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|  | **S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016** **Inspector’s Addendum 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) |
|  |  |
| **Planning Authority** | Fingal County Council |
|  |  |
| **Applicant** | Aledo Donabate Limited |
|  |  |
| **Prescribed Bodies**  | Department of Housing Local Government and HeritageFingal County CouncilAn TaisceDepartment of Education, Planning & Building UnitDepartment of Culture, Heritage and the GaeltachtFingal County Childcare CommitteeThe Heritage CouncilIrish WaterNational Parks & Wildlife ServiceTransport Infrastructure IrelandNational Transport AuthorityCommission for Railway RegulationIarnród Éireann / Irish Rail |
|  |  |
| **Observer(s)** | 1. Adrian Henchy
2. Lorraine Clifford Lee
3. Stephen Shiel
4. Paul Mulville
5. Corina Johnston
6. Jim O’Donohoe
7. Breda Dockrell
8. Justin Farrelly
9. David Fletcher
10. Cormac MacDiarmada
 |
|  |  |
| **Date of Site Inspection** | 9th November 2021 |
| **Date of Oral Hearing** | 14th December 2021 |
| **Inspector** | Rachel Gleave O'Connor |

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1. Introduction
	1. This is an addendum report and should be read in conjunction with the previous Inspector’s report prepared in respect of the proposed strategic housing development ABP-311059-21, dated 17th November 2021.
	2. Having regard to Section 18 of the Act, the Board decided that a limited agenda Oral Hearing should be held in relation to ABP-311059-21. Pursuant to Board Direction BD-009546-21 (dated 26th November 2021), an Oral Hearing was held on the 14th December 2021 based on the following directed limited agenda:
2. “Clarification and elaboration in respect of the proposed development’s interaction with the Belfast Railway line and its existing and proposed new embankments following any expansion of the rail line to accommodate the proposed Dart Extension.
3. The potential for visual impacts and the requirement for more detailed analysis and justification for the proposed design choice of the apartments to 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, and which may potentially have an adverse impact on protected views as outlined in the Fingal Development Plan.

In respect of Item 1, the Board notes that 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, may have potential to compromise the stability or expansion of the railway embankment/enabling railway line infrastructure. Protection of this rail line is considered to be integral to the sustainable growth of Donabate and towns further north (noting the NPF key growth enablers for Dublin includes delivering key rail projects such as DART expansion), and this is reflected in Section 8 of the Donabate Local Area Plan and Objective DONABATE 12 of the Fingal County Development Plan 2017-2023 which relate to the promotion of improved rail services.

The Board notes that the EIAR is silent on a potential impact upon the safe operation of the railway line or expansion of the railway line. Similarly, the NIS should reflect any amendments or potential risks, as applicable. The applicant is asked to clarify this matter and ensure that all relevant issues and potential impacts and where relevant proposed mitigation is considered in the EIAR or NIS, as appropriate.

In respect of item 2, The Board notes that 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 highly visible.

The applicant is requested to elaborate in terms of this visual impact, and to expand on the design rationale, justification and appropriateness of the scheme in terms of design, scale and mass to the southwest 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. The elaboration and expansion of the design rationale and any additional visual impact assessment documentation should have regard 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).

Please note that any additional analysis or elaboration of issues whether in respect of item 1 or 2, should be considered in the context of the submitted EIAR and NIS and its potential interactions with other issues within the EIAR and/or NIS, and any necessary addendums to the EIAR or NIS should form part of the Oral Hearing discussion/submission.”

1. Oral Hearing Report
	1. **Introduction**

This is a report on the conduct of the Oral Hearing that took place on Tuesday 14th December 2021. A complete recording of the Oral Hearing is available for the Board’s consideration and is attached to the file.

An Oral Hearing was held on-line via Microsoft Teams, commencing at 10.00am on Tuesday 14th December 2021 and finishing at approx. 14.30pm the same day. The following parties were represented at the hearing:

Applicants – Declan Brassil of Declan Brassil + Company; Michael Crowe of CCK Architects; Linda Maher of TBS Landscape Architects; Anthony Horan of OCSC Consulting Engineers; Dr. Pat Moran of FERS Ecologists.

Planning Authority – Fingal County Council was represented by Malachy Bradley (Senior Planner) and Bernadette Quinn (Senior Executive Planner).

Prescribed Bodies – Iarnród Éireann / Irish Rail was represented by Brian Whelehan and Nick West.

Observers –

1. Adrian Henchy
2. Lorraine Clifford Lee
3. Stephen Shiel
4. Paul Mulville
5. Corina Johnston
6. Jim O’Donohoe
7. Breda Dockrell
8. Justin Farrelly
9. David Fletcher
10. Cormac MacDiarmada

The following observers made a verbal submission to the Oral Hearing:

1. Cormac MacDiarmada

The following observers did not make a verbal submission but made a written submission to the Oral Hearing:

1. Corina Johnston
2. Donabate and Portrane Community Council
3. Elaine Holden
	1. **Submissions to the Hearing on behalf of the Applicant**

Full details of the applicant’s presentations to the Oral Hearing are contained in the audio recording of the Oral Hearing and in the applicant’s written submissions, which are appended to this report.

Presentation from OCSC Consultant Engineers on behalf of the Applicant

Submission made by Anthony Horan.

The document titled ‘Technical Memorandum’ OCSC was presented in response to item 1 on the agenda and to specifically address the matters raised by Irish Rail in their submission to the application.

It is proposed that the Board attach a condition to omit mixed use building 02 in the development. Section FF drawing presented to show the boundary and land profile that would be provided in that area without mixed use building 02.

The site levels are confirmed in the submitted application. A new cross section drawing C892-OCSC-XX-XX-SK-0036 was presented to demonstrate this. The proposed pond accommodates space for stormwater events. It is surrounded by a ridge at 4.3m above sea level. It is proposed that a new filter drain be added to the area between the edge of the pond and railway boundary, to capture run-off in the greenfield areas of the nature park and out fall to the sea.

There is no overland flow route from the pond to the rail corridor, as a result of a flow control structure, which remains as the submitted application. Any overflow would spill towards the south and channelled to the bay. An impermeable liner presents egress to the railway embankment. Details presented on drawing C829-OCSC-XX-XX-DR-C-0585.

OCSC has liaised with Irish Rail Dart+ representative Nick West in relation to aiding the Dart+ railway order.

Boundary finish along the railway line is proposed to be a block wall against the proposed residential element of the proposal, and a fence against the nature park. Applicant happy to co-operate with Irish Rail in relation to the same.

Commitment not to plant deciduous trees along the boundary with Irish Rail and would accept a condition regarding the same.

Applicant commits to carrying out works and specifically boundary works in a safe manner in agreement with Irish Rail.

Works will be carried out in compliance with the Railway Safety Act.

Overland flow is directed away from the railway line, and a new filter drain is additional mitigation, shown in drawings 564 and 565 (not 566 as detailed in the document, which is a typo).

No excavations within the track support zone are required, drawing 2701 provided to demonstrate this.

Propose the removal of mixed use building 02 to ensure no building is constructed within 4m of the boundary with Irish Rail, the remaining details in the application as submitted comply with this requirement.

Propose preparation of a Glint and Glare Report prior to construction with findings submitted to Irish Rail.

Noise from the railway line has been assessed as part of the application and informed proposed mitigation measures in the EIAR.

The EIAR was silent on the safe operation of the railway line as the intention is to sufficiently separate the development from the railway line.

Presentation from CCK Architects on behalf of the Applicant

Submission made by Michael Crowe.

The document entitled ‘Design Rationale For Blocks in the Southwest of the Site with Particular Reference to Blocks 4, 5, 6 & 8’ was presented in response to item 2 on the agenda.

The submission notes the urban design principles for the proposed development and its compliance with SPPR 3 of the Building Height Guidelines. The intention is to create an edge of appropriate scale to the dual carriageway and 4 storeys is an appropriate scale for towns and the entrance to an estate.

The proposed apartment typology gives a more neutral streetscape appropriate for the entrance to the new estate. There is more control over planting adjacent to the blocks than would be the case with private gardens. Scale is needed to contain the spaces around the blocks.

The submission notes that the proposed tree planting to the south of the proposed residential development would be established prior to construction of the blocks and therefore would have mature growth. This is ensured by the phasing; the LAP includes this mitigation, and the application reflects this. There are 909 dwellings to be built between the trees being planted and Blocks 4 to 8 being completed.

The submission notes a proposed revision for consideration as explained in the ‘Urban Design Principles the Southern Edge Shown Overtime’.

Following modifications proposed:

* Remove the top of blocks 4 and 5; and
* Remove the mid floor from block 6 and 8.

It is also suggested that materials be altered to include darker tones but suggested that this would be agreed with the Planning Authority via condition.

The document ‘Corballis East Adjusted Verified Views for Oral Hearing’ illustrates these amendments in the context of views surrounding the site.

Presentation from TBS Landscape Architects on behalf of the Applicant

Submission made by Linda Maher.

The document entitled ‘Design Rationale For Blocks in the Southwest of the Site with Particular Reference to Blocks 4, 5, 6 & 8’ was presented in response to item 2 on the agenda.

The submission notes the Planning Policy Context in relation to the landscape protection and views of relevance to the site.

The documents entitled ‘Response to Oral Hearing Request 3D Design Bureau Via Booklet’ and ‘Corballis East Adjusted Verified Views for Oral Hearing’ were presented.

The submission identifies views of relevance of the site in the surrounding area and describes the extent of change. The growth of proposed tree planting will be established after approximately 7 years prior to the construction of blocks 4-8 and will diminish the visibility of these blocks. Visuals from the Corballis Cottage Road looking north towards the site after 7 years tree growth were presented. The submission recognised that coastal and Estuary landscape types have a high sensitivity in terms of visual impact and that views looking south from the DDR to the estuary and from the estuary towards Donabate are protected.

The document entitled Addendum no.1 Environmental Impact Assessment Report was presented with respect to the Landscape and Visual Impact Assessment, relating to the proposed modifications to reduce the height of blocks and include the earlier delivery of landscaping to the south of the proposed residential development.

Views and prospects were presented and described for the proposed modified development and landscape sections are also provided to illustrate reduced visibility. Blocks 4-8 would be screened at an earlier stage by proposed tree planting.

Document ‘Corballis East Adjusted Verified Views for Oral Hearing’ illustrates these amendments in the context of views surrounding the site.

Submission from Declan Brassil + Company on behalf of the Applicant

Submission made by Declan Brassil.

The document entitled ‘Design Rationale For Blocks in the Southwest of the Site with Particular Reference to Blocks 4, 5, 6 & 8’ was presented in response to item 2 on the agenda.

The submission notes in relation to the Material Contravention Statement submitted with the application, that there is a corresponding section in the document which forms a supplementary Material Contravention Statement to be read alongside the statement in the application submission. Criteria under 2.3 under the Building Height Guidelines are addressed and it is suggested that permission can be granted under section 37(2)(b) of the Act.

Confirmation is provided that no amendments are required to the ecological reports, NIS or other ecological data submitted with the application as a result of these amendments.

* 1. **Planning Authority**

Presentation from Fingal County Council.

Submission made by Bernadette Quinn

The Planning Authority recommend a number of conditions which reflect those set out by Irish Rail, including the omission of mixed use building 02.

The submission notes the need to protect views that are identified in the Development Plan and the sensitive landscape types surrounding the site that have the highest value.

Local objective 40 is highlighted in relation to the SHD site and the views to be protected on either side of the estuary and the high sensitivity of the landscape.

The Planning Authority does not consider the proposed apartment blocks to the south of the residential portion of the lands, to accord with objectives under the Development Plan. Also, the Planning Authority consider that the proposed apartment blocks are not in accordance with the Building Height Guidelines.

Should the Board determine to grant consent, the Planning Authority recommend the omission of a number of blocks, mixed use building 02 and that phasing and landscaping be agreed with the Planning Authority.

Submission made by Malachy Bradley

The substantial concerns of the Planning Authority remain as detailed in the submitted Chief Executive report.

* 1. **Observers**

Submission by Cormac MacDiarmada

An oral submission was given by Cormac MacDiarmada, in relation to the additional EIAR information, and the requirement for 30 days consultation as a result.

Submission by Corina Johnston

A written submission was given by Corina Johnston, which is attached to the file. A verbal presentation was not given. The submission is summarised as follows:

* Concern at the lack of time to review applicant’s submission.
* Concern that the submission of addendum EIAR/AA information without consultation is contrary to legislation.
* The decision to zone the lands to residential was contentious.
* The proposals to reduce the 4 apartment blocks by one storey does nothing to alleviate the visual impacts of the apartments, protect key views and will have an adverse impact on the protected views outlined in the FDP and LAP and is contrary to the objectives in the FDP and LAP referred to by the Board in its letter of 29th November. The apartment blocks should not have been located in this location in the first instance.
* The location of the apartments at the furthest end of the site also conflicts with the FDP and LAP which state:
* Building heights should be predominantly two storeys with opportunities for increased heights at specific locations such as closest to the Village and Railway Station;
* The height of buildings along the southern and eastern edges of the Corballis lands should be carefully considered.
* Proposed development is a material contravention of the FDP and LAP.
* No planning issues should be allowed to interfere in any way with critical infrastructure – the DART extension.
* The omission of mixed use building 02 will reduce the number of much needed retail units to 6 which is unacceptable given the very limited amount of retail provided in this development.
* The proposals do very little to alleviate concerns of the majority of population in terms of height/visual impacts/typology and mass.
* In the event the board grants permission, recommend the removing of blocks 1, 2, 4, 5, 6, 8, 11, 12 and the relocation of the much needed retail unit.

Submission by Donabate and Portrane Community Council

A written submission was given by Donabate and Portrane Community Council, which is attached to the file. A verbal presentation was not given. The submission is summarised as follows:

* Concern regarding the capacity of the railway to serve Donabate.
* Estimated population increase of c.3,000 people as a result of the proposed development, such a population increase is not supported under the NPF and RSES for the region and can not be accommodated on the existing rail network.
* Any need to widen the railway corridor must be provided on the east of the corridor. The application is premature and prejudicial to the provision of strategic infrastructure, pending a decision being made on the upgrade of the railway line.
* Following elements require removal:
* Access road from the Village and development either side of it from the north west;
* Apartment block 1 (within 6.2m of the existing railway corridor);
* Apartment block 2 (within 26m of the existing railway corridor) and its associated car parking and bins that are within 4.4m of the railway corridor;
* Sheltered housing to the north of the apartment blocks 4 and 5 that is within 9.3m from the railway corridor;
* Apartment block 4 that is within 9.3m from the railway corridor; and
* Design of park.
* View VVM 12 taken from the Corballis Road indicates that the proposed development of blocks 4-8 will be highly visible contrary to the objective of protected views in the FDP.
* The addition of 7m trees and 10m tree within this view provides a lack of clarity of the visual impact of these proposed blocks. There appears to be little differential between the summer view and the other views, which are not identified as being for a particular time of year. They materially contravene the protected view from the Corballis Cottages Road under the FDP.
* Insufficient time to prepare a submission to the Oral Hearing.
* No provision for going outside the NPF and RSES in interpreting the population growth of Donabate that is materially contravened by this overdevelopment. The FDP was specifically varied to make it consistent with the NPF and RSES. Therefore, no basis for a material contravention based on inconsistency.
* Enclosure: Letter form FP Logue Solicitors summarised below:
	+ Legal basis for the Oral Hearing has not been identified. The Board’s letter refers to sections 18(b)(i) and (ii) of the Planning and Development (Housing) and Residential Tenancies Act 2016 that do not appear under the act and/or relate to the introduction of amendments only.
	+ Time allowed for participates to view information is incompatible with EU law and the constitutional guarantee of fair procedures.
	+ It is clear from reading the 2000 and 2016 Acts as a whole that an Oral Hearing is not an appropriate procedural mechanism for the type of major clarification, justification, elaboration or analysis contemplated in this case.
	+ Neither the public nor the public concerned has been given notice of the Oral Hearing and the possibility of substantive additional information being placed on the planning file. Only those members of the public concerned who participated in the earlier stage of the procedure were given notice of the Oral Hearing and the possibility of additional information. The lack of public notice and exclusion of the public concerned generally from the Oral Hearing is therefore a breach of Articles 6(1) to (4) of the EIA Directive.
	+ The timeframe should also not be shorter than 30 days.
	+ It should be noted that the above considerations apply a fortiori if the applicant proposes to modify the proposed development to mitigate or avoid the potential impacts identified in the 29 November 2021 letter.
	+ The proposed Oral Hearing is therefore unlawful and retain the right to seek a judicial remedy should the Board proceed.

Submission by Elaine Holden

A written submission was given by Elaine Holden, which is attached to the file. A verbal presentation was not given. The submission is summarised as follows:

* Application is premature prior to the design of the DART extension being finalised.
* With reference to Malahide station as an example, a width of 12.5m is required to allow for shunting of trains, and adjacent to the subject site the railway width is 7.2m, 5m less than that required.
* The insertion of blocks adjacent to the railway embankment has not been thought out from a design perspective and no assessment of construction and foundation on the structural stability of the existing embankment. In the construction management plan there is little or no reference.
* Lack of cross sections and sections (such as SS E-E) shows basement carparking with a GL of 10 but not showing the GL of the northern line itself.
* Section PP on the site section align boundary with Railway 0921\_SHD-C112 which is the worse case scenario one and merely shows a FFL of 12,9 but that the embankment falls only from 12.750 to 11.650 at the site boundary to the railway line (middle of the growth area) to 11 to the bank and probably a drop of 2-3 only to the railway line where they have not shown the GL of the railway line.
* Prior to zoning, 2 previous independent visual assessments, one from Mitchells, both stating that these lands were not suitable for development because of their visual prominence, however these reports are not longer available from the council.
* Flaws in the submitted CGIs, dated June 2021, but clearly taken in winter. False landscaping inserted into them, including VM14. V1 not taken from the estuary itself but from the marina. Entire landscape is being muted to draw attention away of the visual impact (VM12 and 13).
	1. **Questioning**

Observers Questions from the following observers

* Jim O’Donohoe
* Breda Dockrell
* Adrian Henchy
* David Fletcher
* Corina Johnston
* Cormac MacDiarmada

Inspector Questions

* Question in relation to item no.1 in relation to the EIAR being silent on impact upon the railway.
* Question in relation to item no.1 to Irish Rail in relation to the proximity of structures or features to the railway line and location / setback of the boundary line.
* Question in relation to item no.1 and the attenuation feature and revised proposal for the filter drain.
* Question in relation to item no.2 and the planting strategy and views.
* Question in relation to item no.2 and proposed revisions to materiality.
* Question in relation to item no.2 and view of the proposed amended scheme.
* Question in relation to item no.2 to Planning Authority reference to objective 5.2 in terms of location and direction of views.

These questions are discussed further in section 3 hereunder.

* 1. **Closing Submissions**

Closing statements were made by the following parties:

* Adrian Henchy
* Paul Mulville
* Lorraine Clifford Lee
* The Applicant

The hearing closed at approximately 14.30pm on Tuesday 14th December 2021.

1. Consultation
	1. In response to the limited agenda items above, the applicant submitted an Addendum to the EIAR (Environmental Impact Assessment Report). This report contained information related to a new drainage feature to be incorporated to the south of the site to prevent surface water overflow towards the railway embankment with related drawing specifications also submitted; as well as a revised landscape and visual assessment with respect to proposed amendments to apartment blocks 4, 5, 6 and 8.
	2. Article 6 of Directive 2011/92/EU requires public participation in environmental decision making, and specifically participation prior to any decision related to any application subject to Environmental Impact Assessment. As a result, the submission of addendum information to the EIAR for this application, triggered the requirements for public participation under the EIA Directive. While there is no provision within the 2016 Act or associated regulations for public participation specifically in these circumstances, unlike other legalisation, given the obligations under the EIA directive, and noting article 302, subsection 6(b) of the Planning and Development (Strategic Housing Development) Regulations 2017 states that: *“The Board may, at any time before making its decision, request any person, authority or body to make a submission or observations or elaborate upon a submission or observations in relation to an application”* the Board requested the applicant to publish notice of further information presented to the Oral Hearing, and that this information be made available for inspection. Written submissions in relation to this information were invited to be made to the Board for a 5 week period from the date of the notice.
	3. Third party response
	4. 1 response from third parties was received and is summarised below:
* Query whether the commercial unit in Building 02 can be relocated if this building is to be omitted.
* Note reference by the developer to additional landscape screening to be included to the southern end of the site and request that recreational opportunities including pedestrian walkways be incorporated.
* The proposed amendments merely tinkers at the edges of the proposed development and fails to address the fundamental shortcomings. Overdevelopment of the site with overreliance on 1 and 2 bedroom apartments.
	1. Planning Authority response
* The Planning Authority is of the opinion that the revised plans do not address the concerns of the Planning Authority as outlined int eh Chief Executive Report in relation to the proposed development.
	1. Prescribed Bodies response
	2. Department of Local Government, Housing and Heritage
* Note that in the further information presented to the Board at the Oral Hearing that one of the variations to the original development application referred to is that in order to mitigate the visual impact of the proposed development it is now intended to undertake ground modelling and tree planting north of the Donabate Distributor Road, between this road and the apartment buildings 4 to 8, during phases 1 and 2 of the proposed development rather than phase 3 as originally intended, and at the same time as the Corballis Nature Park, is to be developed south of the distributor road including carrying out the tree planting proposed for the nature park. With regards to the later tree planting within Corballis Nature Park, this Department wishes to draw the attention of the Board to the recommendations made in the Department’s original submission to the Board on the 13.9.2021 concerning this application, that tree planting within the nature park should be limited to the minimum area in the north of the park adjacent to the Donabate Distributor Road necessary to provide effective screening of proposed residential apartment blocks, and that the plants for the nature park should be altered to omit the tree planting along the eastern boundary of the park entirely. These recommendations were made, and are now repeated, because of the Departments concerns that the extent of tree planting proposed in the nature park would limit the area of grassland in the park suitable for nesting in by species of conservation importance, such as meadow pipit and skylark, and restrict the foraging areas available to wintering bird species of Special Conservation Interest for neighbouring Malahide Estuary Special Protection Area including the black-tailed gowit and brent goose.
1. Assessment
	1. This report should be read in conjunction with the previous Inspector’s report prepared in respect of the proposed strategic housing development ABP-311059-21, dated 17th November 2021. I would highlight to the Board that the operative development plan is the Fingal County Development Plan 2017-2023.
	2. Following on from the holding of an Oral Hearing on 14th December 2021, held in accordance with the limited agenda as directed by the Board under Board Direction BD-009546-21 (dated 26th November 2021), I have assessed and reviewed the information presented at the Oral Hearing, having regard also to the original submission, the EIAR and the Screening for Appropriate Assessment.
	3. The limited agenda issued by Board (set out in 1.2 of this report) is discussed under the following headings hereunder:
* Interaction with the Belfast Railway line;
* Visual Impact;
* Interactions with Assessment of EIA and AA;
* Material Contraventions; and
* Other matters.
	1. **Interaction with the Belfast Railway line**

Proposed amendments

The applicant has submitted a document entitled ‘Addendum no.1 Environmental Impact Assessment Report’. This describes proposed amendments to the development in response to item no.1 of the limited agenda for the Oral Hearing with respect to the interaction of the proposed development with the railway line. These amendments are summarised below:

* Omission of Mixed Use Building 02, with that area and the ancillary car parking and circulation area, to be retained as landscaping as shown in drawings submitted to the Oral Hearing no.0921-SGD-S-121 Rev B.
* A filter drain added to the southwest corner of the Nature Park, to the west of the cycle and pedestrian path on the west side of the attenuation pond. It is proposed that this drain intercept water from a small area that may flow toward the rail embankment, and carry that water to the Malahide estuary outlet, as shown in drawings submitted to the Oral Hearing no.’s C829-OCSC-01-XX-DR-C-0565-A1-C03 and C829-OCSC-01-XX-DR-C-0566-A1-C03.

Proximity to the railway line

As noted in the Board’s Direction ref. BD-009546-21 *“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, may have potential to compromise the stability or expansion of the railway embankment/enabling railway line infrastructure. Protection of this rail line is considered to be integral to the sustainable growth of Donabate and towns further north (noting the NPF key growth enablers for Dublin includes delivering key rail projects such as DART expansion), and this is reflected in Section 8 of the Donabate Local Area Plan and Objective DONABATE 12 of the Fingal County Development Plan 2017-2023 which relate to the promotion of improved rail services.”*

The applicant submitted a ‘Technical Memorandum’ document to the Oral Hearing prepared by OCSC. This describes a response to each of the matters raised in the Irish Rail (Ianród Éireann) submission on the application. I also address these matters specifically in the Inspector’s report dated 17th November 2021, particularly in sections 12.8 and 12.11 of that report, which should be read in conjunction with this addendum report. I also note that the National Transport Authority, Transport Infrastructure Ireland and the Railway Commission were notified and invited to attend the Oral Hearing, but no submissions were received. Of specific interest to the Oral Hearing was the proximity of buildings/structures and the ‘Catchment A’ attenuation feature to the railway line. The information presented to the Oral Hearing has a significant bearing upon the assessment I provide in Inspector’s report dated 17th November 2021, and I address these matters further below.

The applicant proposes that Mixed Use Building 02 is omitted by condition, should the Board determine to grant planning permission, and that the area that remains, along with associated car parking and circulation, be landscaped in accordance with a scheme to be agreed with the Planning Authority.

Irish Rail confirmed that their specific concern relates to the proximity of structures or features to the railway line, alongside consideration of the height of railway embankments. At the location of proposed Mixed Used Building 02, the embankment has a depth that makes the proximity of the building problematic. Irish Rail confirmed to the Oral Hearing that there were no other proposed buildings / surfaces that had a proximity that would generate a similar concern (I discuss the attenuation feature separately below). Irish Rail confirmed that increasing the distance of the building to the railway line would alleviate their concerns, but what exactly this separation distance should be was not clearly stated. Irish Rail confirmed that the removal of Mixed Use Building 02 would address their concerns as stated in their original submission on the application.

Mixed Use Building 02 comprises a ground floor retail unit 44sqm in size, as well as a garage with single car parking space, storage and first floor 2 bedroom apartment. I note observers’ requests that the retail unit in this building be provided elsewhere in the development in the event that the building is removed from the proposals. There are no buildings adjacent to Mixed Use Building 02 that would be able to incorporate a relocated retail unit from this building if it were to be omitted from the scheme, however the applicant has identified that there may be opportunity to re-provide it close to the proposed Local Centre towards the south of the residential portion of the lands.

I am satisfied that should the Board determine to grant planning permission, a condition to omit Mixed Building 02 would satisfactorily address Irish Rails concerns relating to the proximity of this building to the railway line. I am also satisfied from reviewing the submitted drawing that there is potential to relocate the retail unit to be lost in Mixed Use Building 02 to the ground floor of either proposed apartment blocks 7 or 9 where there are existing non-residential uses looking onto the proposed civic plaza. This would require the redesignation of a proposed residential unit in these blocks to a retail unit (of minimum 44sqm). For example, this could be achieved by replacing Unit 09 in block 7 (a 1 bedroom unit) with a retail space.

In relation to the ‘Catchment A’ attenuation area and its potential impact upon the stability of the railway line, the applicant now proposes a new filter drain as additional mitigation. Irish Rail have confirmed to the Oral Hearing that the inclusion of this proposed filter drain would satisfactorily address their concerns with respect to this attenuation feature as outlined in their original submission. The applicant has confirmed that this new filter drain feature would connect into the proposed drainage system as originally detailed in the submitted application.

I am satisfied that should the Board determine to grant planning permission for the proposed development that a condition can be relied upon to secure the details as shown in submitted drawings C829-OCSC-01-XX-DR-C-0565-A1-C03 and C829-OCSC-01-XX-DR-C-0566-A1-C03 to the Oral Hearing of the incorporation of this filter drain.

With the incorporation of these proposed amendments, and specifically the omission of Mixed Use Building 02 and the inclusion of a filter drain to the attenuation area, I am satisfied that Section 8 of the Donabate Local Area Plan and Objective DONABATE 12 of the Fingal County Development Plan which relate to the promotion for improved rail services, would be complied with.

I note discussion at the Oral Hearing with respect to the proposed access to the site from Main Street and potential for conflicts with vehicle / cycle movements associated with the Train Station access to the north and railway bridge to the west. The applicant confirmed that this access is a ‘cycle first’ route with vehicular access provided to only 14 houses. It was also suggested that an independent Stage 3 Road Safety Audit would be undertaken, with any recommendations incorporated, to ensure that the operation of this access was safe. The applicant stated that the proposed road modifications would improve safety at the junction to the Train Station entrance. I am satisfied that the new access would not be intensively used by vehicles, and that while cycle movements would increase, the improvements proposed to Main Street would enhance overall safety for all users. I agree with the applicant that a further Road Safety Audit would support this and can be secured by condition in the event that the Board determine to grant planning consent for the application.

Implications for DART+ expansion

The Board notes in their Direction ref. BD-009546-21 that the Belfast railway line is identified for future improvement works, including expansion of the DART network. An Irish Rail representative for the DART+ project, confirmed that the submission to the application from Irish Rail also represented the DART+ project. Therefore, by addressing the matters raised by Irish Rail, all associated DART+ considerations are also addressed. As such, I am satisfied with the incorporation of the amendments outlined above, the proposed development would not compromise the DART+ expansion plans. Therefore, NPF key growth enablers for Dublin which include delivery of key rail projects such as DART expansion, are satisfied.

* 1. **Visual Impact**

Proposed amendments

In the applicant’s submitted document entitled ‘Addendum no.1 Environmental Impact Assessment Report’, potential amendments to the development are described in response to item no.2 of the limited agenda for the Oral Hearing, and with respect to visual impacts. These amendments are summarised below:

* An ‘alternative design option’ comprising the reduction in height of proposed Buildings 4, 5, 6 and 8 by one storey. Specifically, the removal of the top floor to proposed Buildings 4 and 5 and the third floor of Buildings 6 and 8.
* Amendments to the phasing of the landscaping works to achieve earlier delivery of the proposed ground modelling and woodland planting located between Buildings 4 to 8 and the DDR (extents, size and species of planting is unchanged from the submitted application), with this planting to take place during Phase 1 and 2 rather than during Phase 3 as per the original submission.

The applicant also described to the Oral Hearing proposed amendments suggested to the proposed building material finishes. This is also reflected in the submitted documents ‘Response to Oral Hearing Request Design Rationale for Blocks in the Southwest of the Site’ and ‘Adjusted Verified Views for Oral Hearing’.

Landscape and visual impact

I refer the Board to Inspector’s report dated 17th November 2021 and the assessment of ‘Height, Scale, Mass, Form and Design’ set out in section 12.5 of that report. That assessment includes specific regard to the criteria under section 3.2 of the Building Height Guidelines under SPPR 3.

The applicant has suggested a number of amendments that have a significant bearing upon the assessment set out in my report of the 17th November 2021. I will address this by way of reference to viewpoints provided, and interrelated considerations under the Building Height Guidelines in this section of my addendum report. I note that concerns from observers and the Planning Authority regarding the visual impact of the proposed development, remain regardless of the proposed alternative design option presented by the applicant.

The first criteria under section 3.2 of the Building Height Guidelines relates to the accessibility of the site by public transport. I previously addressed this in my report of the 17th November 2021, however it is worth restating that in my view the site is served by high capacity, frequent services. This is evidenced in the National Transport Authority’s (NTA) ‘Transport Strategy for the Greater Dublin Area’ which includes Donabate, and notes that *“Heavy rail (DART and Commuter Rail) provides the core high capacity infrastructure and services that are central to the Greater Dublin Area’s public transport system.”* Figure 3.1 ‘Dublin Frequent Transport Services Map’ of the strategy also includes the commuter service that serves Donabate. Therefore, 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 to the Donabate rail station which provides access to high capacity, frequent services.

The second criterion under the height guidelines relates to the character of the area in which the development is located, including regard to topography, cultural context and setting of key views. I identify in my report of the 17th November the objectives relevant to the protection of views and sensitive settings under the Local Area Plan and County Development Plan. These include Objective DMS39, the location of the site in the Coastal Character Type to the northern portion of the lands and the Estuary designation to the southern portion of the lands, being of exceptional landscape value. As well as Objectives NH59, NH40 and NH60, and a ‘preserve views’ designation along the southern boundary of the site on the zoning map, and from the coast road in Malahide looking north over the Estuary towards Donabate. Objectives NH51 and NH52 also relate to the high amenity designation over the southern portion of the site.

With specific regard to the relationship of the proposed development to the railway line and provisions under the Donabate LAP, this includes specific requirements for adequate set back from the railway line to allow for future widening of the rail tracks and temporary access during construction. Irish Rail confirmed to the Oral Hearing that with omission of Mixed Use Building 02, they were satisfied with setbacks in the proposed development to the railway line. As such, I am content that should the Board determine to grant planning consent, the inclusion of a condition to omitted Mixed Use Building 02 would ensure an appropriate relationship between the proposed development and the railway line, consistent with the LAP.

In the Board’s Direction ref. BD-009546-21 *‘The applicant is requested to elaborate in terms of this visual impact, and to expand on the design rationale, justification and appropriateness of the scheme in terms of design, scale and mass to the southwest 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*.’ In this regard, I note that the Donabate LAP 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 applicant’s submitted ‘Addendum no.1 Environmental Impact Assessment Report’ to the Oral Hearing includes section 4, an addendum to Chapter 15 ‘Landscape and Visual Impact Assessment’ of the submitted EIAR. This includes a consideration of the proposed amendments to the application and is also informed by the submitted ‘Adjusted Verified Views for the Oral Hearing’.

I draw the Boards attention to the Inspectors report of the 17th November 2021 and the conclusions reached with respect to the location of taller elements in the proposed development around the proposed ‘local centre’ which flows from the location of the local centre under the LAP where it is stated there is opportunity for increased height. In addition, as described in the report of the 17th November 2021, dense new tree planting is proposed along the northern boundary closest to The Strand, an existing residential estate, which 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. It is also highlighted in that report, that the proposed Nature Park in the southern portion of the site will provide an important ecological and visual buffer to the residential development to the north of the DDR. The topography of the lands to the south of the proposed residential development also assist in obscuring the appearance of the proposed development in some views from the estuary.

The most prominent aspect of the proposed development in views from the south are blocks 4, 5, 6 and 8 which are between 4 and 5 storeys in height in the submitted application. The Board’s Direction ref. BD-009546-21 refers to the need for an expansion of the design rationale with regard to the prominent visibility of these blocks. The applicant presented an alternative design option to the Oral Hearing, which comprised the removal of a storey from each of these blocks (top floor of blocks 4 and 5 and third floor of blocks 6 and 8). In addition, a change to the material design finish to the blocks is shown and presented in the verified views provided.

Verified views VVM 1, 2 and 3 demonstrate the impact of these alterations to the visibility of the blocks in protected views from Malahide looking north towards the site. In my opinion, the prominence is much reduced as a result of the proposed changes. This is not purely as a result of the reduction in height to the proposed blocks, but also from the aesthetic alteration to the proposed blocks as a result of the removal of either the top or third floor and change to the material finish. View VVM 12 from Corballis Cottages Road demonstrates the stark contrast between the appearance and visibility of the proposed blocks in views from the south in the submitted scheme, compared to the alternative design option now offered by the applicant. The muted tones of the proposed materials are very effective at reducing the visibility of the blocks in these views in my opinion. With the removal of the top zinc storey to proposed blocks 4 and 5, these proposed 3 storey blocks are no longer distinctly visible and are more readily absorbed into the landscape in these views from the south in my opinion. While proposed blocks 6 and 8 are still visible in these views, with the removal of the third floor and a change in materiality, there is no longer a stark contrast between the landscape setting and the introduction of this typology of housing here. The proposed removal of the third floor leaves these blocks with a grey zinc storey set on three floors (4 storeys in height), which is much more reflective of the three storey duplexes with grey tiled roofs above that are proposed to the east.

The applicant confirmed to the Oral Hearing that the views provided are modelled on the proposed development as a whole, so any consequential visibility of proposed buildings beyond blocks 4, 5, 6 and 8 as a result of the reduced height proposed, would be apparent in the views presented. I am satisfied that the views demonstrate that there would not be any increased visibility of proposed blocks beyond, and particularly proposed block 7, as a result of the suggested design amendments in the alternative design option presented by the applicant.

The applicant also proposes a change to the phased delivery of landscape planting to ensure mature tree growth to the southern edge of the northern portion of the site (between proposed blocks 4, 5, 6 and 8 and the DDR), prior to the construction of apartment blocks 4-8. While this will further reduce the visibility of the blocks as is apparent in the presented views, I am satisfied that the acceptability of the proposed development (in amended form) is not dependant upon this screening tree planting. The verified views presented show tree planting at 2.5m in height, however as a result of the changed phasing to the delivery of this planting, trees will actually be closer to 7m in height at the point that proposed blocks 4, 5, 6 and 8 are constructed. In making my assessment I note that winter views were not provided, however the extent of visibility of the proposed blocks is apparent from the views presented with tree planting at 2.5m in height, and I am satisfied that even with planting at this lower height or in reduced foliage (such as in winter), the visibility of the proposed blocks (in amended form) would be acceptable. This visibility is then further reduced with planting at 7m in height, further benefiting the landscape setting of the site. Therefore, while I agree with the applicant that the introduction of tree planting along this edge in the first phase (rather than phase 3 in the submitted application), is beneficial, I am satisfied that this screening is not unduly relied upon to ensure an acceptable visual impact. The earlier delivery of this planting can be secured by the Board by condition should they determine to grant planning consent.

The EIAR Addendum Report presented to the Oral Hearing includes a landscape and visual impact assessment (LVIA). This has been prepared in consideration of Development Plan Objectives NH 35, NH 36, NH 38, NH 40, Local Objective 40 and Donabate LAP 206 Objective 5.2. The assessment also considers impact upon protected views, including along the Corballis coast road / Corballis Cottage Road and from the coast road in Malahide looking north towards Donabate. The potential impact upon these protected views has in my opinion been appropriately demonstrated in the submitted verified views to the Oral Hearing and informed the submitted EIAR addendum. The LVIA considers the potential impact of the alternative design option (i.e. reduced height and change in materiality / design to blocks 4, 5, 6 and 8) and I summarise this assessment below.

During the construction phase, temporary negative impacts are identified, however as these are over a short term period and are reflective of development of these lands zoned for residential use, I am satisfied that no significant or long term harm results. During the operational phase, and in relation to views over the Estuary looking towards Donabate, the LVIA anticipates slight/moderate negative impact as a result of the change in landscape appearance with the construction of the blocks, however in the long term, it is concluded that this impact would lessen in the long term, and this impact is consistent with existing and emerging trends associated with residential development of zoned lands in the area. In relation to views from Corballis Cottages towards the subject site, as a result of the reduced visibility of blocks and in consideration of the earlier phase delivery of tree planting between the blocks and the DDR, the LVIA concludes that impact would be slight and negative in the short term resulting from the change in landscape appearance, reducing to not significant and negative / neutral in the medium term, and moderate and positive in the long term, with the establishment of planting in the Nature Park.

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)

With the alternative design option presented by the applicant to the Oral Hearing, I am satisfied that the aims of the LAP as quoted above are now achieved. While blocks are visible, this visibility has been designed to minimise impact and there is no obstruction of views of the landscape. I am also satisfied that given the reduced visibility of the proposed development in the alternative design option, the views provided are now sufficient to allow a complete assessment of this visibility, and in my opinion the right balance between the efficient development of the site and the preservation of protected views in this highly sensitive landscape is achieved with this alternative design option.

I draw the Board’s attention to the Inspector’s report of the 17th November and the conclusions reached in relation to the remaining criteria under section 3.2 of the Building Height Guidelines. Specifically, that 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”. As well as the 12 criteria in the Urban Design Manual Best Practice guide describes 12 criteria which is also reflected in the proposed development in my opinion.

In relation to the concerns highlighted by observers and the Planning Authority regarding visual impact, I am cognisant that these remain regardless of the proposed alternative design option presented by the applicant. I recognise that the proposed apartment blocks contrast to the established scale of built context in the vicinity to the site, and even with the alternative design option, the proposed development would represent a change to the landscape setting, as I have identified in my assessment above. However, it is necessary to also consider this change in light of the national planning policy approach which requires a compact growth model that focuses efficient housing delivery in appropriate areas, with in principle support at development management level for at least three to four storeys in areas outside of city and town centre areas, in more suburban areas (para.1.9 of the guidelines). The proposed layout focuses these taller elements to the area of the proposed local centre which is supported in provisions under the LAP. In my view, the alternative design option ensures that proposed blocks 4, 5, 6 and 8 have limited visibility and will also contribute to providing a range of housing types that will provide greater diversity in the area.

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 alternative design now minimises the visibility of the development in sensitive views from the south and softens the introduction of a new typology of housing, that with the proposed reduced height and change to materiality, is now absorbed into the landscape. Therefore, in my opinion, the proposed amended development would now be acceptable with reference 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 ensures sufficient set back from the railway line, particularly in relation to proposed omission of Mixed Use Building 02, and Irish Rail confirmed to the Oral Hearing that with this alteration, the proposed development of the site does not adversely impact the safe operation of the railway network.

* 1. **Interactions with the assessment of EIA and AA**

I refer the Board to the EIA set out in the Inspector’s report dated 17th November 2021. This section of my addendum report describes how the reasoned conclusions of that EIA are updated following the information gathered as part of the Oral Hearing.

The Board notes in Direction ref. BD-009546-21 that *“any additional analysis or elaboration of issues whether in respect of item 1 or 2, should be considered in the context of the submitted EIAR and NIS and its potential interactions with other issues within the EIAR and/or NIS, and any necessary addendums to the EIAR or NIS should form part of the Oral Hearing discussion/submission.”*

The applicant confirmed to the Oral Hearing that the potential for adverse impact upon the safe operation or expansion of the Dublin to Belfast railway line was scoped out as part of the scoping exercise prior to preparation of the EIAR, as a result of the setback distances to be included between the proposed development and the railway line.

Following the applicant’s decision to amend the proposed development in response to the Board’s Direction ref. BD-009546-21, the applicant prepared and submitted ‘Addendum no.1 Environmental Impact Assessment Report’ to the Oral Hearing. This presents the following addendum to the submitted EIAR with the application:

* Section 2 describes an addendum to Chapter 3 of the submitted EIAR to describe the ‘alternative design option’ before the Board.
* Section 3 describes an addendum to Chapter 12 of the submitted EIAR and includes additional assessments of the proposed wetland located in the Nature Park to specifically address any impacts form the wetland on the adjoining railway track. The proposed development has been amended to include an additional drain along the western boundary of the Nature Park to remove any risk of water egress from the proposed wetland into the Iarnród Éireann railway corridor.
* Section 4 describes an addendum to Chapter 14 of the submitted EIAR and includes assessments of the visual impacts of proposed amended development to remove a single storey from Blocks 4, 5, 6 and 8 to reduce the visual impact of the proposal. The addendum assesses the landscape and visual impacts of the amended scheme.
* Section 5 includes two additional mitigation measures to Chapter 5 of the submitted EIAR relating to securing the boundary to the rail line during the construction and operational phases following consultation with Iarnód Éireann.
* Section 6 describes an addendum to Chapter 16 of the submitted EIAR and includes a list of additional mitigation measures arising from the above assessments.

This information has been subject to further consultation in accordance with Article 6 of Directive 2011/92/EU and as described in section 3 of this report above. I have assessed the proposed amendments and information presented to the Oral Hearing above. With regard to the information presented in the submitted EIAR addendum report, this is to be read alongside the submitted EIAR for the application. I refer the Board to the Inspector’s report dated 17th November 2021, and in light of the information gathered as part of the Oral Hearing, I describe my revised reasoned conclusion on the significant effects of the proposed development below:

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:

**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. Specific mitigation is described in relation to the treatment of the boundary to the railway line. No other mitigation is required during the operational phase.

**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.

**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. Specific regard is had to the impact of proposed attenuation upon the railway embankment, with the incorporation of a filter drain to the ‘Catchment A’ attenuation area in the Nature Park to remove risk of water egress into the Iarnród Éireann railway corridor.

**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.

**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.

**Material Assets - Archaeology and cultural heritage** - no significant permanent adverse impacts upon archaeological cultural heritage are anticipated, with the application of mitigation measures.

**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

**Landscape and visual impacts** – during the construction phase, temporary negative impacts are identified. During the operational phase, slight/moderate negative impact as a result of the change in landscape appearance, with this impact lessening in the long term. Impact is consistent with existing and emerging trends associated with efficient residential development of zoned lands in the area.

Having regard to the above, the likely significant environmental effects arising as a consequence of the proposed development have been satisfactorily identified, described and assessed in my EIA under Inspector’s report dated 17th November 2021 and as updated in the assessment under this addendum report, in light of information presented to the Oral Hearing. I also consider that the EIAR, now accompanied by Addendum nno.1 Environmental Impact Assessment Report, is subsequently compliant with Article 94 of the Planning and Development Regulations, 2001, as amended.

With respect to the submitted NIS with the application, the applicant confirmed that this has not been impacted by the proposed amendments and therefore no update to this document (or any other ecological documents, including the biodiversity chapter of the EIAR) was required. The applicants technical and professional Ecologist confirmed to the Oral Hearing that with specific reference to the new filter drain proposed, that this connects into the SUDs as originally proposed and there is no alteration to discharges from the site that could potentially impact the Malahide Estuary European site or any other European sites. I am satisfied that conclusions with respect to Appropriate Assessment remain as set out in the Inspector’s report ref. 311059-21 dated 17th November 2021, and repeated here for clarity:

“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.

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.”

* 1. **Material Contravention**

I draw the Board’s attention to section 12.9 of the Inspector’s report dated 17th November 2021 which remains unaltered following this addendum report. This is reflected in my recommended order below.

* 1. **Other Matters**

Resulting housing mix following proposed amendments to the proposed development

In the event that the Board determined to approve the application on the basis of amendments suggested by the applicant, this can be secured by condition, and would result in a change to the overall housing mix in the scheme as follows:

* The proposed alternative design option would result in the reduction in the number of apartment units by 40. The reduction in units per each apartment block floor to be omitted is as follows:
	+ Block 4 top floor 4x 2 bed units;
	+ Block 5 top floor 5x 2 bed and 1x 1 bed units;
	+ Block 6 third floor 14x 2 bed and 4x 1 bed units; and
	+ Block 8 third floor 10x 2 bed and 2x 1 bed units.
* The omission of Mixed Use Building 02 results in the loss of one 2 bedroom apartment.
* The reprovision of the retail space within Mixed Use Building 02 elsewhere in the development would result in the further loss of a single 1 bedroom apartment.
* The total reduction in units would be by 42 in number as a result of the above amendments, resulting in a total number of proposed units of 1,323 for the development as a whole.

As a result, the overall housing mix would be as follows (amended scheme highlighted in grey rows):

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Housing Type** | **1 bed** | **2 bed** | **3 bed** | **4 bed** | **Total** |
| **Submitted scheme** **No. of Apartments**  | 194 | 473 | - | - | 667 |
| **Amended scheme****No. of Apartments** | 186 | 439 | - | - | 625 |
| **No. of Duplexes / Triplexes****(no change)** | 60 | 126 | 166 | - | 352 |
| **Houses****(no change)** | - | 9 | 206 | 131 | 346 |
| **Submitted scheme****Total (%)** | 254(18.6%) | 608(44.5%) | 372(27.2%) | 131(9.5%) | 1,365(100%) |
| **Amended scheme****Total (%)** | 246(18.5%) | 574(43.3%) | 372(28.11%) | 131(9.9%) | 1,323(100%) |

The proposed amendments would marginally increase the proportion of 3 and 4 bed units in the scheme, with associated minor decreases in the proportion of 1 and 2 beds. 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 in amended form would continue to comply with National and Local Planning Policy as described in the Inspector’s report of the 17th November (section 12.7).

Dual Aspect

The Apartment Guidelines state 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.

As submitted, the application included 51.3% of units as dual aspect of the total 667 proposed apartments in the development. The proportion of dual aspect units also increases further if including duplex/triplex units. In the submitted scheme there were 336 dual aspect units, and with the incorporation of the amendments described above, the number of dual aspect units would decrease by 22, resulting in a total of 314 dual aspect apartment units. As a proportion of the amended total number of apartment units (625), this equates to 50.2%, and therefore continues to comply with SPPR 4.

10 Year Consent

The applicant is seeking a 10 year consent as part of the planning permission applied for. I am satisfied that should the Board elect to grant planning permission, a 10 year consent would be justified in the circumstances of this application, given the scale of the development proposed, being the delivery of over 1,300 units and a new Nature Park across a 43.1ha site.

Consultation response from the Department of Local Government, Housing and Heritage

I note the consultation response from the Department of Local Government, Housing and Heritage with respect to concerns regarding proposed planting within the proposed Nature Park area. These concerns do not relate to the applicants proposed earlier phase delivery of tree planting adjacent to blocks 4, 5, 6 and 8, and are related to planting further to the south in the Nature Park. These concerns are restated following the Departments original submission on the application which highlighted the same concern. The Department is concerned that ‘the extent of tree planting proposed in the nature park would limit the area of grassland in the park suitable for nesting in by species of conservation importance, such as meadow pipit and skylark, and restrict the foraging areas available to wintering bird species of Special Conservation Interest for neighbouring Malahide Estuary Special Protection Area including the black-tailed godwit and brent goose’. I draw the Board’s attention to the Departments submission in order to explain that this is not an issue that is related to the limited agenda for the Oral Hearing, and that should the Board determine to grant planning consent, a condition can be included to ensure a planting strategy that reflects the Departments concerns regarding suitable foraging areas for wintering bird species. This is specifically addressed in section 13 (paragraph 13.41) of the Inspector’s report dated 17th November 2021.

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 site is also situated in an area identified as having exceptional landscape value, with preserved views running along the southern boundary, and from the coast road in Malahide over the Estuary, toward the site and the Donabate area.

Irish Rail confirmed to the Oral Hearing that with the incorporation of amendments suggested by the applicant, and specifically the omission of proposed Mixed Use Building 02 and the inclusion of a new filter drain to the proposed ‘Catchment A’ attenuation wetland feature within the Nature Park, there are no safety or maintenance concerns with respect to the railway embankment, or any other concerns related to the DART+ expansion project.

The applicant presented an alternative design option to the Oral Hearing comprising the removal of the top floor to proposed blocks 4 and 5, and the third floor of proposed blocks 6 and 8, alongside changes to the material finish. The muted tones of the amended material finish and removal of a storey from these blocks, alters the design to ensure reduced visibility of the blocks in protected views. As a result, blocks 4, 5, 6 and 8 are no longer distinctly visible and would be absorbed into the landscape in views over the Estuary and the Corballis Cottages Road.

Therefore, the proposed development (subject to conditions and in amended form) would not negatively impact the safe operation of the railway network and is acceptable with reference 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. The proposed alternative design option is also acceptable with regard 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.

There are no consequential impacts upon conclusions reached in relation to flood risk or ecology, including AA as a result of these amendments. An addendum to the submitted EIAR was presented to the Oral Hearing and an updated reasoned conclusion regarding the main significant effects of the proposed development is included in this report and flows from the assessment in this report of the proposed amendments presented by the applicant.

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.

**Decision**

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

**Matters Considered**

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

1. Reasons and Considerations

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

(a) the location of the proposed residential development on the portion of the site zoned for residential development under the Fingal County Development Plan 2017-2023. The majority of the northern portion of the site is zoned RA ‘Residential Area’ and a small section of the north west of the site is zoned TC – ‘Town and District Centre’. The location of open space and an access road on lands zoned OS ‘Open Space’ with a road proposal indicated in the zoning map; and the location of the proposed Nature Park on lands zoned HA ‘High Amenity’;

(b) the policies and objectives of Fingal County Development Plan 2017-2023 and the Donabate Local Area Plan 2016-2022;

(c) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016 and Housing for All – A New Housing Plan for Ireland;

(d) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;

(e) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;

(f) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government 2020;

(g) The Architectural Heritage Protection- Guidelines for Planning Authorities (2011);

(h) Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;

(i) The nature, scale and design of the proposed development and the availability in the area of public transport and water services infrastructure;

(j) The pattern of existing and permitted development in the area;

(k) The planning history of the site, including its situation in the curtilage of a protected structure, in Coastal Character Type and Estuary areas of exceptional landscape value, with a preserve views designation along the southern boundary of the site, and preserved views in the wider area from Malahide coast road looking over the Estuary towards the site and Donabate;

(l) The submitted NIS and potential effect upon European sites;

(m) The submitted EIAR and Addendum no.1 Environmental Impact Assessment Report;

(n) Section 37(b)(2) of the Planning and Development Act 2000, as amended, whereby the Board is not precluded from granting permission for a development which materially contravenes a Development Plan;

(o) The submissions and observations received on the submitted application and to the Oral Hearing, and the consultation responses subsequent to the Oral Hearing;

(p) The Chief Executive Report and presentations to the Oral Hearing from the Planning Authority, and specifically the recommendation that the application be refused; and

(q) The report of the Inspector dated 17th November 2021 as well as the addendum Inspector report.

The Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be appropriate in context of surrounding uses and would otherwise be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

**Appropriate Assessment: Stage 1**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Natura Impact Statement Report submitted with the application, the Inspector’s reports, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, other than 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 which are European sites where the likelihood of significant effects could not be ruled out.

**Appropriate Assessment: Stage 2**

The Board considered the Natura Impact Statement and all other relevant submissions on the file and carried out an Appropriate Assessment of the implications of the proposed development on 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, in view of the sites’ conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

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

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

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

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

This conclusion is based on the measures identified to mitigate impacts, including control the quality of surface water discharges which provide for the interception of silt and other contaminants prior to discharge from the site during construction and operational phases; the implementation of measures to prevent disturbance of QIs; and preparation and implementation of a Biodiversity and Habitat Management Plan of the proposed Nature Park.

**Environmental Impact Assessment**

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

(a) the nature, scale and extent of the proposed development,

(b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application,

(c) the submissions from the Planning Authority, the observers and prescribed bodies in the course of the application,

(d) the Inspector’s report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, and including the Addendum no.1 Environmental Impact Assessment Report, identifies and describes adequately the direct, indirect and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report (read alongside the addendum EIAR) complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

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

**Reasoned Conclusions on the Significant Effects**

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, and including the Addendum no.1 Environmental Impact Assessment Report, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account current knowledge and methods of assessment and the results of the examination set out in the Inspector’s Reports. The Board is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are those arising from the impacts listed below. A Construction Environmental Management Plan is the overarching general mitigation relevant to the project design and delivery for the construction stage.

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

**Population and human health** - positive impacts in relation to the provision of new homes in close proximity to public transport, increased economic activity and with the provision of new public open space. 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. Specific mitigation is described in relation to the treatment of the boundary to the railway line. No other mitigation is required during the operational phase.

**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.

**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. Specific regard is had to the impact of proposed attenuation upon the railway embankment, with the incorporation of a filter drain to the ‘Catchment A’ attenuation area in the Nature Park to remove risk of water egress into the Iarnród Éireann railway corridor.

**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.

**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.

**Material Assets - Archaeology and cultural heritage** - no significant permanent adverse impacts upon archaeological cultural heritage are anticipated, with the application of mitigation measures.

**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

**Landscape and visual impacts** – during the construction phase, temporary negative impacts are identified. During the operational phase, slight/moderate negative impact as a result of the change in landscape appearance, with this impact lessening in the long term. Impact is consistent with existing and emerging trends associated with residential development of zoned lands in the area.

**Conclusions on Proper Planning and Sustainable Development**

The Board considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height, scale, mass, and would be acceptable in terms of pedestrian and transportation safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area. In coming to this conclusion, specific regard was had to the Chief Executive Report and representations received from the Planning Authority.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area, a grant of permission could materially contravene The Fingal Development Plan 2017-2023. Specifically, in relation to 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 the proposed development provides for development in excess of the envisaged growth rate. In relation to apartment size, 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. In relation to 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.

The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the County Development and Local Area Plans would be justified for the following reasons and consideration.

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

With respect to growth rate, apartment size and rear garden size, the strategic nature of the site for the delivery of housing in Fingal, as well as nationally given the scale of housing proposed (being 1,323 units), and in light of the characteristics of the site and the context of national planning policy documents and guidelines which promote compact growth. Including Rebuilding Ireland, An Action Plan for Housing and Homelessness and Project Ireland 2040 – National Planning Framework and Housing for All. Donabate is also recognised as a strategic development area under the RSES.

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

With respect to growth rate, 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 stated in the Plan.

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

With respect to growth rate, apartment size and rear garden size, 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; Housing for All; 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). Donabate is also identified as a growth area under the RSES and the proposed development conforms with national and regional planning policy approaches to the efficient use of land for housing delivery. 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.

1. Conditions
2. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted to the Oral Hearing on the 14th day of December 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.
**Reason:** In the interest of clarity.
3. The period during which the development hereby permitted may be carried out shall be 10 years from the date of this order.
**Reason**:  Having regard to the nature and scale of the development, the Board considers it appropriate to specify a period of validity of this permission in excess of five years.
4. The proposed development shall be amended as follows:
(a) Omission of Mixed Use Building 02, with that area and the ancillary car parking and circulation area, to be retained as landscaping as presented in drawings submitted to the Oral Hearing no.0921-SGD-S-121 Rev B.
5. Relocation of the retail space to be lost in Mixed Use Building 02 to the ground floor of either proposed apartment blocks 7 or 9 looking onto the proposed civic plaza, in lieu of a residential unit (minimum 44sqm to be provided as retail use).
6. A filter drain to be added to the southwest corner of the Nature Park, to the west of the cycle and pedestrian path on the west side of the attenuation pond. As presented in drawings submitted to the Oral Hearing no.’s C829-OCSC-01-XX-DR-C-0565-A1-C03 and C829-OCSC-01-XX-DR-C-0566-A1-C03.
7. An ‘alternative design option’ comprising the removal of the top storey to proposed Apartment Blocks 4 and 5 and the third floor of proposed Apartment Blocks 6 and 8.
8. Amendments to the phasing of the landscaping works to achieve earlier delivery of the proposed ground modelling and woodland planting located between Buildings 4 to 8 and the DDR to take place during Phase 1.

As a result of the above amendments, the number of units is reduced by 42 and the total number of units is 1,323. Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
**Reason:** In the interests of visual and residential amenity, and safe operation of the railway.

1. Mitigation and monitoring measures outlined in the plans and particulars, including the NIS, Environmental Impact Assessment Report submitted with this application and the Addendum No.1 Environmental Impact Assessment Report, as set out in Chapter 16 of the EIAR and Section 6 of the Addendum, shall be carried out in full, except where otherwise required by conditions attached to this permission.

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

1. Submission of a Biodiversity and Habitat Management Plan for agreement with the Planning Authority prior to commencement of the development.

**Reason:** In the interest of ecology.

1. The development shall be carried out in accordance with a phasing strategy, to be agreed in writing with the planning authority prior to commencement of any development.
**Reason:**  To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.
2. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit. Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

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

1. The developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.
**Reason**: In the interest of public health.
2. The proposed Nature Park as shown on the lodged plans shall be reserved for such use and shall be landscaped in accordance with a landscape strategy to be agreed in writing with the Planning Authority prior to commencement of the development. This strategy shall reflect the Planning Authority and the Department for Local Government, Housing and Heritage requirements. The works associated with the establishment of the Nature Park shall be completed before any of the dwellings are made available for occupation and shall be maintained as public space by the developer until taken in charge by the local authority. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

1. The landscaping scheme shown on drawings submitted to An Bord Pleanála as part of this application shall be carried out on a phased basis as detailed in an agreed phasing strategy and within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established.  Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development [or until the development is taken in charge by the local authority, whichever is the sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority. The landscaping strategy shall incorporate a piece of public art or sculpture, to be designed in consultation with the Council.
**Reason:**  In the interest of residential and visual amenity.
2. (a)    Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height.  This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.
(b)   No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing.  No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained. (c)    Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of retained trees as submitted with the application, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.
(d) No trench, embankment or pipe run shall be located within three metres of any trees, shrubs or hedging which are to be retained on the site.
**Reason:**  To protect trees and planting during the construction period in the interest of visual amenity.
3. The internal road network serving the proposed development, including turning bays, junctions, parking areas, crossings, cycleways, footpaths and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works, reflecting the requirements of the NTA and the design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.
**Reason:**  In the interest of amenity and of traffic and pedestrian safety.
4. Any works to the public footpath and carriageway, including junctions, crossings, parking areas, footpaths and kerbs shall be agreed with the Planning Authority prior to commencement of the development and in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. Road Safety Audits shall be carried out as part of the development at the relevant stages as outlined in TFI guidelines. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.
**Reason:**  In the interest of amenity and of traffic and pedestrian safety.
5. A minimum of 10% of all communal car parking spaces should be provided as accessible parking bays. In addition, a minimum of 10% of all communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.
**Reason:**  To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles
6. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site.  In this regard, the developer shall -
(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.
In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.
**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.
7. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.  This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.  The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.
**Reason:**  In the interest of sustainable waste management.
8. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan (CEMP), which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.  This plan shall provide details of intended construction practice for the development, including:
* Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
* Location of areas for construction site offices and staff facilities;
* Details of site security fencing and hoardings;
* Details of on-site car parking facilities for site workers during the course of construction;
* Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
* Measures to obviate queuing of construction traffic on the adjoining road network;
* Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
* Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
* Provision of parking for existing properties at [specify locations] during the construction period;
* Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
* A survey for asbestos on the site and any necessary mitigation regarding the same;
* Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained.   Such bunds shall be roofed to exclude rainwater;
* Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
* Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
* A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.
* A Ecological Clerk of Works to oversee all environmental/biodiversity mitigation measures set out in the EIAR, including supervision of structure and vegetation clearance from the site.
* Pre-development fencing of the Corballis 6 and Corballis 14 sites to be addressed in the CEMP.

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

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

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

1. (a)  A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials [and for the ongoing operation of these facilities] for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than 6 months from the date of commencement of the development.  Thereafter, the waste shall be managed in accordance with the agreed plan.
(b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.
(c) Collection of waste by refuse vehicles should take place from within the site where possible, and the applicant should agree provisions regarding the same (or agree alternative arrangements) with the Planning Authority prior to the commencement of the development.

**Reason:**  In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

1. Details of the materials, colours and textures of all the external finishes to the proposed dwellings/buildings shall be agreed in writing with the planning authority prior to commencement of each relevant phase of the development. Materials for apartment blocks 4, 5, 6 and 8 shall be as presented to the Oral Hearing on the 14th December 2021. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.
**Reason:**  In the interest of visual amenity.
2. The following requirements in relation to the operation and safety of the rail line shall be complied with:
3. Prior to the commencement of the development the applicant shall liaise with Irish Rail to ensure that no works infringe on/impede or damage railway infrastructure, including embankments, bridges etc and that no works impede access to culverts/bridges under the railway;
4. No liquid/surface water shall discharge or be allowed to seep onto railway property or into railway drains/ditches;
5. The Landscaping Plan shall be revised to preclude deciduous trees along the railway line boundary;
6. No building shall be constructed within 4m of the boundary treatment along the eastern site boundary;
7. Should the development require the use of a crane that could swing over the railway property, the developer shall enter into an agreement with Iarnród Éireann prior to commencement of crane operations;
8. Any proposed services that are required to cross along, over or under the railway property shall be the subject of a wayleave agreement with Iarnód Éireann;
9. No part of the development shall overhang the railway property;
10. Lights from the proposed development, either during construction phase or when the development is completed, shall not cause glare or in anyway impair the vision of train drivers or personnel operating on track machines. A Glint and Glare Report to be prepared and agreed with Irish Rail.

**Reason:** To ensure the safety of the rail line.

1. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.  Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.
**Reason:**  In the interests of visual and residential amenity.
2. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.
**Reason:**  To protect the residential amenities of property in the vicinity and the visual amenities of the area.
3. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge.  Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.
**Reason:**  To ensure the satisfactory completion and maintenance of this development.
4. Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.
**Reason:** To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.
5. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.
**Reason**: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.
6. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development.  The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.
**Reason:**  To ensure the satisfactory completion and maintenance of the development until taken in charge.
7. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.
**Reason:**  It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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| * 1. Rachel Gleave O’Connor
	2. Senior Planning Inspector30th September 2022
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