1), ranging in height from 2 to 4 storeys; and
* 9 no. two-bed houses; 206 no. three-bed houses; and 131 no. four-bed houses (ranging in height from 2 to 3 storeys).
* Provision of communal residential amenities/facilities (total approximately 734sqm GFA) in 2 no. stand-alone 2 storey buildings and within Apartment Block 7 to serve the proposed Apartment Blocks.
* Provision of 3 no. childcare facilities (total GFA approximately 1,604 sqm) in stand-alone, 2 storey buildings, with capacity for in the order of 297 no. children.
* Provision of 7 no. retail/café units (total GFA approximately 627sqm) at two locations (3 no. units in Mixed-Use Buildings 1 & 2 adjacent to Donabate Town Centre and 4 no. units in Apartment Block 9 at the proposed local centre).
* Reconfiguration of the existing car park serving Smyths Bridge House (a Protected Structure) to provide 44 no. replacement spaces. A further 1,842 no. car parking spaces are proposed (comprising 1,707 no. residential spaces; 23 no. childcare facility spaces (including 17 no. drop off spaces), 112 no. on-street visitor parking spaces (including 5 no. car-share spaces)), together with a total of 2,613 bicycle parking spaces (1,926 no. secure private spaces and 687 no. visitor spaces).
* A series of public parks, open spaces, pocket parks and communal open spaces are proposed throughout the Main Residential Development Site.
* Provision of the Corballis Nature Park (approximately 13.0ha) on lands to the south of the Donabate Distributor Road (DDR) to provide multifunctional natural amenity area including a cycle and pedestrian connection from the DDR to Corballis Cottages Road and Sustainable Drainage Systems (SuDS) features to serve the wider Corballis lands.
* Vehicular access to the Main Development Site will be via two permitted junctions from the DDR to the south; the existing upgraded vehicular entrance at Smyth’s Public House (providing vehicular access to 19 no. dwellings only) to the north west; and a further new vehicular entrance to the north east at New Road. The proposed development also provides for the extension of the existing footpath by approximately 215m from The Strand to the proposed new entrance on New Road, along the southern side of New Road.
* The proposed development includes works within the curtilage of a Protected Structure (Smyths Bridge House) associated with the upgraded entrance to Main Street, the reconfiguration of the existing car parking and associated boundary, landscape, and site works.
* Proposed development facilitates future potential pedestrian, cycle and vehicular links to existing and proposed adjoining developments and including a link to the approved bridge over the railway line (FCC Ref. Part XI/004/19) and a connection to the proposed Nature Park via an existing pedestrian crossing on the DDR, and the approved Broadmeadow Way proposals (ABP Ref. ABP 304624-19) (via the Nature Park).
* All enabling and site development works, landscaping, boundary treatments, lighting, services and connections, including connection to permitted wastewater pumping station (Reg. Ref. F19A/0472), waste management, ESB substations, and all other ancillary works above and below ground on a site of approximately 43.1 ha.
* A 10 year permission is sought.

An Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS) have been prepared in respect of the proposed development.

**Decision**

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

**Matters Considered**

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

**Reasons and Considerations**

1. The subject site is situated in close proximity to the Dublin to Belfast railway line, which is identified for future improvement works, including expansion of the DART network. The proximity of the proposed structures and infrastructure for the development, including Mixed Use Building 02 and the proposed ‘Catchment A’ attenuation wetland feature within the Nature Park, have potential to compromise the stability of the railway embankment. As a result, the proposed development has the potential to negatively impact the safe operation of the railway network and is contrary to the section 8 of the Donabate Local Area Plan, Objective DONABATE 12 of the Fingal County Development Plan 2017-2023 in relation to promotion of improved rail services, and the NPF key growth enablers for Dublin which includes delivering key rail projects such as DART expansion. The EIAR is silent on the potential impact upon the operation of the railway line, and in this regard, the development is premature by reference to the inadequacy or incompleteness of an EIAR, in accordance with paragraph 5 of section 9 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended).
2. National planning policy describes development management criteria in section 3.2 of the Urban Development and Building Height Guidelines that requires development to respond positively to the natural environment within which it is situated. Local planning policy in Chapter 9 of the Fingal County Development Plan identifies an exceptional landscape quality for the area within which the subject site is situated, with Objective 5.2 of the Donabate Local Area Plan requiring the protection of views identified in the Development Plan, which includes views to the south of the site along Corballis Cottages road and adjoining the proposed Nature Park, as identified in sheet 7 of the zoning maps for the plan. The proposed development introduces a typology of housing which is visually incongruous in terms of design, scale and mass to the south west of the site, where the visibility of proposed apartment blocks 6 and 8 and the top storey to blocks 4 and 5 are particularly apparent. Therefore, the proposed development is contrary to Objective NH34, Objective NH35, Objective NH36, Objective NH37, Objective NH38, Objective NH40 and specifically Local Objective 40 of the Fingal County Development Plan 2017-2023 in relation to the protection of sensitive landscapes, Objective 5.2 of the Donabate Local Area Plan in relation to protected views, as well as SPPR 3 and the criteria described in section 3.2 of the Section 28 Urban Development and Building Height, Guidelines for Planning Authorities (2018).

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| * 1. Rachel Gleave O’Connor Planning Inspector   2. 17th November 2021 |