

An
Bord
Pleanála

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

**Inspector's Report
ABP-311095-21**

Strategic Housing Development

Demolition of existing buildings,
construction of 101 no. Build to Rent
apartments and associated site works.

Location

The former Mall Shopping Centre,
Quay Street and High Street,
Balbriggan, Co. Dublin.

Planning Authority

Fingal County Council

Applicant

Rhonellen Developments Limited

Prescribed Bodies

Irish Water

Transport Infrastructure Ireland

Development Applications Unit

Observers

Balbriggan Community Council

Bracken Court Hotel

Coalition of Balbriggan Residents
Association

David Hayes

Doris McKenna

Elizabeth Wall

Grainne Maguire

John Conway and the Louth
Environmental Group

Josephine Cochran

Kevin Tolan

Laura Carroll and Ciaran Molumby

Margaret Healy

Mark Kavanagh

Niamh Dunne

Robert Keran

Rory Greenan

Samantha Corcoran

Sarah Morgan

Siobhan White

Stephanie Kay

Sumesh Kumar Somnath

Tony Murphy

Date of Site Inspection

9th November 2021

Inspector

Rónán O'Connor

DECISION QUASHED

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1.0 Introduction

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

2.0 Site Location and Description

- 2.1.1. The subject site, 0.42ha in area, is located within the town centre of Balbriggan, Co. Dublin. The site comprises the three storey former Mall Shopping Centre building and rooftop car park along the frontage to Quay Street and an existing single storey shed building to the east containing a Cycling and Angling Store, with frontage to High Street. A section of the centre of the site is overgrown. There is a level difference across the site from High Street to Quay Street of c. 9m. The site is located in the middle of a roughly triangular shape block, with the main square in Balbriggan to the south and the Harbour area and Balbriggan Viaduct to the north/north-east. Along the south-western and western boundaries are the rear of the Bracken Court hotel and rear of properties fronting onto Dublin Street/Bridge Street. The Carnegie Library and its extension adjoins the Bracken Court Hotel and on the High Street side there is a relatively new four storey apartment block, with the top floor level set back. To the east and north-east, the site is bounded by single storey cottages along High Street and two storey dwellings opposite. A two storey dwelling is located neighbouring the site at the Quay Street side.

3.0 Proposed Strategic Housing Development

- 3.1.1. The development will consist of the following:
- Demolition of existing buildings (former supermarket building, car park, substation, and outbuildings (partially in retail use).
 - Construction of a Build to Rent (BTR) development comprising 3 no. apartment blocks (Blocks A - C) ranging in height from 3 to 6 storeys (with Block B over 3 no. lower courtyard floors) providing a total of 101 units (19 no. studios, 41 no. 1-beds, 41 no. 2-beds).

- Provision of Resident Support Facilities/Resident Services and Amenities (c.217.03 sq.m)
- Provision of 2 no. retail units (c.110.15 sq.m)
- Provision of 25 no. car parking spaces (at ground floor and accessed from Quay Street), 182 no. cycle parking spaces.
- Provision of ESB substation/switch room, plant areas, bin stores, telecoms areas.
- Provision of open spaces, landscaping, boundary treatments, all associated site works and services provision.

Key Figures

| | |
|-------------------------------------|---|
| Site Area | 0.42 ha |
| No. of units | 101 no. BTR apartments |
| Density | 240 units/ha |
| Height | Block A – 6 storeys Block B – 8 storeys over Quay Street ground level/5 storeys over High Street ground level Block C – 3 storeys |
| Public Open Space | Not provided |
| Communal Open Space | 1,400 sq. m. (33%) |
| Part V | 10 no. units |
| Vehicular Access | From Quay Street |
| Car Parking | 25 no. spaces (0.25 per unit) |
| Bicycle Parking | 182 no. spaces (1.8 per unit) |
| Shared amenity/Residential Services | 217.03 sq.m |
| Other uses | 2 No. Retail Units (110.15 sq. m in total) |

Mix

The proposal provides for the following mix of units:

| Unit Type | Studio | 1 bed | 2 bed (3 Person) | 2 bed (4 Person) | 3+ bed | Total |
|-----------|--------|-------|------------------------|------------------------|-----------|-------|
| Apartment | 19 | 41 | 5 | 36 | - | 101 |
| % | 19% | 41% | 5% | 36% | - | 100 |

4.0 Planning History

- 4.1. ABP Reg Ref. PL06F.125910 (FCC Reg. Ref. F00A/0707) – Permission granted for the demolition of High Street shop units and the shopping centre roof top structure and to construct a mixed use development contained in two and three-storey blocks. The development comprised 41 no. dwelling units 627 sq.m of office space, 375 sq.m of retail and a 741 sq.m extension to the shopping centre. The proposal also included the provision of 184 no. car parking spaces.

5.0 Section 5 Pre Application Consultation

- 5.1.1. A section 5 Consultation meeting took place via Microsoft Teams on the 7th May 2021 in respect of the following development:

- Demolition of existing buildings, construction of 109 no. Build to Rent apartments and associated site works.

In the Notice of Pre-Application Consultation Opinion dated 17th of May 2021 (ABP Ref. ABP-308216-21) the Board stated that it was of the opinion that the documentation submitted required **further consideration and amendment** to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála.

- 5.1.2. The prospective applicant was notified that the following issues needed to be addressed prior to submitting an application:

Height and Design

1. While the site may be considered suitable for high density development and may be able to absorb height and taller elements within it, the documents require further consideration and/or justification as they relate to the scale, bulk and mass of the building relating specifically to the visual impact on Quay Street and High Street and on the receiving environment of the Harbour Area, all of which are within Balbriggan ACA. The further consideration of these issues may require an amendment of the documents and/or design proposal submitted.

Public Realm

2. Further consideration/justification of the documents in relation to the public realm along Quay Street and maximisation of opportunities for activity at street level.

5.1.3. The applicant was also advised that the following specific information should be submitted with any application for permission:

1. Further consideration/justification of the documents in relation to sunlight, daylight and overshadowing, including impacts on neighbouring properties, as well as internally within the proposed development.
2. Documentation to clearly indicate details of public realm improvements proposed to Quay Street including consideration of consistent footpath widths at this location in conjunction with PA plans in this regard. Details in relation to public realm improvements along High Street are also required.
3. Further consideration/justification in relation to the Flood Risk Assessment and SUDS measures proposed.
4. Detailed drawings, cross-sections, elevations and additional CGIs of the site to demonstrate that the development provides an appropriate interface with the adjoining lands and provides for a quality public realm. Additional photomontages/CGI's should include views showing trees when they are not in leaf.
5. Details of the proposed materials and finishes to the scheme. Particular regard should be had to the requirement to provide high quality and

sustainable finishes and details which seek to create a distinctive character for the development.

6. Justification and analysis in relation to type of Resident Support Facilities and Resident Services and Amenities being provided and scale of such uses.
7. Ecological Impact Assessment.
8. Wind micro-climate study, including analysis of balconies and any upper level roof gardens.
9. Mobility Management Plan.
10. A detailed Construction Environmental Management Plan.
11. A detailed schedule of accommodation which shall indicate compliance with relevant standards in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2020, including its specific planning policy requirements.
12. A building life cycle report shall be submitted in accordance with section 6.3 of the Sustainable Urban housing: Design Standards for New Apartments (2020). The report should have regard to the long term management and maintenance of the proposed development.
13. Response to issues raised by the Parks and Green Infrastructure Division (dated 15.01.21), Transportation Planning Section (dated 19.01.21), Water Services Division (dated 20.01.21) and Conservation Officer Section (dated 11.01.21) of FCC as per the reports submitted in Appendix 3 of the Planning Authority Report, received on 27th January 2021.
14. Where the applicant considers that the proposed strategic housing development would materially contravene the relevant development plan or local area plan, other than in relation to the zoning of the land, a statement indicating the plan objective (s) concerned and why permission should, nonetheless, be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act 2000. Notices published pursuant to Section 8(1)(a) of the Act of 2016 and Article 292 (1) of the Regulations of 2017, shall refer to any such statement in the prescribed format.

15. An Appropriate Assessment screening report and/or Natura Impact Statement.

5.2. Applicant's Statement

The application includes a statement of response to the pre-application consultation (Statement of Response to An Bord Pleanála's Opinion), as provided for under section 8(1)(iv) of the Act of 2016 and within this document the applicant has responded to each issue raised in the opinion and to each item of specific information raised in the opinion.

Material Contravention Statement

- 5.2.1. The applicant has submitted a Statement of Material Contravention which refers to potential material contraventions of the Fingal County Development Plan 2017-2023, in relation to the following:

- Height and Visual Impact (Policy Objectives DM S39, NH38 & NH40).
- Housing Mix (Policy Objectives PM38 & PM40).
- Public Open Space Provision (Policy Objectives PM52, DMS57 & DMS57a)
- Residential Design & Amenities (Policy Objectives DMS05, DMS23, DMS24, DMS25, DMS28, DMS32, & DMS75).
- Car Parking & Childcare Provision (Section 7.1, Table 12.8 Car Parking, & Policy Objective PM76).
- Development within an Architectural Conservation Area (Policy Objectives CH32, CH33, CH37, & DMS157).
- Compliance with Local Area Plan/Masterplan/Urban Design Framework (Policy Objectives SS02a & PM17).

- 5.2.2. I refer the Board to Section 12.14 of this report which summarises the contents of same and considers the issue of material contravention generally.

6.0 Relevant Planning Policy

- 6.1.1. National policy as expressed within Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness and the National Planning Framework (NPF) –

Ireland 2040 supports the delivery of new housing on appropriate sites. I also note the Government's Housing for All Plan which identifies the need to increase housing supply as a critical action.

Regional Policy - Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Region 2019-2031

The RSES sets out a settlement strategy for the region, identifying settlement typologies of Dublin City and Suburbs, Regional Growth Centres, Key Towns, Self-Sustaining Growth Town, Self-Sustaining Towns, Towns and Villages and Rural. Balbriggan is identified as a Self-Sustaining Town within the Core Region of the RSES.

Balbriggan is identified as a settlement for which a Local Transport Plan will be made.

The RSES recognises the built heritage assets of towns such as Balbriggan.

Table 7.1 identifies Balbriggan beach as one of the 'Strategic Natural, Cultural and Green Infrastructure Assets in the Region'.

The following Regional Policy Objectives are of note:

- RPO 3.3: Local authorities shall, in their core strategies, identify regeneration areas within existing urban settlements and set out specific objectives relating to the delivery of development on urban infill and brownfield regeneration sites in line with the Guiding Principles set out in the RSES and to provide for increased densities as set out in the 'Sustainable Residential Development in Urban Areas', 'Sustainable Urban Housing; Design Standards for new Apartments Guidelines' and the 'Urban Development and Building Heights Guidelines for Planning Authorities
- RPO 8.12: Local authorities shall include objectives in development plans and local area plans supporting emphasis on placemaking for town centres, for example through inclusion of a Placemaking Strategy for towns and implementation of Town RPO 8.6: In order to give local expression to the regional level Transport Strategy within the Region in conjunction with the NTA, Local Transport Plans (LTP) will be prepared for selected settlements in the Region.

6.2. Section 28 Ministerial Guidelines

6.2.1. The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual')(2009) (and related Circular Letter: NRUP 02/2021 as relates to Residential Densities in Towns and Villages)
- 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (Updated December 2020)
- Urban Development and Building Height, Guidelines for Planning Authorities, 2018.
- 'Design Manual for Urban Roads and Streets' (DMURS), (2019) / DMURS Interim Advice Note – Covid 19 (2020)
- 'The Planning System and Flood Risk Management' including the associated 'Technical Appendices'.
- 'Childcare Facilities – Guidelines for Planning Authorities'.
- Architectural Heritage Protection – Guidelines for Planning Authorities (2011)

6.3. Fingal County Development Plan 2017-2023 (as amended by Variation 1, 2 and 3):

Zoning

The subject site is governed by land use zoning objective MC. Objective MC seeks to 'Protect, provide for and/or improve major town centre facilities'.

Vision: Consolidate the existing Major Towns in the County (Blanchardstown, Swords, and Balbriggan). The aim is to further develop these centres by densification of appropriate commercial and residential developments ensuring a mix of commercial, recreational, civic, cultural, leisure, residential uses, and urban streets, while delivering a quality urban environment which will enhance the quality of life of resident, visitor and workers alike. The zone will strengthen retail provision in accordance with the County Retail Strategy, emphasise urban conservation, ensure priority for public transport, pedestrians and cyclists while minimising the impact of

private car-based traffic and enhance and develop the existing urban fabric. In order to deliver this vision and to provide for a framework for sustainable development, masterplans will be prepared for each centre in accordance with the Urban Fingal Chapter objectives'.

The site is located within the Balbriggan Architectural Conservation Area (ACA and the Balbriggan Retail Core Area.

There is an indicative Pedestrian/Cycle route along High Street.

Green Infrastructure Map 1: Highly Sensitive Landscape.

Chapter 2 – Core Strategy and Settlement Hierarchy

The Fingal Development Plan 2017-2023 was varied in June 2020 to align with the National Planning Framework (NPF) and the Regional Spatial and Economic Strategy (RSES).

Balbriggan is identified as a Self-Sustaining Town within the Core Area.

The town is served by a railway line, has access to a regional park and harbour and contains significant employment zoned lands including the most significant High Technology zoned landbank in the 'Core' area. The regeneration of the town is a key aim of FCC and is being managed through the targeted 'Our Balbriggan' strategy for improved public realm, active land management and public spaces to provide a robust vibrant centre.

Table 2.4 identifies Total Residential Capacity provided under Fingal Development Plan 2017-2023 (updated 2019) with Balbriggan assigned 3805 residential units.

The development plan states Fingal have developed and published the 'Our Balbriggan 2019-23 Rejuvenation Plan', which is set to transform Balbriggan Main Street and Harbour. Fingal are investing in public realm, town centre improvement and rejuvenation to provide a more vibrant and vital centre to the town, working with stakeholders, increasing employment, attraction for investment and promoting industrial lands. Over 4,000 locals took part in a survey to prioritise a list of suggested improvements for the 'Our Balbriggan' Plan.

Objective SS02 Ensure that all proposals for residential development accord with the County's Settlement Strategy and are consistent with Fingal's identified hierarchy of settlement centres.

Objective SS19 Support and facilitate residential, commercial, industrial and community development to enable Balbriggan to fulfil its role as a Self- Sustaining Town in the Settlement Hierarchy recognising its important role as the largest town in the core area.

Chapter 3 - Placemaking

Objective PM31: 'Promote excellent urban design responses to achieve high quality, sustainable urban and natural environments, which are attractive to residents, workers and visitors and are in accordance with the 12 urban design principles set out in the Urban Design Manual – A Best Practice Guide (2009)'

Objective PM41: 'Encourage increased densities at appropriate locations whilst ensuring that the quality of place, residential accommodation and amenities for either existing or future residents are not compromised'.

Objective PM42 Implement the policies and objectives of the Minster in respect of 'Urban Development and Building Heights Guidelines' (December, 2018) and Sustainable Urban Housing: Design Standards for New Apartments (March, 2018) issued under section 28 of the Planning and Development Act, as amended.

Chapter 3 Placemaking

Detailed Urban Structure Plans and Masterplans have been prepared for Blanchardstown and Swords respectively and an Urban Design Framework has been prepared for the centre of Balbriggan.

Objective PM17 Consider the Urban Design Framework prepared for the centre of Balbriggan to inform and guide development in this area.

Chapter 4 Urban Fingal

Fingal have recently developed and published the 'Our Balbriggan 2019-23 Rejuvenation Plan', which is set to transform Balbriggan Main Street and Harbour. Fingal are investing in public realm, town centre improvement and rejuvenation to provide a more vibrant and vital centre to the town, working with stakeholders, increasing employment, attraction for investment and promoting industrial lands. Over 4,000 locals took part in a survey to prioritise a list of suggested improvements for the 'Our Balbriggan' Plan.

The Development Strategy for Balbriggan is to 'Further consolidate and regenerate the town in line with its designation as a Self-Sustaining Town in the RSES.

Development will focus on the town as a primary commercial, industrial, retailing and social centre in the north of the County providing for the needs of its developing community and promoting the growth of sustainable local employment in the industry, service and tourism sectors'.

Objective BALBRIGGAN 2 Facilitate the implementation of the Urban Design Framework Plan and Balbriggan Public Realm Plan for the town centre to encourage the regeneration of the identified potential development sites within the town centre.

Objective BALBRIGGAN 7 Preserve and improve access to the harbour, beaches, seashore, and other coastal areas while protecting environmental resources including water, biodiversity and landscape sensitivities.

Chapter 7 Movement and Infrastructure

Objective MT30 Support Iarnród Éireann and the NTA in implementing the DART Expansion Programme, including the extension of the DART line to Balbriggan, the design and planning for the expansion of DART services to Maynooth, and the redesign of the DART Underground.

Objective SW02 Allow no new development within floodplains other than development which satisfies the justification test, as outlined in the Planning System and Flood Risk Management Guidelines 2009 for Planning Authorities (or any updated guidelines).

Objective SW04 Require the use of sustainable drainage systems (SuDS) to minimise and limit the extent of hard surfacing and paving and require the use of sustainable drainage techniques where appropriate, for new development or for extensions to existing developments, in order to reduce the potential impact of existing and predicted flooding risks.

Chapter 12 Development Management Standards

Objective DMS03 Submit a detailed design statement for developments in excess of 5 residential units or 300 sq m of retail/commercial/office development in urban areas.

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

Objective DMS57 Require a minimum public open space provision of 2.5 hectares per 1000 population. For the purposes of this calculation, public open space requirements are to be based on residential units with an agreed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms.

Objective DMS157 Ensure that any new development or alteration of a building within or adjoining an ACA positively enhances the character of the area and is appropriate in terms of the proposed design, including: scale, mass, height, proportions, density, layout, materials, plot ratio, and building lines.

Objective DMS158 All planning applications for works in an Architectural Conservation Area shall have regard to the information outlined in Table 12.11.

Objective RF04 (Variation 2) Submit a detailed statement for developments on land zoned residential or mixed use, in excess of 100 residential units outlining:

- Compliance with the sequential approach in relation to development of the area
- Potential for sustainable compact growth
- The scale of employment provision and commuting flows
- Extent of local services provision i.e. administration, education- particularly third level, health, retail and amenities
- Transport accessibility
- Environmental sensitivities, resources and assets and
- Current and planned infrastructure capacity

Our Balbriggan Rejuvenation Plan (2019-2025)

- 6.3.1. This does not appear to be a statutory policy document. In relation to Quay Street, it is proposed to widen footpaths and increase flow and visibility from main street to a transformed Quay Street, Viaduct and Harbour area. Maintain car park amenity, remove kerbing, enabling its usage in evenings and weekends as a quality civic and

meeting space. Develop linear park featuring seating, planting and other green features along the river bank.

7.0 Observer Submissions

- 7.1.1. 22 no. submissions on the application have been received from the parties as detailed above. The issues raised in the submissions are summarised below.

Principle of Development/Material Contravention/Procedural/Oral Hearing

- Request an Oral Hearing
- Development is opposed by local councillors/developer is bypassing the local authority
- BTR development would be more suited to transient residents
- A mix of rented and owned properties is more favourable for current housing need
- Fingal Development Plan 2017-2023 has been varied to align with the National Planning Framework and the Regional Spatial and Economic Strategy
- Balbriggan is named as a self-sustaining town requiring catch up investment in infrastructure and employment
- Any future development needs to be inline with the visions and designs that are planned for the area by Fingal County Council and the community
- Documentation submitted with the SHD application incorrectly refer to Balbriggan as a Major Growth Town – this is no longer the case
- Site is zoned Major Town Centre/Not 'de-facto' residential zoning
- SHD legislation puts a limit of 15% of the floor area to be commercial use/goes against the principle of an MTC zoned area
- Growth of 1968 people earmarked for Balbriggan to 2026/currently planned developments would generate 4265 people/double the amount of population planned for Balbriggan

- Previous applications have been refused by PA and ABP and set a precedence for similar applications including F21A/0213 for 10 units; F20A/0323 & ABP Ref 308824-20 for 28 units.
- Loss of employment as a result of the proposal/loss of active retail units accessed from High Street
- Department Circular Letter NRUP 02/2021 is of relevance to this proposal/high density approaches should not be applied uniformly/flexible application of residential density is required
- Balbriggan has experienced a large increase in population growth from 8,500 people in 1996 to 24,611 people in 2016/ Balbriggan needs investment in infrastructure and employment
- Residential use proposed for this application is disproportionate
- Site would be suitable for purpose built housing for the elderly
- Proposal is incompatible with Zoning Objective 4/ a material contravention of the zoning objective/does not provide a balanced mix of uses
- Poor planning decisions have resulted in the poor performance of the town centre/proposal would exacerbate this/loss of the only large scale regeneration site in the town centre/Would be contrary to Objectives ED42 and ED43 (as related to retail development in Balbriggan and other towns)
- Hotel is not sited on High Street as set out in the application documents
- Lack of appropriate dwelling mix, size type and tenure
- Object to the BTR scheme
- Will drive up property prices in Balbriggan
- This type of housing unit is not what Balbriggan needs
- Majority of people require a 3 or 4 bed house
- A Housing Need and Demand Assessment for Balbriggan should be carried out/is a requirement of the NPF/should not approve large residential developments until this is carried out

- Inappropriate density/Balbriggan is located approximately 40km from the City Centre
- Permission must be refused to maintain the integrity of the Our Balbriggan Plan
- This is a vital site that offers opportunity to have a café/restaurant with 20-30 three bed apartments
- Retail units are too small to allow for food offering
- Use of the site as a multi-storey car park would allow the existing ground level car parks to be used as public spaces
- SHD process is flawed/only reason for including 101 units is to make it an SHD
- Have incorrectly referenced Balbriggan as a Major Growth Town which is the old Designation
- SHD is not allowed to ignore the NPF and RSES/Balbriggan suffered socio and economic problems as a result of its major growth – therefore re-categorised as a self-sustaining growth town requiring catch up investment in employment and infrastructure
- Existing right of way not adequately shown/Appendix A sets out the legal rights of way over the application site in favour of the hotel/proposed development does not take account of these rights of way
- Inaccuracies in the drawings – existing fence and gate shown does not exist/infringes on the boundary line of Hotel's property
- Required to take into account Circular Letter: NRUP 02/2021 as relates to Residential Densities in Towns and Villages
- Proposed development is not compliant with the RSES/NPFs designation of Balbriggan for Planning Purposes
- Aware of the need for housing
- Density is not 'proportionate' nor 'tailored'
- Does not support working from home/families with young children
- Board cannot grant permission where a grant is justified by the Building Height Guidelines/Apartment Guidelines/these guidelines are *ultra vires* and not

authorised by Section 28 (1C) of the PDA 2000 (as amended)/are unconstitutional/contrary to the SEA Directive

- Materially contravenes the density/open space/building heights and visual impact/car parking requirements/provision of childcare/Architectural Conservation Area/ of the Development Plan and LAP/Cannot be justified by reference to S37(2) of the PDA 2000 or S28 Guidelines
- Materially contravenes the Development Plan and LAP as related to Objectives SS02a and PM17 - Local Area Plan/Masterplan/Urban Design Framework/Cannot be justified by reference to S37(2) of the PDA 2000 or S28 Guidelines
- Cannot grant permission for this development under Section 37(2)(b) of the PDA/proposed development is not of strategic or national importance
- Application does not comply with the requirements of the Planning and Development Regulations 2001 (as amended) in relation to the plans and particulars lodged/does not comply with the requirements of the 2016 Act and associated regulations in relation to the requirements for detailed plans and particulars
- Application documentation has not demonstrated that there is sufficient infrastructure capacity to support the proposed development, including by reference to public transport, drainage, water services and flood risk.

Design and Conservation

- Existing site is an eyesore
- Height, scale and bulk of the design/not suitable for the ACA
- Out of keeping with the area
- Previous developments (Linnen Hall development) have had a detrimental impact on the town/coastal skyline
- Negative impact when viewed from the harbour, coast and railway aqueduct
- Block B 5 storey block would dwarf existing 1 and 2 storey properties
- Does not fit well with the vision of the Rejuvenation Programme

- Contravenes the aims of the Balbriggan Rejuvenation Plan
- Existing Building line should be preserved
- Not in keeping with streetscape
- Overdevelopment
- High Street is predominantly one or two storey red brick houses
- Does not demonstrate how it will contribute to place making and the identity of the existing town
- Site is a pivotal location
- Density is not justified
- Proposed set backs are not adequate to break down the massing of the units
- Design is not appropriate
- Impact on Protected Structures
- Would create an extremely poor precedent
- Not consistent with Objective PM31 as relates to design/Objective PM41 as relates to density
- Creates a gated community contrary to objective DMS-32
- Does not respect character building lines, roofscapes and established heights (DMS44)
- Have disregarded DMS152 as relates to site assessment
- May require archaeological inspection (DMS153)
- Impact on Protected Structures (DMS157/CH20/CH21/CH25/CH26/CH29)
- Requirements of DMS158 and Table 12.11 appear to be have been disregarded/No Statement of Character (CH31)/Opportunity to protect vernacular heritage (CH33)/No integration of plot sizes/nor creation of new street patterns to allow for greater permeability/no public space/ (CH34)/Does not meet Objectives CH37 or CH38
- Impact on views from harbour

- Poor quality design as a result of the materials utilised/use of render will lead to maintenance issues
- Relationship to single storey bungalows is overbearing
- Overdevelopment of the site
- Proposal is inappropriately excessive, unsympathetic and incongruous scale, mass and bulk
- No relationship to surrounding structures
- Development would tower over the highest buildings in the immediate area/well beyond the existing skyline that is characteristic of the ACA
- Not in accordance with the Architectural Heritage Protection Guidelines for Planning Authorities
- Lack of clarity with the drawings/Contradictory heights and levels (i.e. existing elevations and sections/contextual elevations)
- Height of the building on Quay Street should be maintained
- Has been designed to fit in 101 units and not designed with the neighbouring buildings in mind
- A lower building height would be more appropriate and more respectful of surrounding buildings
- Does not comply with the requirements of the Building Height Guidelines/Board cannot grant permission where these cannot be satisfied

Proposed Residential Amenities/Residential Standards

- Studio and 1 bed units are too small
- Need for family homes
- Development does not provide adequate living space or outdoor space
- All the amenity space is private/little offered to the existing community
- Separation distances are inadequate (Objectives DMS28 and DMS29)
- Inadequate assessment of daylight and sunlight and overshadowing impacts/Increased carbon footprint as a result of the development (DMS30)

- No evidence submitted in relation to sound transmission levels (DMS31)
- No public open/a civic space should be provided
- 1.5% ADF assessment criteria uses for kitchen/living/dining spaces/Issue has already been addressed in Case Ref 309907 (Auburn House)/Significant proportion of KLDs would fall below the 2% requirement
- Shortfall in the number of dual aspect units
- Long unventilated corridors reliant on artificial lighting
- Studio apartments are akin to bedsits
- Ground floor on High Street is disconnected from the street by the change in level/no own door access/private open space at ground floor level is poor and diminishes the streetscape)/could be overcome by providing dual aspect units
- Inadequate bin storage/access and collection/emergency service access/car and cycle parking
- No enough green spaces for proposed residents
- Impact on health and wellbeing of residents
- Does not comply with BRE Guidelines

Surrounding Amenity

- Daylight, Sunlight and overshadowing impacts
- Noise impacts
- Impacts of dust
- Damage to adjacent property
- Visual impact
- Loss of privacy/overlooking
- Impact on mental health and wellbeing
- Overshadowing/reduction in solar gain
- Daylight/Sunlight report shows impacts on a property on Quay St

- Does not comply with DM28 as relates to amenity including separation distances including to Quay Street, High Street and rear of properties of 12 to 18 High Street
- Loss of privacy/loss of direct sunlight/loss of ambient daylight
- Shadow diagrams in Appendix A of Daylight and Sunlight Report clearly shows excessive amount of overshadowing/No existing shadow diagram is included preventing a comparison
- No analysis of sunlighting of the High Street facing living rooms/unclear where the VSC target values come from
- Will materially overbear and overlook the rear gardens and habitable rooms of Quay Street and High Street
- Will impact on views towards the viaduct and from the park and Quay Street
- Impact of proposed balconies
- Health and safety impacts/increased traffic noise
- Regard must be had to neighbouring buildings, including the hotel, during demolition and construction, including regard to the changes in elevation at the site
- A reduced height would ensure retention of views from the Hotel
- Impact of overlooking of the Hotel and other surrounding properties
- Impact of noise/dust/vibration etc on the Hotel Use
- Height of current boundary wall is very low
- Impact of noise on Hotel from the social/hangout space
- Does not comply with BRE Guidelines

Traffic and Transportation

- Lack of capacity on public transport
- Insufficient car parking spaces
- Increase in traffic volumes

- Impact of the proposed vehicle access
- Road access is inadequate
- No path or cycleway at the junction of High Street and Quay Street
- Pedestrian linkage is currently dangerous/footpath ends before the end of the road
- Insufficient car parking on the site will impact negatively on the locality and on the operation of the Bracken Court Hotel

Ecology/Trees/EIA/AA

- Removal of trees/proposed replacement trees outside the demerit of the developer (DMS77)
- How is biodiversity being protected/enhanced in this proposal? (DMS162)
- Impact of nesting seagulls/already a serious issue in Balbriggan
- EIAR is inadequate
- Screening for EIA including the Ecological report is inadequate
- Insufficient information to enable a proper and complete assessment of pollution and nuisances arising from the proposed development/insufficient information to assess the impact on human health/cannot be dealt with by way of condition
- Board lacks ecological and scientific expertise and/or does not appear to have access to such ecological/scientific expertise in order to examine the EIA Screening Report as required under Article 5(3)(b) of the EIA Directive
- Insufficient information in relation to impacts on bird and bat flight lines/collision risks for the purposes of the EIA Screening Report/AA Screening Report and the Height Guidelines
- Screening for EIA does not consider impact on biodiversity/Criteria considered in the EIA Screening Report does not comply with statutory requirements
- EIAR fails to provide a comprehensive cumulative assessment of the project

- EIA Screening Report does not address impact on schools, childcare and medical care/Incomplete description of the proposed development including those relating to the construction phase
- AA Screening– information provided contains lacunae and is not based on appropriate scientific expertise
- AA Screening report does not provide sufficient reasons or finding as required/conclusions and statements made therein for not identify any clear methodology and no analysis is offered in respect of the protected sites 'screened out'/does not consider all aspects of the proposed development – including arising during the construction phase, such as construction compounds and haul roads etc
- Insufficient surveys have been carried out in relation to bird collision/flight paths
- Zone of Influence is not reasoned or explained /criteria for determining the zone of influence has no basis in law/limitation to 15km is not explained
- Fails to consider all potential impacts on protected bird species
- No regard/inadequate regard given to cumulative effects
- Has had regard to mitigation measures
- Insufficient site specific surveys were carried out

Flood Risk/Hydrology & Hydrogeology/Site Services

- Quay Street has been identified as an area that is prone to flooding
- Insufficient capacity of the sewerage system
- Capacity of foul sewer in Balbriggan/Important that the population equivalent is shown/Important that Irish Water include the new loadings that will be put on the Balbriggan Foul Sewer when they connect up to the sewer from Stamullen in Co. Meath to the sewer system in Balbriggan (which is under construction at present)/There may be insufficient foul sewer capacity/May lead to pollution of the harbour and beach area/impact on the Braken River

- Ambiguity in relation to where the surface water is being discharged to either the Bracken River or into the foul sewer/No reason why existing pipes were not surveyed to ascertain connections
- Careful consideration is required in relation to groundwater levels to ensure no adverse impacts on neighbouring properties
- Site should be subject to rigorous construction management
- Uncertainty in relation to sewerage capacity/has already been overflows of raw sewerage from the underground sewerage storage tanks in Quay Street

Other Issues

- Insufficient amenities schools, doctors etc
- Depreciation of property values
- Potential for anti-social behaviour/transient residents
- Part V units are not dispersed throughout the scheme
- Potential to cause damage to those properties on High Street/existing properties built on poor ground with no foundations
- Infringement on right to light

8.0 Planning Authority Submission

- 8.1.1. Fingal County Council has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016. I have summarised this submission below.

Compliance with Zoning Objective/Development Plan Objectives/Relevant Guidelines

- Objectives DMS30 and DMS90 are not addressed in the Material Contravention Report
- Concern that the proposal is an overdevelopment of the site and will not achieve high qualitative standards of design and layout

- Without omission of the proposed upper floors the proposal will lead to a material contravention of, *inter alia*, Objectives DMS30, DMS39, DMS90, DMS157, DMS158, NH38, NH40 and PM38 of the Fingal Development Plan 2017-2023
- Confirmation should be sought that the minimum requirements for kitchens has been met
- A financial contribution in lieu of public open space would be acceptable
- Density is considered appropriate/however the impact of the density in terms of residential amenity and streetscape impact is not
- Concern in relation to the number of studio and 1 bed units being provided
- Overlooking – impact of Block A on properties on high street
- c9m level difference shown between Quay Street and the rear garden level of High Street dwellings/closest distance between the development and the nearest rear garden is c5m.
- Concern in relation to the residential units at ground and first floor within the courtyard/proximity, overshadowing and low light levels achievable within units/esp the single aspect units
- Development may not achieve minimum ADF requirements for a large number of kitchen/living/dining rooms and bedrooms.
- Default ADF Value for KPIs is 2% - applicant has applied 1.5%
- Concerns in relation to the residential amenity of the ground floor units fronting onto High Street – floor to ceiling windows serving bedrooms and windows directly address the street/usability of balconies on the High Street is also questioned
- Appropriate to refuse or omit units that do not achieve internal lighting or usable private amenity space
- Proximity of balcony areas to rear gardens
- Site is within the ACA for Balbriggan Historic Core
- Number of Protected Structures in the vicinity

- Proposed development site is a brownfield site that detracts from the streetscape and from the character of the ACA.
- Integration of buildings on Quay Street will form a strong determinant to the successful regeneration of this part of Balbriggan
- Limited active frontage onto Quay Street is a concern/concerns in relation to visual impact and integration.
- Consideration should be given to the inclusion of additional larger retail units and/or additional entrances from the development onto Quay Street to provide activity and vitality to a key axis in the town centre.
- Block B is actually 8 storeys in height as the lower 3 storeys sit below the road level of High Street/Concern is raised in relation to the transition between the 5 recessed storeys and the single storey cottages adjoining
- Massing and height of Block A (6 stories) and Block B (8 stories over street level) should be further considered/suggested Block A be reduced by one floor and Block B reduced by two floors in order to reduce the scale/visual impact
- Deeper set back on the remaining upper floor on Quay street
- Glazed curtain wall finish should be rebought
- Weathering of renders in an exposed maritime environment raises concerns/different coloured brick or tonal contrasts of brick finishes might work better
- Provision of entrances to the shared amenity rooms would increase animation/activity/interest
- Own door two-storey duplex (within a three storey block) would underpin the residential nature of the street
- Retail units are inadequate in size
- Proposal should align better with the 'Our Balbriggan Plan'
- Block A is overly high
- Proposed Quay Street building line should be set back slightly to provide better quality space and public realm

- Maximise commercial and public amenity at street level of Quay Street
- Public Art should be provided

Transport

- Shortfall of 10 cycle spaces
- Unclear of cycle parking provided outside of apartment block is covered/lack of passive supervision
- Should be no distinction between long term and short term cycle parking
- Proposed residential parking provision is too low/would result in overspill onto Quay Street and High Street
- No parking provided for retail unit
- Detail and location of EV charging points should be provided
- Swept Path Analysis/turning movements are tight/design vehicle is only 4.3m long.
- TTA has underestimated traffic generation/not all junctions assessed/PA accepts that the previous shopping centre use would have had a more significant impact
- Road Safety Audits should be carried out

Water Services Division

- Note submission of Irish Water in relation to foul water/water supply
- Note existing surface water from the site is not attenuated
- Inclusion of green/blue roofs is a welcome addition

Flood Risk

- Site is identified as an area of potential flood risk
- Proposal is in accordance with the Flood Risk Guidelines
- Proposal is acceptable to the Water Services Section subject to conditions

Parks/Open Space

- Note no public space has been provided/shortfall in public open space/financial contribution required/will be applied towards the upgrade of Bremore Regional Park

- Play provision should be provided within the open space/provision for older children required
- Impact of trees on local services/revised tree species should be considered

Nature Conservation

- Only a few trees/small area of scrub on the site/herring gulls/swallows recorded during the survey work/herring gull is red listed/displaced gulls may nest in the replacement buildings or in other roofs in the town/bats identified foraging over site/no roosts located/with mitigation only minor temporary negative effects on biodiversity/potentially some gains for nature conservation if swift and bat boxes are colonised

Environmental Health

- Noise and dust from excavation and demolition must be considered
- Noise and air emissions from the residential amenities impact on proposed residential blocks

Part V

- Request that a revised proposal is submitted.

Archaeology

- Notes the submission from the DAU/Recommended that an Archaeological Impact Assessment of the proposed development is carried out

Recommendation

8.1.2. Section 4 sets out a recommendation. The Planning Authority recommends that permission is **REFUSED** for the following 3 no reasons:

1. Having regard to the core principles of the National Planning Framework, and the RS&ES, which seek to deliver future environmentally and socially sustainable housing of a high standard for future residents and to achieve placemaking through Integrated planning and consistently excellent design; to the development strategy for Balbriggan contained in the Fingal Development Plan 2017-2023 and Our Balbriggan Rejuvenation Plan (2019 -2025) which seek to encourage sensitive redevelopment of this area within the ACA of Balbriggan. It is considered that the proposed development by reason of the response to the

site context, and in particular the design, height scale, massing and positioning of the apartment blocks, would result in overdevelopment of the site, would be overbearing and visually obtrusive, and would detract from the character and amenities of the area, and therefore the proposed development in its current form would be contrary to the proper planning and sustainable development of the area. The proposed development would be contrary to objectives NH38, NH40, and DMS39 of the Fingal Development Plan (as varied) and would seriously injure the amenities of the area, including the residential amenity of nearby dwellings and the visual amenities of the area. The proposed development would therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the Sustainable Urban Design Standards for New Apartments Guidelines for Planning Authorities Issued by the Department of Housing Planning and Local Government in March, 2018, the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities issued by Heritage and Local Government in May, 2009, and the policies and objectives in the Fingal Development Plan 2017-2023 (as varied), it is considered that the proposed development by reason of the response to the quality of a number of apartments with insufficient natural lighting, would result in low qualitative standards of design and layout and would be an overdevelopment of the site. The proposed development would be contrary to objectives DMS30, DMS90, and PM38 of the Fingal Development Plan 2017-2023 (as varied) and would impair residential amenity to be enjoyed by future residents of the area. The proposed development would therefore, be contrary to the proper planning and sustainable development of the area.
3. The level of car parking proposed at 25 spaces for 101 units overall, would by way of substantial underprovision, contravene the car parking standards set out in table 12.7 and materially contravene Objective DMS113 of the Fingal Development Plan 2017- 2023 which requires parking provision to be in accordance with table 12.7.

- 8.1.3. Section 5 sets out conditions in the event ABP are minded to grant planning permission. Those of particular note are as follows:

- Condition 2 – Block A to be a max of four storey shoulder height /deeper set back to the floor above this/Omit top two floors of Block B to a maximum of three-storey shoulder height
- Condition 3 – Provide a brick finish which is light to dark brown
- Condition 4 – Retail units of greater size and additional active entrances from Quay Street/Quay Street building line to be set back to allow for at least a 4m wide footpath in line with DMURS
- Condition 5 – Revised plans to ensure an adequate ADF value/amend ground floor units to ensure residential amenity and defensibility
- Condition 10 – Relating to play provision/street trees/financial contribution
- Condition 13 – Revised Part V proposals

Internal Reports

Architects Department

- Massing and height of Block A and B should be reconsidered/both blocks be reduced by one floor to reduce the scale and proposed massing/rooflines, detailing and design could be developed further.
- Long windowless corridor space/improve quality of common areas/kitchens appear small/lack of expression to entrances
- Materials should be simplified
- Access to green roofs

Conservation

- Existing building impacts negatively on the ACA.
- No. 11 Bridge Street should have been incorporated into the scheme/former pedestrian route in to the shopping centre through this building
- Agrees with much of the recommendations within the Architectural Heritage Impact Assessment/Not convinced that the top floors on either block are appropriate and ask that they are omitted

- Narrow nature of western end of Quay Street/potential for building to create an oppressive atmosphere/overbearing/no objection to shoulder height of 4 storeys/views provided confirm concerns/if not omitted the extent of floor plan of top floors should be reduced/curtain wall finish should be rethought
- Transition between the 5 storeys of Block B and single story cottages is not appropriate/impact of excavation needs to be considered/block with a similar scale to Harbour View apartments (i.e three storey with recessed fourth storey) would be acceptable/top floor should be omitted and remaining floor recessed in line with adjoining apartment building/northern gable of sixth floor should have a deeper setback from the cottages
- Concerns in relation to weathering of materials

Arts, Culture, Economic Enterprise and Tourism

- Public art to be provided/location to be agreed
- Generally supportive
- Massing could dominate the street
- Maximise public and commercial amenity
- Frontage on Quay Street should be set back/provision of street trees/provide a better public realm
- Quality of street lighting

Environmental Health

- Recommend conditions in relation to noise/construction works/operational impacts

Environment (Waste Enforcement & Regulation)

- Recommendation condition in relation to export/import of soil

Housing

- Request that a revised proposal is submitted.

Parks and Green Infrastructure

- Note no public space has been provided/shortfall in public open space/financial contribution required/will be applied towards the upgrade of Bremore Regional Park
- Play provision should be provided within the open space/provision for older children required
- Impact of trees on local services/revised tree species should be considered

Transportation Planning

- Development Plan Standards for residential development are norms/minimum practical demand is one space for units with two bedrooms area less (no parking demand for studios) and two spaces for units with three or more bedrooms.
- Parking demand of 81 parking spaces with regard to standard requirements and 41 parking spaces for the perspective of minimum practical parking provision
- Some level of visitor parking required
- Commercial parking can be addressed by on street pay and display
- Shortfall of 10 cycle spaces
- Unclear of cycle parking provided outside of apartment block is covered/lack of passive supervision
- Should be no distinction between long term and short term cycle parking
- Detail and location of EV charging points should be provided
- Swept Path Analysis/turning movements are tight/design vehicle is only 4.3m long.
- TTA has underestimated traffic generation/not all junctions assessed/PA accepts that the previous shopping centre use would have had a more significant impact
- Road Safety Audits should be carried out

Water and Drainage

Foul:

- Note submission of Irish Water in relation to foul water
- In relation to foul, it is noted that upgrades to the Quay Street foul pump station have been identified as a constraint on other applications in the wider Balbriggan

Catchment/Proposed Development is within the Quay Street Pump Station catchment/Removal of the existing use and removal of surface water discharging to the combined system have been considered

Water Supply

- Note submission of Irish Water in relation to water supply

Surface Water

- Note existing surface water from the site is not attenuated/existing foul sewer may be acting as a combined sewer carrying both foul and surface water drainage/Inclusion of green/blue roofs is a welcome addition

Flood Risk

- Site is identified as an area of potential flood risk
- Proposal is in accordance with the Flood Risk Guidelines/ FLS of residential units are 8.225m OD/min freeboard of 4m over all modelled flood events
- Proposal is acceptable subject to conditions

Elected Members

8.1.4. Appendix 5 of the Planning Authority's submission includes a total of 5 submissions from Elected Members. The issues raised (are summarised as follows:

- Shortage of rental properties
- Proposal will complement Our Balbriggan Plan
- Might facilitate a large employer
- Welcome redevelopment of the site
- Density is inappropriate/contravenes standards in Development Plan
- Inadequate separation distances
- Lack of mix
- This type of housing unit is not what Balbriggan needs
- Majority of people required a 3 or 4 bed house

- A Housing Need and Demand Assessment for Balbriggan should be carried out/is a requirement of the NPF/should not approve large residential developments until this is carried out
- Inappropriate density/Balbriggan is located approximately 40km from the City Centre
- Permission must be refused to maintain the integrity of the Our Balbriggan Plan
- This is a vital site that offers opportunity to have a café/restaurant with 20-30 three bed apartments
- Retail units are too small to allow for food offering
- Use of the site as a multi-storey car park would allow the existing ground level car parks to be used as public spaces
- SHD process is flawed/only reason for including 101 units is to make it an SHD
- Have incorrectly referenced Balbriggan as a Major Growth Town which is the old Designation
- SHD is not allowed to ignore the NPF and RSES/Balbriggan suffered socio and economic problems as a result of its major growth – therefore re-categorised as a self-sustaining growth town requiring catch up investment in employment and infrastructure
- Capacity of foul sewer in Balbriggan/Important that the population equivalent is shown/Important that Irish Water include the new loadings that will be put on the Balbriggan Foul Sewer when they connect up to the sewer from Stamullen in Co. Meath to the sewer system in Balbriggan (which is under construction at present)/There may be insufficient foul sewer capacity/May lead to pollution of the harbour and beach area/impact on the Bracken River
- Impact on ACA
- Is not consistent with the RSES
- Will result in transient occupancies

9.0 Prescribed Bodies

9.1.1. DAU

Archaeology

- Recommend conditions

Nature Conservation

- Noted six pairs of herring gulls and a pair of swallows were recorded during survey work/herring gull is red listed by BirdWatch Ireland/has colonised Balbriggan as roof nester in recent years and now commonly nests there/likely that herring gulls displaced will attempt to nest on the new buildings on the site, and if not nest on other roofs in the town/Swallows are also a common nesting species in the Balbriggan area/Leisler's bat and common pipistrelle, were identified foraging over site, but survey work on the site located no roosts/swift nest boxes and bat boxes in the new development/various measures to mitigate the impact of the proposed development on flora and fauna are also proposed/If these mitigation measures are implemented it is likely that the proposed development will only have minor temporary negative effects on biodiversity, and there could potentially even be some gains for nature conservation in the longer term if the swift and bat boxes to be provided are colonised by the target species as nesting or roosting sites
- Conditions recommended

Irish Water

9.1.2. Irish Water can facilitate connection(s) subject to the following:

- Separated foul flow can be accommodated to the existing 525mm sewer on Quay Street
- Surface water from the proposed development shall enter the Irish Water network. Applicant is required to contact the LA Drainage Division to agree arrangements pertaining to the Surface Water network in the area.
- The applicant has been issued a Statement of Design Acceptance for the development.

- Conditions recommended

TII

- Transport Infrastructure Ireland has no observations to make.

10.0 **Assessment**

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

- Principle of Development
- Design and Conservation
- Proposed Residential Amenities/Residential Standards
- Surrounding Residential Amenity
- Traffic and Transportation
- Ecology/Trees
- Flood Risk
- Site Services
- Other Issues
- Planning Authority's Submission
- Material Contravention

10.2. **Principle of Development**

Zoning

10.2.1. The Planning Authority have not raised an objection to the principle of the uses proposed here, although the submission from the PA has stated that there is limited active frontage onto Quay Street and consideration should be given to the inclusion of larger retail units and/or additional entrances from the development onto Quay Street.

10.2.2. Observer submissions have stated that there will be a loss of employment as a result of the proposal and there will be a loss of active retail units accessed from High Street. It is stated that Balbriggan needs investment in employment uses. It is further stated that the site is zoned Major Town Centre and is not 'de-facto' residential

zoning. It is contended that the proposal is a material contravention of the zoning objective.

- 10.2.3. The subject site is zoned 'MC – Major Town Centre' with the objective to 'Protect, provide for and/or improve major town centre facilities'. 'Residential' and 'Retail – Local <150 sq. m' are both permitted in principle. The vision for this objective is sought to be achieved by further densification of commercial and residential development which will ensure a mix of uses. Retail provision will be strengthened and there will be an emphasis on conservation and sustainable transport use.
- 10.2.4. The proposal incorporates 101 Build to Rent Residential Units and associated residential amenities as well as two no. retail units fronting onto High Street. The two retail units are 60.76 sq. m in size and 100.5 sq. m. in size, respectively. As noted above, the principle of both residential and retail is acceptable in principle in this location and, as such, proposal complies with the zoning objective for the site, and does not represent a material contravention of same. The Development Plan does not specify a particular quantum of non-residential uses that should be provided within such Major Town Centre Sites. The two no. retail units proposed front onto Quay Street and provide an active frontage to same. The residential element of the proposal, in terms of quantum of floorspace is by far the largest element (6420.66 sq. m of residential floorspace is proposed). That is not an issue, in and of itself, given the need to develop such sites at an appropriate residential density, and given the urgent need to deliver housing. In relation to the non-residential uses provided, I note the proposed retail uses will provide animation and activity to Quay Street and replaces the vacant and inactive frontage of the former shopping centre. In relation to the viability of the retail units, and in particular the scope for larger and/or additional units as suggested by the Planning Authority and by a number of observers, I note the casino use opposite appears to be vacant which encompasses much of the frontage on the northern side of Quay Street. There also appears to be two no. vacant units on the southern side of Quay Street, adjacent to this subject site. I am not of the opinion that a significant quantum of additional retail or service provision would be either necessary or viable on this site, given its locational characteristics, set off from the main retail streets in Balbriggan. In addition, the potential for long standing vacancy of additional units of the site would serve to create a poor urban environment. The quality of the retail provision that is proposed

under this application is set within a far more attractive urban environment than that which currently exists, which is dominated by the vacant frontage of the former shopping centre and, on the opposite side of the street, by the non-active frontage of the casino building.

Core Strategy

- 10.2.5. The Fingal Development Plan 2017-2023 (incorporating subsequently adopted Variations 1, 2 and 3) sets out that Balbriggan is a Self-Sustaining Town within the Core Area. It is noted that the regeneration of the town is a key aim of FCC and is being managed through the targeted 'Our Balbriggan' strategy. Objectives Balbriggan 1- 15 in the Development Plan set out the assets to be developed to aid sustainable growth in the settlement. Table 2.2 sets out remaining capacity within Balbriggan and is noted that there is capacity for 4332 units within Balbriggan. Table 2.4 updates this residential capacity, and as of September 2019, there is capacity for 3,805 residential units. The proposed development of 101 new BTR residential units is unlikely to breach the core strategy allocation given that the large capacity in the town for 3,805 units as of September 2019.
- 10.2.6. As pointed out in a number of observer submissions on the application, I note that the applicant's supporting documentation refers to Balbriggan as a 'Large Growth Town – Level II'. I noted that this designation was amended to a Self-Sustaining Town by Variation No. 2 of the Fingal Development Plan, adopted on 19th June 2020, and effective from the same date, to reflect its designation in the Regional Spatial & Economic Strategy – Eastern & Midland Regional Assembly (2019-2031). This designation is supported by Objective SS19 of the Fingal Development Plan (as varied) which seeks to 'support and facilitate residential, commercial, industrial and community development to enable Balbriggan to fulfil its role as a Self-Sustaining Town in the Settlement Hierarchy recognising its important role as the largest town in the core area'. As noted in the RSES-EMRA, such self-sustaining towns are towns that require contained growth, focusing on driving investment in services employment growth and infrastructure whilst balancing housing delivery. In relation to same, I note the Development Plan (as varied) notes that major infrastructural projects involving major upgrades to the water supply, foul drainage and roads infrastructure have been carried out in Balbriggan and its environs. As such, the principle of a residential led development within the town centre of Balbriggan is in

line with its designation as a Self-Sustaining Growth Town, and is in line with Objective SS19 of the Development Plan.

Build to Rent (BTR)

- 10.2.7. The Planning Authority have not raised an objection to the BTR nature of the development. I note a number of observer submissions have stated that the BTR development will be more suited to transient residents and that a mix of rented and owned properties is more favourable for current housing need. I have considered these issues below.
- 10.2.8. The proposed BTR units are described as long-term rental, to remain owned and operated by an institutional entity for a minimum period of not less than 15 years. It therefore falls within the definition of BTR provided in section 5.2 of the Apartment Guidelines, i.e. 1. "Purpose-built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord."
- 10.2.9. Section 5.7 of the Guidelines notes BTR development can deliver housing units to the rental sector over a much shorter timescale than traditional housing models, making a significant contribution to the required increase in housing supply nationally, identified by Rebuilding Ireland, and the scale of increased urban housing provision envisaged by the National Planning Framework. It is noted within the Guidelines that, with such BTR schemes, once constructed, the overall scheme is available to the rental sector over a much shorter timescale on completion and the investment model is therefore capable of delivering a much higher volume of housing than traditional models. The Guidelines also note that these types of housing developments provide choice and flexibility, and support economic growth and access to jobs, and that they can provide a viable long term housing solution to households where home-ownership may not be a priority. The provision of associated amenities within the development helps to create a shared environment which provides the opportunities for tenants to be part of a community, and to seek to remain a tenant in the longer term, rather than a more transient development characterised by shorter duration tenancies.
- 10.2.10. SPPR 7 of the Guidelines sets out a number of requirements for BTR developments including *inter alia* the need to adequately describe same within the public notices

associated with a planning application, the need for a legal agreement to retain it as a BTR development, and also sets out conditions that should be attached to any grant of permission. It is also set out that BTR proposal should be accompanied by details of supporting communal and recreational amenities which should include (i) residential support facilities – comprising of facilities related to the operation of the development for residents such as laundry facilities, concierge and management facilities, maintenance/repair services, waste management facilities, etc. and (ii) residential services and amenities – comprising of facilities for communal recreational and other activities by residents including sports facilities, shared TV/lounge areas, work/study spaces, function rooms for use as private dining and kitchen facilities, etc.

- 10.2.11. As per the application documentation, two no. shared amenity spaces are provided at ground floor level which total 217 sq. m. This includes a 2 no. residents' lounges, a library, meeting room, kitchenette, co-working space, children's play area and gym. The management of these aspects, and other aspects of the development, is set out in the Property Management Strategy Report which accompanies the application. I am satisfied that the BTR units are in accordance with the requirements of SPPR 7.
- 10.2.12. SPPR 8 of the Apartment Guidelines sets out a number of planning criteria to be applied when assessing a BTR scheme. It is set out within same that there will be no restrictions on dwelling mix and that flexibility shall apply to the provision of storage and private amenity space for each unit, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. Furthermore, it is stated that there should be a default of minimal or significantly reduced car parking provision on the basis that such BTR development being more suitable for central locations and/or proximity to public transport services. It is also stated that the requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10%, and the requirement for a maximum of 12 apartments per core, shall not apply to BTR schemes.
- 10.2.13. In relation to same, I have considered the mix of units, amenity space, storage provision, floor areas and the number of apartments per core in Section 12.4 below. Car parking provision is considered in Section 12.6 below. In relation to the implied locational requirements of BTR schemes, I note the site is located within a central

town centre site, within 350m of Balbriggan Rail Station and served by a number of bus services (see further discussion of same below). Therefore I am satisfied that the location of the site is suitable for a BTR scheme.

Density

- 10.2.14. The Planning Authority have not objected to the principle of density, but have raised related concerns in relation to the overall design of the proposal and standard of amenity provided (as set out in Sections 12.3 and 12.4 below).
- 10.2.15. A number of observer submissions have stated that the density is inappropriate and note that Balbriggan is located approximately 40km from the City Centre where such densities would be applicable. An observer submission has stated that the density represents a material contravention of the Development Plan while others have noted that it is not consistent with Objective PM41 of the Plan, as relates to density.
- 10.2.16. The applicants contend that the site can be defined as an 'Intermediate Urban Location' as defined within the Sustainable Urban Housing: Design Standards for New Apartments; Guidelines for Planning Authorities 2018.
- 10.2.17. The proposed density is 240 units/ha. Increasing residential density at appropriate locations is national policy and articulated in section 28 guidelines, as well as within Regional Policy and is also supported within the Fingal Development Plan. Such increases in density are to ensure the efficient use of zoned and serviced land.
- 10.2.18. In relation to national policy, Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. Of relevance, objectives 27, 33 and 35 of the NPF seek to prioritise the provision of new homes at locations that can support sustainable development and seeks to increase densities in settlements, through a range of measures.
- 10.2.19. In relation to regional policy, the site lies within the Dublin Metropolitan Area Strategic Plan (MASP) as defined in the Regional Spatial & Economic Strategy (RSES) 2013-2031 for the Eastern & Midland Region. A key objective of the RSES is to achieve compact growth targets of 50% of all new homes within or contiguous to the built-up area of Dublin city and suburbs. Within Dublin City and Suburbs, the RSES support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area and

ensure that the development of future development areas is co-ordinated with the delivery of key water and public transport infrastructure.

10.2.20. In relation to Section 28 Guidelines, I note the provisions of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020) which state, with respect to location, the guidelines note that, general terms, apartments are most appropriately located within urban areas. As with housing generally, the scale and extent of apartment development should increase in relation to proximity to core urban centres and other relevant factors. Existing public transport nodes or locations where high frequency public transport can be provided, that are close to locations of employment and a range of urban amenities including parks/waterfronts, shopping and other services, are also particularly suited to apartments.

10.2.21. In relation to local policy, Objective PM 41 of the Fingal Development Plan supports increased densities at appropriate locations, whilst also ensuring quality design and protection of amenity. I have considered the issue of design and amenity in the relevant sections below. The Development Plan does not set out a limitation on residential density and as such I am not of the view the proposed density represents a material contravention of an objective of the Development Plan.

10.2.22. In terms of location, the site within the town centre of Balbriggan, and as such is central by virtue of this location. It is within approximately 350m (5 min walk) of Balbriggan Rail Station, which is currently served by the Northern Commuter Route between the City Centre and Dundalk. Trains from Balbriggan connect into DART services at Malahide and/or Portmarnock. In terms of bus services, the site is within 250m of a number of bus services which serve Balbriggan including the 33, 33X, 101, 101x, B1, 191 & 192 offering services to Dublin City, Dublin Airport, Drogheda and locally.

10.2.23. In relation to future public transport proposals, and in response to the concerns raised by a number of observers in relation to the capacity of the current train service, the recently published National Development Plan 2021-2030 (published October 2021) sets out that DART+ is a Strategic Investment Priority, which includes DART+ Coastal North to Drogheda via Balbriggan. Information on the dedicated project website sets out that the DART+ Coastal projects will allow for additional

passenger capacity and enhanced train services between Drogheda in the north to Greystones in the south (covering approx. 86km). The DART+ Coastal Projects are funded by the National Transport Authority, under Project Ireland 2040. Upon completion, DART+ Coastal Projects will see the extension of electrification of the line from Malahide to Drogheda with improvements along the existing DART line from Malahide/Howth to Greystones. Information on the dedicated project webpage indicate that this project is at an early stage within an assessment of options currently being undertaken. In relation to future bus services, the BusConnects programme sets out that Balbriggan will be served by the L85 Local Bus Service which will serve Balbriggan, Skerries, Rush/Lusk, Swords and the Airport and will run every 30 minutes.

10.2.24. I am of the view that, notwithstanding the proposed transport improvements for Balbriggan, the site can be defined as an 'Intermediate Urban Location' as described with the Apartment Guidelines, with such locations are generally suitable for smaller-scale (will vary subject to location), higher density development that may wholly comprise apartments. The nature of the development proposed here, a relatively small scale apartment development of 101 residential units, with a density of 240 units/ha, is supported in principle by these guidelines.

10.2.25. In relation to the criteria as set out in the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009), it is my view that the site can be considered under the category of a 'Public Transport Corridor'. The Guidelines set out that land use planning should underpin the efficiency of public transport services by sustainable settlement patterns, including higher density, on lands within existing or planned public transport corridors (my emphasis). Given the planned improvements to the rail network, it is considered that the density as proposed here is supported by these guidelines.

10.2.26. While the principle of the proposed density is acceptable, additional considerations such as the overall standard of design and the quality of accommodation provided, apply, and I have considered these issues in the relevant sections below.

10.3. Design and Conservation

10.3.1. The applicant has submitted a number of documents relating to the design, layout and visual appearance of the development, as well as relating to impacts on

architectural heritage, including an Architectural Design Statement, a Landscape and Visual Impact Assessment and associated Viewpoints Document, a Residential Quality Audit, an Architectural Heritage Impact Assessment and a Landscape Strategy & Design Report. Further justification for the design and layout of the proposal is also set out in the Planning Report and Statement of Consistency.

10.3.2. In summary, the proposal is to demolish the disused former shopping and existing shed building containing a Cycling & Angling Store and ESB substation, and to replace these with three residential buildings with frontages to Quay Street and High Street. It is proposed to create a south-west facing communal courtyard between the three residential blocks. A podium is proposed at first floor level over a car park below. In relation to the height proposed, the proposal consists of 3 no. blocks, A, B and C. Block A which faces onto Quay Street, is 6 storeys in height with setbacks on the top two floors. Block B, facing onto High Street, is 5 storeys with setbacks on the top two floors. Block C, located to the south of the site is 3 storeys in height. Access to the site is provided on two levels, one from Quay Street and the other from High Street. A vehicular entrance to car park is located on Quay Street below Block A. The existing site exhibits a significant level difference over the site (9 m) from High Street to Quay Street, and subsequently proposed Block A sits at a lower level than proposed Block B. Viewed internally from the courtyard, Block B reads as a 7 storey building over car park (and is 8 storeys over proposed ground/car park level).

10.3.3. The Planning Authority have raised a number of concerns in relation to design and conservation issues. It is stated that proposal is an overdevelopment of the site and will not achieve high qualitative standards of design and layout and that, without omission of the proposed upper floors, the proposal will lead to a material contravention of, *inter alia*, Objectives DMS30, DMS39, DMS90, DMS157, DMS158, NH38, NH40 and PM38 of the Fingal Development Plan 2017-2023. It is stated that Block B is actually 8 storeys in height as the lower 3 storeys sit below the road level of High Street. Concern is raised in relation to the transition between the 5 recessed storeys and the single storey cottages adjoining. It is set out that the massing and height of Block A (6 stories) and Block B (5 stories over street level) should be further considered and it is suggested that Block A be reduced by one floor and Block B reduced by two floors in order to reduce the scale/visual impact, with a deeper set back on the remaining upper floor on Quay street. It is also set out that

the proposed glazed curtain wall finish should be rethought, with concern raised in relation to the weathering of the proposed render in a maritime environment. The submission also sets out that the proposed Quay Street building line should be set back slightly to provide better quality space and public realm.

- 10.3.4. The Planning Authority have ultimately recommended refusal for the proposed development for 3 no. reasons, the first of which refers to *inter alia* the design, height, scale, massing and positioning of the apartment blocks, which would result in a overdevelopment of the site, would be overbearing and visually obtrusive, and would detract from the character and amenities of the area. It is set out that the proposal would be contrary to Objectives NH38, NH40 and DMS39 of the Development Plan. I have considered the issues raised in the Planning Authority's submission, as relates to design and conservation issues, below.
- 10.3.5. The majority of observer submissions raise concerns in relation to the design of the proposal. Many submissions acknowledge that current site as existing detracts from the streetscape and ACA. However it is stated that the current proposal does not fit well with the vision of the Rejuvenation Programme and contravenes the aims of the Balbriggan Rejuvenation Plan. It is set out that the proposal represents an overdevelopment of the site, and that the height, scale and bulk of the design is not suitable for the ACA and is out of keeping with the area. It is contended that there would be a negative impact when viewed from the harbour, coast and railway viaduct. It is contended that Block B (5 storey) would dwarf existing 1 and 2 storey properties. The impact on Protected Structures, and on the ACA generally, is cited as a concern. It is also set out that the proposal would create a gated community contrary to objective DMS-32. It is stated that the proposal is not in accordance with the Architectural Heritage Protection Guidelines for Planning and is generally not consistent with Development Plan objectives as relates to design and conservation. It is also stated that the proposal does not comply with the requirements of the Building Height Guidelines and the Board cannot grant permission where these cannot be satisfied.

Demolition

- 10.3.6. In relation to the demolition of the existing structures on site, the disused former 'Shopping Centre' and existing shed building containing a Cycling & Angling Store

and ESB substation, most submissions do not raise an objection to same, although a submission has raised concern in relation to the loss of the outbuilding and historical fabric on the site and site boundaries. I note that the site lies within an Architectural Conservation Area (ACA). The application is accompanied by an Architectural Heritage Assessment which concludes that the existing 1980s building on the site has a negative impact on the urban realm. It is noted the vernacular outbuilding (which houses the existing cycle and angling shop), while retaining the rectangular form and some of the earlier openings, has been heavily modified by the addition of an altered roof profile, infill of existing openings, application of a pebbledash finish and the construction of single storey lean to shelters. The existing boundary treatments to the High Street, which include a partially retained mid 20th century façade, are concluded not to be of sufficient merit to retain. On Quay Street it is proposed to retain the original fabric of the standing section of boundary wall and incorporate it into the proposed scheme. It is also proposed to retain the existing passageway to facilitate access to the courtyard space. I concur that the existing shopping centre detracts from the visual amenity and character of the ACA. I accept that the existing vernacular building has been heavily modified and the retention of same, is not warranted or feasible, in the interests of developing a scheme that allows for an efficient use of the site. Where feasible, the existing boundary treatment fabric has been retained in line with Table 12.11 of the Development Plan (see detailed discussion of same below).

Height/Massing/Visual Impact/Impacts on Views/Impacts on Architectural Heritage

- 10.3.7. In relation to the proposed heights, I note that the National Planning Framework supports increases in densities generally, facilitated in part by increased building heights. It is set out that general restrictions on building heights should be replaced by performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth (NPO Objectives 13 and 35 refer). The principle of increased height, such as that set out here, is supported by the NPF therefore, subject to compliance with the relevant performance criteria.
- 10.3.8. In relation to Section 28 Guidelines, the most relevant to the issue of building heights, is the Building Height Guidelines (2018). Within this document it is set out that that increasing prevailing building heights has a critical role to play in addressing the delivery of more compact growth in our urban areas. (Section 1.21 refers).

Section 3.2 of the Guidelines set out development management criteria to be applied when assessing development proposals for buildings taller than prevailing building heights. SPPR 3 of the Height Guidelines states that where a planning authority is satisfied that a development complies with the criteria under section 3.2 of the guidelines, then a development may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise. In this instance, there is no specific restriction within the Development Plan in relation to the heights proposed here. However, given that the heights proposed are generally higher than prevailing building height, the criteria contained within Section 3.2 of the guidelines are an appropriate framework within which to address the issue of height, and the scale of the proposal generally.

Scale of the town

10.3.9. At the scale of the town, I note the site is located within Balbriggan Town Centre, with the access to the shops and services therein. The existing pedestrian routes are of relatively good quality, with improvements to the footpath proposed along Quay Street, although I note a pinch point at the northern end of High Street where pedestrians are forced onto the road for some 10m (see discussion on same in Section 10.6 below). There is no cycle routes along Quay Street and High Street although there are plans set out in the Development Plan to provide same. The town is well served by public transport (see detailed discussion on same in Section 10.2 above).

10.3.10. A further criteria within the Height Guidelines relates to impacts on architecturally sensitive areas, on key landmarks and on key views. I note the proposal is supported by a Landscape and Visual Impact Assessment, as required by Section 3.2 of the Guidelines.

10.3.11. In relation to impacts on architecturally sensitive areas, I note the application site lies within an Architectural Conservation Area (ACA) and lies within proximity of a number of Protected Structures. Such ACAs and Protected Structures are given special protection under Part IV of the Planning and Development Act, 2000 (as amended), which provides the legal basis for the conservation and enhancement of architectural heritage. Appropriate treatment of same is set out within the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and

Section 3.10 of same sets out criteria for assessing proposals within ACAs.

Generally, it is set out that it is preferable to minimise the visual impact of proposed structures on the setting of an ACA. It is further set out that the scale of new structures should be appropriate to the general scale of the area and should not be its biggest buildings, with the palette of materials and detailed design reinforcing the area's character.

10.3.12. The Fingal County Development Plan sets out a number of policies and objectives as relates to ACA's, and this includes, but are not limited to; Objective CH31 which aims to produce detailed guidance for each ACA within the county, and give direction on works that would impact on same; Objective CH37 seeks to retain good quality older buildings, through the designation of ACAs and via the RPS, where they contribute to the character of a town; Objective DMS157 refers to appropriate development within an ACA and Objective DMS158 states that applications for works within an ACA shall have regard to the information contained in Table 12.11. Table 12.11 sets out direction for proposed development within ACA's, which refers to *inter alia* the need for new development to follow a sensitive design approach that respects the established character of the ACA in terms of the scale, massing, bulk, plot sizes, proportions and materials of the adjoining buildings to the development site. The need to retain the legibility of the urban grain, the articulation of original plot divisions and to the maintenance of active frontages is set out.

10.3.13. In relation to Protected Structures within the vicinity of the site, there are a number within the immediate vicinity of the site (as set out on Map No 4 'Balbriggan' of the CDP and as set out in Fig. 1 of the applicant's Architectural Heritage Impact Assessment). The closest Protected Structure adjoins the south-western boundary of the site, at 11 Bridge Street. This is also referred to within the National Inventory of Architectural Heritage (NIAH) and is listed as being of Regional Importance. Other Protected Structures include Balbriggan Carnegie Free Library, which is listed as being of Regional Importance in the NIAH, and located on the corner of High Street and The Square. No 19 Bridge Street is a Protected Structure and is listed as being of Regional Importance in the NIAH. 'Kincora' to the northern end of High Street is a Protected Structure. Forester's Hall, 17 Quay Street is not a Protected Structure but is listed as being of Regional Importance in the NIAH.

10.3.14. As noted, the application is accompanied by an Architectural Heritage Assessment.

This report concludes that the proposed redevelopment of this site will have a considerable impact on the character of the site and the ACA, and that it presents an opportunity to repair the urban fabric that is visually marred by the existing shopping centre. In terms of the anticipated impact on the character of the ACA, it is set out that Blocks A and B are aligned with the enclosing streets to maintain rhythm of the streetscape and reinforce the original building line. Specifically in relation to the height, it is set out that the visual impact is mitigated by the articulation of the building form to harmonise with the existing urban context. Existing topography and the use of setbacks and varied materiality has reduced the visual impact of Blocks A and B. In relation to the materials proposed, it is set out that the proposed materials have been selected to complement the traditional materials of the ACA, and include brick and render for the main body of the building up to shoulder height with glazing and pressed zinc cladding for the upper set back floors. Vertical emphasis is added by the use of alternating light red coloured brick, buff coloured brick and painted render, to recreate the rhythm of the historic plots. In terms of impacts, it is set out that there will be no impact on the setting of George's Square or Bridge Street. It is concluded, that as a result of the design features incorporated within the scheme, some of which have been set out above, the proposal will have a positive visual impact on Quay Street, will add character to the ACA and will encourage pedestrian movement from the primary street (Bridge Street) to the amenity of the nearby beach. In relation to High Street, it is concluded within the report that the proposed elevation on High Street constitutes a well-considered scheme that positively contributes to the ACA. In terms of impacts on surrounding Protected Structures no physical alterations to same are proposed and that no negative impacts on the setting of same are anticipated.

10.3.15. In relation to visual impact and impacts on key views, the application is accompanied by a Landscape and Visual Impact Appraisal which considers same. I note that the site lies within a 'Highly Sensitive Landscape' as defined in Map 14 'Green Infrastructure' of the CDP. The LVIA notes that the site is visible from long-distance views, predominantly from the north at the Lighthouse, the harbour, from the viaduct and when moving along Quay Street, High Street and through Quay Street Park. The report concludes that the site itself is of little to no value in terms of landscape and

townscape character. It is concluded within the report that the impact of the development is the change of the site from its current poor quality and derelict condition to a contemporary new residential, town centre building cluster and there is only a limited effect on the Coastal Character Area. In terms of the impact on the site and the environs, it is concluded that, during construction, the proposed development would have a temporary adverse impact, but post completion it is expected to have a beneficial long term, permanent effect on the landscape and townscape resource in the area. In relation to visual impacts, reference is made to the 14 no. verified views as set out in the viewpoints document, and a rationale for each viewpoint is set out. Impacts are either considered neutral (Views 1, 3, 7, 10), beneficial (View 2, 4, 5, 8, 11, 12, 13, 14) or there will be no change to the view (Views 6, 9). No negative impacts are expected.

- 10.3.16. In relation to the conclusions of the above reports, and specifically in relation to Blocks A and B, I concur that the sensitive use of alternating materials and colours, along with the use of modulation such as recesses within the elevations, emulates the traditional block widths and urban grain of High Street and Quay Street, up to shoulder height at least. However, I do not consider that the upper floors are as successful. In relation to Block A, I have serious concerns in relation to the upper two floors of same, which to my mind are overbearing and a dominant feature, and which do not respect the existing scale and predominant heights of the ACA, contrary to guidance as set out in the Architectural Heritage Protection Guidelines and contrary to Development Plan Objectives and guidance, in particular that guidance as set out in Table 12.11 of same. This is evident from both shorter views towards the site, and from longer distances. I note there are longer views towards Quay Street (and towards proposed Block A) from the harbour and town car park. I refer the Board to Proposed Views 2, 8, 10, 11, 12, 13 and 14 of the Photomontages & CGI document for illustration of same. I note also that Block A would be clearly visible from northern end of High Street, over the back of existing residential and commercial properties which front onto Quay Street, and views should have been provided from this vantage point. The use of the zinc cladding and curtain wall glazing perpetuates the incongruous nature of the upper two floors, in my view, given their divergence from the prevailing materiality of the ACA.

10.3.17. In relation to Block B, notwithstanding the higher elevation of this area of the site, there are more limited views towards this block, and subsequently the wider visual impact, and the wider impact on the ACA, is therefore less profound. However, there are short to medium distance views to same, especially from the northern end of High Street, at the junction with Quay Street, where the proposed block is seen from a lower vantage point, perpetuating the visual impact of this block. Block B also sits adjacent to the single storey cottages along High Street (with a 3.9m setback from the gable end of the nearest single storey property on High Street), and the transition from single storey to five storeys in height is stark, notwithstanding the setbacks at the upper levels. As per Block A, the materiality of the upper floors is at odds with the prevailing materiality of the ACA. I am of the view that the upper floor should be omitted from this Block, and the setback of the 4th floor from the single storey properties on High Street should be increased (the 4th floor as viewed from High Street – this floor is in fact the 6th floor as per the submitted plans), as the upper floors of this block present a dominant and overbearing appearance where there are views towards same, at odds with the character of the ACA, and contrary to guidance within Development Plan. I note that the Planning Authority, whilst recommending refusal, have suggested a condition that Block A be reduced by one storey, with the remaining upper floor set back to a greater degree, and Block B by two, should the Board be minded to grant permission. However, I am of the view that the visual impact of Block A is far greater, and a reduction in height of two floors is warranted in this instance. As noted above, the visual impact of Block B is limited, but in medium term views and in its immediate context, the 5 storey height is excessive. However, I am not of the view that the omission of the two upper floors is warranted, subject to the amendments as suggested above being conditioned.

10.3.18. In relation to Block C, I note that this is limited to 3 storeys in height, and is set within the development site, with views of same limited to those from the rear of properties on Bridge Street, from the hotel and from proposed Blocks A and B. I am of the view that the scale of same is appropriate and subsequently the visual impact of same is acceptable.

District/Neighbourhood/Street

10.3.19. At the scale of the district/neighbourhood/street, I am of the view that the lower floors, up to shoulder height, respond well to the context of the site, and provide a

positive contribution to the creation of a streetscapes along Quay Street and High Street. However, I do not consider that overall height, scale and appearance of the proposal provides a reasonable transition between the lower heights of adjoining developments, and the higher built form proposed here. As per the discussion above, I am of the view that the upper floors of Blocks A and B are excessively dominant, given the existing low rise nature of High Street and Quay Street and having regard to the wider views that exist towards Quay Street.

10.3.20. In relation to the detailed design of the development, including the materials proposed, the Design Statement sets out the approach to same. In relation to Block A, fronting onto Quay Street, brick is the predominant material to 4th floor shoulder height, with an alternating colour and recesses within the elevation in order to break down the massing and to emulate the traditional plot widths. Light gray metal cladding is proposed for the set back 5th floor and curtain walling with a combination of glass and spandrel for the recessed 6th floor. Similar materials are proposed for the upper two setback floors of Block B, with brick utilised for the lower 3 storeys, with the redbrick reflecting neighbouring building materiality. White render is utilised also in order to break down the massing of the built form and to provide visual interest. In relation to Block C, this does not have a street frontage. This is a smaller block containing 4 no. apartment units. Materials are a buff brick with small elements of white render. As discussed above, up to shoulder height at least the proposal is successful in its integration with the streetscape and positively contributes to the character of the ACA and to the streetscape generally. However I share the concern of the Planning Authority in relation to the weathering of the render, and I am of the view that this should be replaced with a lighter coloured brick, where appropriate. This amendment can be sought be way of condition. As noted above, I am of the view that the setback floors are overly dominant, and this is not mitigated by the use of the proposed materials, which are not considered to be reflective of the materiality of the ACA in general and do not serve to break down the overall massing or to lighten the overall appearance of the proposal, as purported by the applicants in the Design Statement.

10.3.21. In terms of the public realm, as noted above the proposed retail units, and to a lesser degree, the residential amenity areas, provide activity and animation to the Quay Street elevation. A defined street edge is provided by the proposed built form. In

addition, upgrades to the existing footpath are proposed along Quay Street which will further enhance the public realm, over and above the existing situation.

Notwithstanding its non-statutory nature, I am of the view the proposal, subject to the amendments as I have suggested above, complies with the broad aims of the Balbriggan Rejuvenation Plan, as relates to Quay Street. Street planting is proposed on High Street.

10.3.22. In conclusion, I am of the view that, subject to the amendments as suggested above, the proposal would be in keeping with its immediate and wider context, and that the visual impact of same and the impact on the landscape would be acceptable, and the character and setting of the ACA would be preserved, and the setting of Protected Structures and other structures of heritage interest would be preserved, in line with the guidance as set out in Section 28 Guidance and as set out in the Development Plan.

10.3.23. Criteria 3.2 sets out that, at the neighbourhood scale, proposals such as these are expected to contribute positively to the mix of use and building dwelling typologies, I have considered the mix and building typologies below in Section 10.4 this report, and I have concluded the proposal complies with this criteria.

10.3.24. Further criteria to be considered within Section 3.2 include the need to ensure that the massing and height of the proposed development is carefully modulated so as to maximise access to natural daylight, ventilation and view and minimise overshadowing and loss of light, with appropriate and reasonable regard taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out. I have set out my assessment of the internal amenity of the proposed units, as results to daylight and sunlight in Section 10.4 below, and I am satisfied that a sufficient standard of daylight and sunlight would be provided to the units and that where minor shortfalls have been identified, sufficient compensatory design solutions are proposed within the scheme. I have considered the issue of overshadowing of proposed amenity spaces in Section 10.4 below. I have considered the issues of surrounding

residential amenity, in relation to overshadowing, daylight and sunlight in Section 10.5 below, and I am satisfied that there will be no significant adverse impact on surrounding residential amenity, as relates to daylight, sunlight and overshadowing impacts.

10.3.25. In relation to specific assessments, the Guidelines require that such assessments may be required, and refer to an assessment of micro-climatic effects, assessments of impact on bat/bird flight lines and an assessment of telecommunications impacts. In relation to same, I note that the applicants have submitted a 'Microclimatic Wind Analysis and Pedestrian Comfort Report' which concludes that all balconies and terraces throughout the development are situated in areas suitable for sitting - either as 'Outdoor Dining' or 'Pedestrian Sitting'. At ground level the conditions have been determined to be generally suitable for the same activities. As such there is no adverse impacts resulting from micro-climatic wind effects. I am not of the view that the height is such that any other specific technical assessments such as telecommunications study is required nor are the site sensitivities (in relation to birds and bats) such that at a specific bat or bird collision study/assessment is required.

10.3.26. The Design Statement submitted with the application evaluates the proposal against the criteria in context of the 12 design criteria set out in s.28 Urban Design Manual – A Best Practice Guide and it is stated that the proposal complies with same. In relation to the criteria set out the Urban Design Manual, I have evaluated the proposal in relation to same below.

Criteria 1 Context

10.3.27. I have considered this issue in paragraph in detail above and I have concluded that as submitted, the overall scale and quantum of development is inappropriate for the site's context and I have suggested conditions that would serve to reduce the overall scale, massing and visual impact, and that would result in a development more in keeping within its immediate and wider context.

Criteria 2 Connections - How well connected is the new neighbourhood?

10.3.28. I have considered this issue in detail in Section 10.2 above.

Criteria 3 Inclusivity - How easily can people use and access the development?/

Criteria 9 Adaptability - How will the buildings cope with change?

10.3.29. The proposal includes a mix of studio, 1 and 2 bed units and the buildings and outdoor spaces in the development have all been designed to be Part M compliant and follow universal design principles.

Criteria 4 Variety - How does the development promote a good mix of activities?

10.3.30. Given the nature of the proposal as a Strategic Housing Development, the proposal is by definition limited in terms of the mix of uses that can be provided. However, residential amenities totalling 217.03 sq. m and 2 no. retail units have been provided, and overall therefore a good mix of activities has been provided.

Criteria 5 Efficiency - How does the development make appropriate use of resources, including land?

10.3.31. I have considered the issue of the quantum of development, in terms of density, and while the principle of the density is acceptable, having regard to the locational characteristics of the site, the overall scale and massing of the development, as proposed is inappropriate for the site context. I have suggested amendments to overcome these concerns. In relation to energy efficiency, the Building Lifecycle Report sets out a number of energy efficient measures that have been incorporated into the design, which will ultimately reduce the overall light and heat demand of the finished units.

Criteria 6 Distinctiveness - How do the proposals create a sense of place?/Criteria

12 Detailed Design - How well thought through is the building and landscape design?

10.3.32. I have considered these issues in the above discussion (in terms of design and layout) and in Section 10.4 below (in terms of open space provision and landscape design).

Criteria 7 Layout - How does the proposal create people friendly streets and spaces?

10.3.33. The scale and characteristics of the site are such that no thoroughfare streets would be feasible, in the interests of ensuring an efficient use of the site. I have considered the issue of streetscape, and activity and animation at ground floor level above, and the issue of permeability in Section 10.6 below.

Criteria 8 Public Realm - How safe, secure and enjoyable are the public areas?

10.3.34. The limited scale of the site is such that no public open space or public areas have been provided within the site.

Criteria 10 Privacy and Amenity – How does the scheme provide a decent standard of amenity?

10.3.35. I have discussed compliance, or otherwise, with this criteria in detail in Sections 10.5 (in terms of neighbouring amenity) and 10.4 (in terms of residential standards).

Criteria 11 Parking - How will the parking be secure and attractive?

10.3.36. The quantum of parking is discussed in Section 10.6. In terms of compliance with Criteria 11, I note that the proposed car parking will be easily accessible to residents and are within a secure environment. Secure cycle parking facilities are provided.

10.4. Proposed Residential Amenities/Residential Standards/Mix

10.4.1. The Planning Authority have stated that confirmation should be sought that the minimum requirements for kitchens has been met and raise concern in relation to the residential units at ground and first floor within the courtyard in terms of proximity, overshadowing and low light levels achievable within these units. It is stated that the development may not achieve minimum ADF requirements for a large number of kitchen/living/dining rooms and bedrooms and that the default ADF Value for KDLs is 2% whereas the applicant has applied 1.5%. Concerns are also raised in relation to the residential amenity of the ground floor units fronting onto High Street and the usability of balconies on the High Street is also questioned and it is stated that it is appropriate to refuse or omit units that do not achieve internal lighting or usable private amenity space. The Planning Authority's recommended reason for refusal No. 2 refers to the insufficient natural lighting provided to the units and to the low qualitative standards of design and layout and state the proposal would be contrary to objectives DMS30, DMS90, and PM38 of the Fingal Development Plan 2017-2023 (as varied).

10.4.2. Observer submissions have stated that the studio and 1 bed units are too small and there is a need for family homes. It is contended that the development does not provide adequate living space or outdoor space and that little is offered to the existing community. It is contended that separation distances are inadequate and that an inadequate assessment of daylight and sunlight and overshadowing impacts has been carried out. It is further stated that an increased carbon footprint will result of the development. It is stated that there is no public open space and that a civic space should be provided. It is stated than the use of 1.5% ADF assessment criteria

uses for kitchen/living/dining spaces is incorrect. It is stated that there is a shortfall in the number of dual aspect units and that long unventilated corridors reliant on artificial lighting have been provided. Furthermore it is stated that the private open space at ground floor level is poor.

Daylight, Sunlight and Overshadowing

10.4.3. I note that the criteria under section 3.2 of the Building Height Guidelines include the performance of the development in relation to daylight in accordance with BRE criteria, with measures to be taken to reduce overshadowing in the development. Sections 6.5 to 6.7 of the Sustainable Urban Housing: Design Standards for New Apartments (December 2020) also contain similar requirements as relates to daylight provision. However, it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria. Section 1.6 of the BRE 209 Guidelines states that the advice given within the document is not mandatory and the aim of the guidelines is to help, rather than constrain the designer. Of particular note is that, while numerical guidelines are given with the guidance, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design, with factors such as views, privacy, security, access, enclosure, microclimate and solar dazzle also playing a role in site layout design (Section 5 of BRE 209 refers).

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

Daylight

10.4.5. In relation to daylight, the BRE 209 guidance, with reference to BS8206 – Part 2, sets out minimum values for ADF that designers/developers should strive to achieve, with various rooms of a proposed residential unit, and these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Section 2.1.14 of the BRE Guidance notes that non-daylight internal kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too. If the layout means that a small internal galley-type kitchen is inevitable, it should be directly linked to a well-daylit

living room. This BRE 209 guidance does not given any advice on the targets to be achieved within a combined kitchen/living/dining layout. However, Section 5.6 of the BS8206 – Part 2: 2008 Code of Practice for Daylighting states that, where one room serves more than one purpose, the minimum average daylight factor should be that for the room type with the highest value. For example, in a space which combines a living room and a kitchen the minimum average daylight factor should be 2%.

10.4.6. The application is accompanied by a Daylight & Sunlight Report, which considers *inter alia* the daylight achieved to the proposed units. It is demonstrated that 87% of the proposed rooms were in excess of the BRE Guidelines as relates to ADF. The target values that have been utilised are as follows:

- 1.5% for Living/Dining Areas
- 1.0% for bedrooms

10.4.7. The units are laid out with kitchen/dining/living areas (K/D/Ls) combined. The area where the kitchen area is based has not been assessed, and essentially the kitchen areas have not been analysed in the assessment. This is illustrated diagrammatically within the report (Fig. 5.0.4 of the report). Justification is set out for this within the report and, in summary, reference is made to the original introduction of the standards in 1964 which were introduced in recognition of the tasked based nature of lighting requirements, rather than environmental considerations. It is also noted that lighting within kitchens would have been rudimentary and would predate cooker-hood lighting etc. It is further set out that that the target of 2% ADF for kitchens was developed for residential housing, where the kitchen would be an identifiable space with seating and where occupants would be expected to eat and spend time in, and is not an appropriate target for combined kitchen/living/dining layouts within apartments.

10.4.8. I am satisfied that the alternative value of 1.5% for the living/dining areas is appropriate, and sufficient justification has been provided within the report for the use of same. I note the accessible urban location of the development, that supports higher density and apartment development, and therefore accept that traditional housing typologies that would provide a 2% ADF for L/K/Ds, are not appropriate for this site. I am satisfied that the quality of the spaces, aspect, and amenity spaces (including balconies etc) also ensure the quality of residential amenity to

compensate for any potential reduction in residential amenity as a result of the use of the lower ADF. The applicants have also set out measures that have been incorporated to maximise light availability and these measures include maximising glazing and minimising or offsetting balcony structures.

- 10.4.9. As noted above, it is reported that 97% of living/dining and bedrooms (a total of 221 of 228 rooms) were determined to be compliant with BRE standards based on the above targets (1.5% for living/dining and 1% for bedrooms). It is further set out within the report that most of these rooms comfortably achieved the ADF targets with 50% of the living spaces achieving an ADF in excess of 3%, with 85% achieving 2%. The average daylight factor in the bedrooms was in excess of 2.5%. Where rooms have not achieved compliance, the shortfall is generally minimal, both in terms of number of rooms and extent of the shortfall, and are generally confined to the lower floors, and daylight is limited by virtue of inset balconies and proximity to adjacent built form. For example, on the first floor of Block A, a bedroom area achieves an ADF value of 0.7% (target value is 1%). This room is set behind a recessed area which limits daylight to same. The two other shortfalls on this floor are due to similar constraints. In relation to Block B, at ground floor the two no. rooms that do not achieve the target above, and at 1st and 2nd Floor level, the shortfall in the one no. rooms on each floor is due to similar constraints. All rooms within Block C achieve the above targets.
- 10.4.10. In considering these results, I am aware that the report has effectively excluded the kitchen area from the analysis, and essentially has carried out an analysis on the living/dining element (although I note Appendix C has set out Alternative Daylight Calculations which I have discussed below). However, I am cognisant of the significant number of the living/dining elements achieving an ADF of 2% (85% of such rooms) with 50% achieving an ADF in excess of 3%, which indicates that the kitchen area will also achieve good daylight levels. A further 15% will achieve at least an ADF of between 1.5% and 1.99%, of such rooms, indicating that the standard for living rooms has been met, and given the kitchen is linked to same, the daylight levels to the kitchen will be sufficient. There is no living dining room where the ADF value falls below 1.5%.
- 10.4.11. Appendix C of the report sets out Alternative Daylight Calculations, which determines the Average Daylight Factor for the entire unit, including the kitchen areas and the

circulation areas. The results of same are not tabulated within the report and there is little discussion of same within the report. I am of the view that these are limited in their usefulness, as there is no defined BRE target for ADF for an entire unit, and therefore it is not possible to assess the result of this alternative analysis against BRE criteria.

10.4.12. Notwithstanding, and having regard to the detailed discussion above, I am satisfied that the levels of daylight achieved to the proposed units will, on balance, be acceptable, having particular regard to the need to develop sites such as these at a sufficient density and to the non-mandatory nature of the BRE targets.

10.4.13. I note that Criteria 3.2 of the Building Height Guidelines states that appropriate and reasonable regard should be had to the quantitative approaches as set out in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. It is acknowledged in these Guidelines that, where a proposal does not fully meet the requirements of the daylight provisions, this must be clearly identified and a rationale for alternative, compensatory design solutions must be set out. The Board can apply discretion in these instances, having regard to local factors including site constraints, and in order to secure wider planning objectives, such as urban regeneration and an effective urban design and streetscape solution.

10.4.14. As noted, the report submitted indicates that there are some minor shortfalls in daylight provision, on the lower floors of the proposed development. The extent of these shortfalls are made clear within the submitted report and the use of the 1.5% ADF target for the living/dining room (rather than a 2% target for the kitchen/living/dining) has been justified sufficiently. While the report does not consider the kitchen areas, justification is set out for this, and an appropriate ADF target value has been applied to the area that has been considered, which is the majority of the space within the living/kitchen/dining areas. BRE recommendations are that kitchens are attached to well day-lit living areas, and for all of the units here, this is the case. Where minor shortfalls are identified there are clearly identifiable reasons for same, including that the units in question are on a lower floor and that recessed balconies are obstructing levels of daylight or due to the proximity of the opposing blocks. Given the need to develop sites such as these at an appropriate density, full compliance with BRE targets is rarely achieved, nor is it

mandatory for an applicant to achieve full compliance with same. In addition, should the Board be minded to omit the two upper floors of Block A, and the upper floor of Block B, as recommended in Section 10.3 above, it is likely that that the daylight provision to the units on the lower floors of each block may well improve, over and above the reported results.

- 10.4.15. In terms of compensatory design solutions, I note the favourable orientation of the majority of the units, with most having a westerly, south-east, south-west or easterly aspect. In addition, the proposal provides a generous provision of communal amenity space, over and above the minimum requirement which will achieve good levels of sunlight (see below). The majority of the units are dual aspect (50.5%). Each of the units has either a ground floor terrace or a balcony space that meets or exceeds the minimum requirements. Internal residential amenity spaces totalling 217.03. m in area have also been provided. The proposal also contributes to wider planning aims such as the delivery of housing and regeneration of an underutilised site.
- 10.4.16. Having regard to above, on balance, I consider the overall the level of residential amenity is acceptable, having regard to internal daylight provision and having regard to the overall levels of compliance with appropriate BRE Targets, to the compensatory design solutions provided, and having regard to wider planning aims. As such, in relation to daylight and sunlight provision for the proposed units, the proposal complies with the criteria as set out under Section 3.2 of the Building Height Guidelines, is also in line with Sections 6.5 to 6.7 of the Sustainable Urban Housing: Design Standards for New Apartments (December 2020) and provides a satisfactory level of amenity for future occupiers.
- 10.4.17. In relation to the provisions of Objective DMS30 of the Fingal Development Plan I am satisfied that the proposal complies with the recommendations of the BRE Guidance, insofar as the BRE Guidance itself is explicit in the flexibility to be applied in applying the standards therein, and the recommendations of the BRE Guidance sets out clearly that there are instances, such as in historic cores such as this one, that flexibility can, and should be, applied. I am therefore of the view that the provisions of Objective DMS30 have been complied with it in this instance, and the proposal does not represent a material contravention of same.

Sunlight

10.4.18. In relation to sunlight to windows, the BRE guidelines refer to a test of Annual Probable Sunlight Hours (APSH) to windows. The APSH criteria involves an assessment of the level of sunlight that reaches the main living room window to determine the number of windows with an APSH level greater than 25% on an annual basis or 5% on a winter basis. The submitted assessment does not provide analysis in this regard; however, I note that the Building Height Guidelines do not explicitly refer to sunlight in proposed accommodation. The Building Height Guidelines state in criteria 3.2 that 'The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light'. Therefore, while daylight and overshadowing are explicitly referenced, there is no specific reference to sunlight, and reference is only to daylight, overshadowing or more generally 'light'.

10.4.19. However, objective DMS30 of the Development Plan refers to the application of BRE criteria in general. While there is no analysis provided, I note the orientation of the proposed units (as discussed above) which, in my view, will allow sufficient access to sunlight for the majority of the units. It is likely that the inclusion of recessed balcony areas, location on the lower floors and proximity to built form, will have a similar effect as set out above in relation to daylight. However the omission of the upper floor of Block B, as recommended above, would likely result in an improvement to the sunlight levels to the lower floors of Blocks A and C. Overall, given the orientation of the proposed blocks, I am satisfied that the acceptable levels of sunlight will be achieved to most living rooms in the proposed development in recognition of BRE criteria.

Overshadowing of Amenity Spaces

10.4.20. The BRE Guidelines recommend that for a garden or amenity area to appear adequately sunlit throughout the year, at least 50% of the area should receive at least two hours of sunlight on March 21st. For the proposed development, the central amenity space area was found to be compliant with the guidelines with 84% of the space, receiving at least 2 hours of direct sunlight on 21st March.

Public Open Space

10.4.21. The Fingal Development Plan sets standards for Public Open Space, the overall standard for public open space provision is a minimum 2.5 hectares per 1000 population. In general this shall be provided at a ratio of 75% Class 1 and 25% Class 2. Objective PM52 requires a minimum public open space provision of 2.5 hectares per 1000 population. For the purposes of this calculation, public open space requirements are to be based on residential units with an agreed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms. This is also set out in Objective DMS57. Objective DMS57 requires inter alia a minimum 10% of a proposed development site area be designated for use as public open space.

10.4.22. In this instance the applicants are not providing any public open space. The Planning Authority have not raised an objection to same, and conclude that a payment in lieu is acceptable, by way of a special contribution, which will provide for upgrades of the Bremore Regional Park. I am cognisant of the limited site area, and the need to develop the site at a reasonable efficiency in line with national, regional and local policy, and I accept a payment in lieu is appropriate in this instance.

Communal Open Space

10.4.23. It is proposed to provide 0.14 ha of communal open space at podium level in a central courtyard, a total of 0.3% of the total site area. This provides a landscaped area and provides for informal play and seating areas, and is linked to the residents amenity space located to the south.

10.4.24. The Design Standards for New Apartments (2020) sets out standards for communal amenity space (Appendix 1 of same). Communal Amenity Space and Private Amenity Space is calculated as 4 sq.m for studio, 5 sq.m for a 1 bed unit, 6 sq.m. for a 2 bed (3 person) 7 sq.m. for a 2 bed (4 person) unit and 9 sq.m. for 3 bed unit. The overall requirement for both would therefore equate to 527 sq. m.

10.4.25. In relation to communal space, SPPR 8 states that for proposals that qualify as specific BTR development in accordance with SPPR7, flexibility shall apply to the provision of communal amenity space as set out Appendix 1 of same, on the basis of the alternative, compensatory communal support facilities and amenities within the development. Notwithstanding, the quantum as set out in Appendix 1 (527 sq. m) has been exceeded in this instance.

10.4.26. Objective DMS91 of the Fingal Development Plan requires communal amenity space within apartment developments, in the form of semiprivate zones such as secluded retreats and sitting out areas, complies with or exceeds the minimum standards set out in Table 12.6. These are similar to the standards set out above (but do not differentiate between a 2 bed 3 person unit and a 2 bed 4 person unit. The standards are 4 sq.m for studio, 5 sq.m for a 1 bed unit, 7 sq.m. for a 2 bed unit and 9 sq.m. for 3 bed unit. The proposed provision complies with same, notwithstanding the overarching provisions of the Design Standards for New Apartments (2020), and the flexibility allowed for BTR developments therein.

Private Amenity

10.4.27. In relation to private amenity space, SPPR 8 states that for proposals that qualify as specific BTR development in accordance with SPPR7, flexibility shall apply to the provision of private amenity space as set out Appendix 1 of same, on the basis of the alternative, compensatory communal support facilities and amenities within the development. Notwithstanding, the apartment units are provided with either a terrace or balcony of sufficient size and which meet standards as set out in the Design Standards for New Apartments (2020).

10.4.28. Objective DMS89 of the Fingal Development Plan requires that private balconies, roof terraces or winter gardens for all apartments and duplexes comply with or exceed the minimum standards set out in Table 12.6 of the Plan. These are similar to the standards set out in Appendix 1 of the Design Guidelines (but do not differentiate between a 2 bed 3 person unit and a 2 bed 4 person unit). The standards are 4 sq.m for studio, 5 sq.m for a 1 bed unit, 7 sq.m. for a 2 bed unit and 9 sq.m. for 3 bed unit. The proposed provision complies with same, notwithstanding the overarching provisions of the Design Standards for New Apartments (2020) and the flexibility allowed for BTR developments therein.

10.4.29. In relation to the provision of private amenity space to the ground floor units of Block B, I concur with the view of the Planning Authority, and with the view of some observer submissions, in that the quality of same is limited by virtue of its proximity to the street. Furthermore such provision can lead to anti-social issues, and in my view, can in fact lead to a reduction in the quality of accommodation provided to residents. In relation to same, I am of the view that these areas of amenity space

should be omitted from the 5 no. units that front onto High Street (Third Floor level – Block B), and the floor area of the bedrooms in each unit should be increased subsequently, utilising the area previously proposed for the balconies. This amendment can be sought by way of condition, should the Board be minded to grant permission. This omission of the private amenity space is in line with SPPR 8 that allows for flexibility in relation to the provision of amenity space for BTR units. In this instance, the units in question will benefit from larger bedroom spaces, and will also benefit from the provision of the residential amenities provided within the development.

Dual Aspect

10.4.30. 50.5% of the proposed apartment units within the scheme are dual aspect, in excess of the 33% required by the SPPR 4 of the Apartments Guidelines, for accessible sites such as this one.

Floor Areas

10.4.31. SPPR 3 of the Apartment Guidelines set out the minimum required floor areas for apartment schemes which are as follows – Studio Apartments (37 sq m), 1 bed (45 sq. m.), 2 bed/4 person (73 sq. m.) and 3 bed (90 sq. m). Planning authorities may also consider a two-bedroom apartment to accommodate 3 persons, with a minimum floor area of 63 square metres, in accordance with the standards set out in Quality Housing for Sustainable Communities, although no more than 10% of the units may comprise this type of category. The proposal includes 5 no. 2 bed 3 person units, which is less than the 10% maximum above (it equates to 5% of the overall units).

10.4.32. In addition, SPPR 8 of the Apartment Guidelines sets out that that the requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes. Notwithstanding this flexibility, 87 of the 101 units exceed the minimum requirement by at least 10%. The 12 no. studio units exceed the minimum standard by 9.5%, with the remaining 2 no units (Type 02C and Type 05A) exceeding the minimum standards by 9.3% and 8.12% respectively. As such the overall of floor area of the units is generous and will greatly enhance the amenity of the units for future occupants of same.

10.4.33. The proposed floor areas of the units meet the minimum standards for floor area as set out above.

10.4.34. Objective DMS24 'Require that new residential units comply with or exceed the minimum standards as set out in Tables 12.1, 12.2 and 12.3. of the plan. Table 12.2 of the Fingal Development Plan provides minimum standards for apartments. The Development Plan does not include the provision for a reduced size two-bed apartment, 63 sqm GFA, which is suitable for 3 persons. The proposed development includes 5 no. two beds which were deemed to be 3 person two-bed units. The proposed floor area of these units 71.89 sq. m, which is just over 1 sq. m. less than the requirement as set out in the Development Plan (but exceeds the requirement in the Apartment Guidelines). Notwithstanding while the proposal contravenes the above objective, by way of a very minor shortfall, I am not of the view that the contravention is material, nor is the Planning Authority of this view.

10.4.35. Objective DMS25 of the Development Plan requires that the majority of all apartments in a proposed scheme of 100 or more apartments must exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10%. The proposal has achieved this.

Storage

10.4.36. Appendix 1 of the Apartment Guidelines set out minimum storage areas which are as follows as follows – Studio Apartments (3 sq m), 1 bed (3 sq. m.), 2 bed/3 person (5 sq. m.), 2 bed/4 person (6 sq. m) and 3 bed (9 sq. m). SPPR 8 of the Guidelines states that flexibility can be applied to the provision of storage when considering BTR schemes. Notwithstanding the allowed flexibility, the applicants have set out that storage spaces has been provided in accordance with the above standards.

10.4.37. The standards in Table 12.2 of the Fingal Development Plan are as above, but do not differentiate between the 2 types of 2 bed units, and set a standard of 6 sq. m of storage for a 2 bed unit. For the 5 no. 2 bed/3 person units provided in this scheme, the storage space provided equates to 5.1 sq. m, which does not comply with the 6 sq. m. as set out above. This shortfall of 0.9 sq. m. is not material in my view, and as such I am not of the view that the contravention of DMS24 is material, nor is the Planning Authority of this view.

Mix of Units/Housing Typology

10.4.38. The proposed mix of units is as follows:

| Unit Type | Studio | 1 bed | 2 bed (3 Person) | 2 bed (4 Person) | 3+ bed | Total |
|-----------|--------|-------|------------------------|------------------------|-----------|-------|
| Apartment | 19 | 41 | 5 | 36 | - | 101 |
| % | 19% | 41% | 5% | 36% | - | 100 |

10.4.39. The Planning Authority have raised concerns in relation to the number of studio and 1 bed units being provided and it is stated that the provision of own door two-storey duplex units (within a three storey block) would underpin the residential nature of the street.

10.4.40. Observer submissions have stated that there is a lack of appropriate dwelling mix, size type and tenure and that there is a lack of family housing.

10.4.41. SPPR 7 of the Apartment Guidelines state that there shall be no restrictions on dwelling mix for proposals that qualify as BTR developments, such as this proposal. Objective PM38 of the Fingal Development Plan states the need to achieve an appropriate dwelling mix, size, type, tenure in all developments, and Objective PM40 seeks to ensure there is a mix and range of housing types provided to meet the diverse needs of residents. There is no specific required mix specified in the Development Plan, and the proposed mix here is allowed for under SPPR 7 of the Apartment Guidelines. In terms of the appropriateness of the mix, I note the range of units provided will provide for a diverse cohort of people including single people, couples, young families and downsizers who do not necessarily need or require larger homes. I note that the predominant housing typology in the wider area is larger family homes, and I am of the view that the typology proposed here will add to the choice of housing in the area, in line with PM 40 of the Development Plan.

Separation Distances

10.4.42. Objective DMS28 states that 'A separation distance of a minimum of 22 metres between directly opposing rear first floor windows shall generally be observed unless alternative provision has been designed to ensure privacy. In residential

developments over 3 storeys, minimum separation distances shall be increased in instances where overlooking or overshadowing occurs'.

10.4.43. In relation to same, I note there are no directly opposing rear windows. Block C does not have any windows on the western elevation and such the rear windows of existing properties on Bridge Street are not overlooked by same. The distance of the rear windows of 12-16 High Street is over 22m, and in any case the rear windows of same do not directly oppose Block A, given the orientation of Block A, relative to these dwellings. The proposal therefore complies with this objective and does not materially contravene same.

Units per Core

10.4.44. Objective DMS23 of the Fingal Development Plan states 'Permit up to 8 apartments per floor per individual stair/lift core within apartment schemes' The proposed blocks have up to 10 units per core, which is less than that allowed under SPPR6 of the Apartment Guidelines. Furthermore I note that SPPR8 does not set out a maximum number of units per core for BTR schemes such as this one. The proposed development has been designed to reflect standards described in Section 28 guidelines, and specifically the Apartment Guidelines. These standards take precedence over the standards set out in the Development Plan, and reflect a more up to date approach to development management standards for new apartment development. I am satisfied the number of units per core does not materially diminish the overall quality of the scheme, nor does it result in a material impact on the amenity of future occupiers. Notwithstanding, while the proposal contravenes the above objective, I am not of the view that the contravention is material, nor is the Planning Authority of this view (see also Section 10.15 below).

10.5. Impacts on Surrounding Amenity

10.5.1. The site adjoins and is relatively close to a number of residential properties on High Street and Quay Street as well as properties that front onto Bridge Street.

10.5.2. The Planning Authority have raised concerns in relation to the impact of the proposed development on surrounding residential amenities including overlooking/loss of privacy and visual impact. The Planning Authority's recommended reason for refusal No. 1 refers to the impact on residential amenity and impacts on visual amenity.

- 10.5.3. A number of observer submissions have raised concerns in relation to Daylight, Sunlight and overshadowing impacts, Loss of privacy/overlooking, visual impacts and impacts on views, noise impacts, impacts of dust, damage to adjacent property, separation distances including to Quay Street, High Street and rear of properties of 12 to 18 High Streets, as well as the impacts on the amenities and operation of the Hotel.

Daylight and Sunlight

- 10.5.4. I note that the criteria under section 3.2 of the Building Height Guidelines include reference to minimising overshadowing and loss of light. The Building Height Guidelines refer to the Building Research Establishments (BRE) 'Site Layout Planning for Daylight and Sunlight – A guide to good practice' and ask that 'appropriate and reasonable regard' is had to the BRE guidelines. However, it should be noted that the standards described in the BRE guidelines are discretionary and are not mandatory policy/criteria and this is reiterated in Paragraph 1.6 of the BRE Guidelines.
- 10.5.5. Paragraph 2.2.7 of the BRE Guidance (Site Layout Planning for Daylight and Sunlight - 2011) notes that, for existing windows, if the VSC is greater than 27% then enough skylight should still be reaching the window of the existing building. Any reduction below this would be kept to a minimum. If the VSC, with the new development in place, is both less than 27% and less than 0.8 times its former value, occupants of the existing building will notice the reduction in daylight.
- 10.5.6. The Daylight and Sunlight Report considers the impacts on daylight to existing adjacent buildings, in terms of Vertical Sky Component (VSC) and considers impacts on sunlight in terms of APSH, as well as overshadowing impacts. In relation to impacts on daylight, the reports sets out that, in the case of the High Street dwellings, an alternative benchmark has been utilised based on guidance in Appendix F of the BRE guide, given that the existing site is undeveloped and consists mainly of hardscape. The benchmark building was derived from the adjacent apartment site on High Street and is shown diagrammatically in the report. While not stated explicitly within the report, the benchmark building appears to be a 3 storey building, based on the existing height of the adjacent apartment building.

Daylight

- 10.5.7. In terms of daylight, Table 4.3 sets out the results on each of the properties considered on High Street and Quay Street, with the VSC benchmark value used in place of an 'existing' VSC value for the properties on High Street. In relation to the use of an alternative target value for skylight (daylight) and sunlight access, Appendix F of the BRE Guidelines state that the targets as set out in the main body of the BRE Guidance (in Sections 2.2, 2.2 and 2.3) are purely advisory, and different targets may be used based on the special requirements of the proposed development or its location. In this case the site is within a town centre site, which is predominantly undeveloped, and I accept that an alternative benchmark value for existing windows is, in principle, acceptable. In terms of determining an acceptable alternative target, BRE notes that such targets may be generated from the layout dimensions of existing development. In this instance the applicant has utilised the existing 3/4 storey apartment development adjacent to the site on High Street as a determinant of the benchmark building scale, and I accept that within this town centre site, such a benchmark is considered appropriate and is provided for within the BRE Guidance.
- 10.5.8. In relation to the impact on those properties on High Street, as noted, the existing VSC is not set out in the report, rather a benchmark VSC value is given, for the reasons as set out above. The results indicate that the VSC values for the existing properties on High Street (No.'s 17 to 37) would in fact, improve, over this benchmark value. There is no discussion on why daylight levels have improved over the benchmark building. However, it is likely that the materials utilised will increase reflectance over the benchmark building, with a subsequent improvement in daylighting to the existing windows (although this is not stated within the report). While perhaps it would have been preferable to provide further commentary on the VSC results, I have no evidence before me that indicates the results are inaccurate. The report also sets out results for No.'s 12 to 18 High Street, but an existing VSC value is utilised in this instance, rather than a benchmark. No explanation or justification is set out for this. Notwithstanding it is shown that the rear windows of these properties exceed BRE Targets for daylight, with the development in place. In relation to the properties on Quay Street (2A, 2B and 2C), it is shown that only one existing window will fail to achieve BRE targets, with the proposed VSC value being 74% of its former value (the target is 80%). However I am of the view that this

shortfall is minor and would not have a significant impact on the amenity of this existing residential unit.

10.5.9. I note that the submitted report has not considered the impacts on daylight to the rear windows of the adjacent 3/4 storey apartment building on High Street, a number of which are in close proximity to the boundary of the site, and will be within close proximity to the 4/5 storey built form of Block B. Notwithstanding, I note the aspect of these windows will remain relatively open to the west and as such I am of the view that these windows will continue to receive adequate daylight, with the development in place. I note also there are a number of rear windows of properties that face onto Bridge Street that have not been assessed in the report. However I note that these will be set back at least 6.7m from the built form of Block A (in the case of the rear windows of No.s 11 and 13 Bridge Street) or will be in closer proximity to Block C, which is limited to 3 stories in height. As such I am satisfied that these windows will continue to receive adequate daylight, with the development in place.

10.5.10. In relation to sunlight impacts, the units assessed are those windows within 90 degrees of due south, which are identified in the report as 2A, 2B, 2 C and 9 Quay Street. It is set out that each of these properties meet BRE targets in relation to same.

10.5.11. Having regard to the above, I am satisfied that impacts on daylight and sunlight to surrounding properties will be minor and, given the need to develop sites such as this one at an appropriate scale, will on balance be acceptable. Furthermore, should the Board be minded to omit the two upper floors of Block A, and the upper floor of Block B and reduce the extent of the remaining upper floor of Block B as recommended in Section 10.3 above, it is likely that that the daylight and sunlight provision to existing residential units on High Street and Quay Street, over and above the reported results.

Overlooking/Loss of Privacy

10.5.12. I note the existing properties on the opposite side of the development on High Street are approximately 13m from the proposed units within Block B, and the properties on the third floor and fourth floor of Block B (which read as the ground and first floor when viewed from High Street) will have windows and balconies directly opposing the existing properties on High Street. This separation distance replicates the

existing separation distances from the 3/4 storey apartment building to the properties opposite on High Street, as well as from the existing single storey units to the properties opposite. I acknowledge there are balconies proposed, but these are recessed within the building and again replicate the existing 3/4 storey apartment building where such recessed balconies are in place. I am of the view however that the screening/balustrading provided to the balconies should be more in line with that of the adjacent apartment building, which is more solid in appearance and provides more effective screening than the more open balustrading provided under this proposed. This can be sought by way of condition. Subject to such screening to the proposed balconies being provided I am satisfied that no significant overlooking of properties on High Street will result, having regard to the town centre location of the site where some impacts are unavoidable, having regard to the need to develop sites such as these efficiently.

10.5.13. Overlooking of the rear gardens of the single storey properties on High Street has been avoided by the use of angled louvres and I am satisfied that these design features will serve to reduce any impacts on these properties, as relates to overlooking.

10.5.14. In relation to those properties on Quay Street, I note there are no residential units on the ground floor of the proposed development fronting onto Quay Street. At first floor level the proposed units are a minimum of 9m from the existing units opposite. In relation to same, I note that this replicates the existing window to window distances of opposing residential properties and is a result of the narrow nature of Quay Street. I note also there is only a limited number of residential properties directly opposite the proposed development, with the majority of the opposite side of Quay Street occupied by the vacant casino building. There are a number of recessed balconies within the Quay Street elevation. As per above, more solid screening than currently proposed should be sought by way of condition. Subject to same, I am satisfied that with the proposed amended screening, no significant overlooking of properties on Quay Street will result.

Visual Impact/Visual Amenity/Impact on Views

10.5.15. I have considered the issues of visual and impact on views in Section 10.3 above.

Noise/Dust/Vibration

/Structural Issues

- 10.5.16. A number of observers have raised noise and dust as an issue and have raised concerns in relation to the structural impacts of the development on their properties. In relation to noise and dust, the applicant has submitted a Construction Management Plan which sets out *inter alia* measures to control and prevent nuisance emissions of noise and dust. Vibration monitoring will be employed during construction to ensure such vibrations from piling will be within acceptable limits. This is also a recommendation of the Ground Condition Investigation Report (July 2021). It is set out in the Construction Management Plan, and within the Ground Condition Investigation Report, that the proximity and depth of excavations will require a retaining wall structure, and addition details of same are set out in the 'Structural Intent Report – Retaining Wall Solution' report, with either a contiguous bored pile wall or a secant pile wall to be provided along boundaries adjacent to the Block B, which will minimise lateral displacement of walls of adjacent buildings either during construction or at operation stage,
- 10.5.17. Subject to condition requiring the mitigation measures as set out in the Construction Management Plan to be implemented, I am satisfied that noise and vibration impacts, and potential risk to surrounding properties at construction stage, can be reduced to acceptable levels.

10.6. Traffic and Transportation

- 10.6.1. In relation to traffic and transport issues, I have had regard to the Traffic and Transport Assessment (July 2021), the Construction and Environmental Management Plan (July 2021), the Stage 1/2 Road Safety Audit (July 2021) and the Mobility Management Plan (June 2021).
- 10.6.2. The Planning Authority submission state that the proposed residential parking provision is too low and would result in overspill onto Quay Street and High Street. It is also stated that there is a shortfall of 10 cycle spaces and there is a lack of details in relation to same. In relation to impacts on the surrounding road network, the PA state that the Traffic and Transport Assessment (TTA) has underestimated traffic generation and that not all relevant junctions have assessed. However the PA accepts that the previous shopping centre use would have had a more significant impact on the road network than the current proposal.

- 10.6.3. Observer submissions cite the lack of capacity on rail services in the area and state that insufficient car parking spaces have been provided. It is stated that this will impact negatively on the locality and on the operation of the Bracken Court Hotel. It is further stated that the proposal will result in an increase in traffic volumes. Safety concerns are raised in relation the proposed development, namely that there is no path or cycleway at the junction of High Street and Quay Street

Proposed Transport Infrastructure in the Wider Area

- 10.6.4. Objective BALBRIGGAN 7 sets out to preserve and improve access to the harbour, beaches, seashore, and other coastal areas while protecting environmental resources including water, biodiversity and landscape sensitivities. Objective BALBRIGGAN 11 seeks to ensure a safe and convenient road, pedestrian and cycle system promoting permeability, accessibility and connectivity between existing and new developments within the town. Objective BALBRIGGAN 12 seeks to promote and facilitate an enhanced railway station (a Protected Structure) and rail service, including the extension of the DART rail service to Balbriggan. Objective BALBRIGGAN 13 seeks to promote and facilitate the operation of two local interconnecting bus services connecting the residential area to the town centre, commuter rail and bus services and the industrial areas at Stephenstown, and facilitate the provision of a park and ride facility at an appropriate location adjacent to the interconnecting bus routes. Map No. 4 of the Fingal Development Plan 2017-2023 indicates cycle improvements along High Street as well as within the wider area.

Car and Cycle Parking

- 10.6.5. The Planning Authority's Recommended Reason for Refusal No. 3 refers to insufficient car parking and it is contended that the proposed provision materially contravenes Objective DMS113 of the Fingal Development Plan 2017-2023 which requires parking provision to be in accordance with table 12.7
- 10.6.6. I note a Material Contravention Statement has been submitted by the applicant which considers the issue of *inter alia* car parking provision. As I have concluded below (and in Section 10.15), I am not of the view the proposal represents a material contravention as relates to car parking, for reasons which I have set out therein.

- 10.6.7. The proposal is a Build to Rent (BTR) development, and I refer to SPPR8 (iii) of the Apartments Guidelines which states that there shall be a default of minimal or significantly reduced car parking provision for such BTR developments, on the basis that such BTR development being more suitable for central locations and/or proximity to public transport services. In this instance a total of 25 no. car parking spaces are provided, which is a ratio of 0.25. I have set out the accessibility of the site and the suitability of the site for a BTR development in Section 10.2. above. In summary I have concluded that the town centre location within walking distance to Balbriggan Train Station and within walking distance to shops and services within Balbriggan allows for a reduction in car parking in line with SPPR 8.
- 10.6.8. Having regard to Table 12.8 of the Development Plan, I calculate a maximum parking demand of 98 spaces (49 for the residential element and 49 spaces for residential visitor parking). The report of the Transportation Planning Section of the Planning Authority state that the standards in the Development Plan are a 'norm' and it is set out in the submission that a reduced standard (a minimum) standard of 41 spaces would be required here.
- 10.6.9. Section 7.1 of the Development Plan refers to transportation in general, including the application of parking control standards. Objective DM113 of the Development Plan states that, *inter alia*, the number of car parking spaces at new developments will be in accordance with the standards set out in Table 12.8. As such there is a specific objective within the Development Plan that refers to the quantum of parking to be provided. However, the supporting text for same states
- In town and village centres where plot sizes are small, it can be difficult to provide car parking for new developments. Where Pay and Display systems are in operation, the parking demand can be accommodated on-street. As the use of on-street parking, especially permit-parking, saves developers the cost of providing their own car parking spaces and reduces Council revenue from Pay and Display, a contribution in lieu of parking is appropriate.*
- 10.6.10. As such there is flexibility within the Development Plan in relation to sites within town and village centres, such as this subject site. Furthermore, the report of the Transportation Planning Section of the Planning Authority state that the standards in the Development Plan are a 'norm' and it is set out in the submission that a reduced

standard (a minimum) standard of 41 spaces would be required here, although a payment in lieu has not been requested in this instance. I note there is Pay and Display Parking on High Street and Quay Street, which will mitigate against any overspill parking resulting from the development. As such I am of the view that given the flexibility afforded by the plan in relation to town and village centre sites, the proposal does not represent a material contravention of parking standards as expressed in the Fingal Plan, and having regard to the BTR nature of the scheme, to the accessible town centre location and the flexibility afforded by the Development Plan in relation to such sites, to the controlled parking in the surrounding area, I am satisfied that the proposed parking provision of 25 no. spaces is appropriate and will not lead to overspill parking in the surrounding streets.

Cycle Parking

- 10.6.11. The proposal provides for a total of 182 cycle parking spaces. This exceeds the Development Plan requirement of 121 no. spaces. For the residential element, Apartment Guidelines set out that 142 no. spaces are required, with 50 no. spaces required for visitor parking. As such there is a shortfall of 10 spaces. This can be required by way of condition.

Impacts on the surrounding road network

- 10.6.12. Section 3 of the Traffic and Transport Assessment (TTA) sets out existing traffic conditions, based on traffic counts carried out at 6 no sites on October 20th, 2020. Historic data available at four of these sites enabled comparison of 2020 traffic levels (affected by Covid-19 restrictions) with previously measured, pre-Covid traffic flows.
- 10.6.13. 4 no. junctions were considered in the analysis (High Street/Hampton Street, Hampton Street/Old Market Street and Hampton Street/Dublin Street) At the High Street/Hampton Street junction and at the Hampton Street/Old Market Street a 20% increase was applied to take account of Covid 19 impacts (based upon a comparison of present day traffic counts and historical data at each junction). At the Hampton Street/Dublin Street junction, it was found that background traffic flows were up to 10% higher than normal due to Covid 19 restrictions, and therefore background traffic growth was reduced by 10% accordingly. There is no explanation of why background traffic has increased rather than reduced as a result if the restrictions. Notwithstanding, in terms of the impacts on the surrounding road network, the TTA

analysis demonstrates that the proposals will generate a subthreshold impact on all key off-site junctions (i.e. less than 10% or 5% at congested junctions). The highest rate of increase is seen at the Hampton Street/Dublin Street junction, with an increase of 2.6% and 2.3% at the AM and PM peak hours respectively, by the opening year 2023.

10.6.14. In conclusion, having regard to the results as set out in the TTA, and to the limited car parking on the site, I am satisfied that any impacts on the surrounding road network will be acceptable, in terms of additional traffic volumes.

Access/Servicing/ DMURS

10.6.15. Vehicular access to the development is via Quay Street. Visibility splays are in accordance with Table 4.2 of DMURS, with 45m achievable from both sides of the road at the site entrance. External lane widths provision is 3m to 3.15m, with internal lane widths of 1.8m provided, in line with DMURS standards. Car parking dimensions are in accordance with DMURS also. In relation to permeability through the development, I note that the site topography is such that an accessible route through the site from High Street to Quay Street is not likely to be feasible. In addition, the site size is such that such a route may well compromise the overall amenity of the proposal, in terms of additional land take, reducing the area of communal space provided. The benefit of such a link is questionable with pedestrian desire lines from High Street likely to be towards the harbour/beach area or towards the town centre, both of which are already provided for. From Quay Street, desire lines are likely to be towards similar destinations, and again both routes are already provided for.

Road Safety

10.6.16. Observers have noted that there is no footpath for approximately 10m on the northern end of High Street, near the junction with Quay Street. The Planning Authority have not raised any safety concerns in relation to this. This issue is not addressed in the Stage 1/2 Road Safety Audit. In relation to same I note that an upgrade to provide a footpath here appears to be constrained by the narrow width of the road and what appears to be a historical boundary wall, that appears to be at least in part, associated with the Protected Structure at 'Kincora' on the northern end of High Street. While there may well be a viable solution to the provision of a

footpath here, I am of the view that the provision of same, and funding of same, by the applicant would not be proportionate to the scale of the proposed development, and in any case the Planning Authority have not suggested any contribution towards same, or cited any proposed works to same that would require a contribution. While the situation is not ideal, I am not of the view that the lack of footpath here raises such safety concerns as to warrant a refusal, and I note that there is alternative routes to the harbour available for residents of the development, via the Quay Street entrance, that provide a footpath for the entire route.

10.7. Ecology/Trees

- 10.7.1. The Planning Authority have not raised any objections in relation to ecology. The submission from the DAU concludes that the proposed development would only have minor temporary negative effects on biodiversity, with potentially some gains for nature conservation in the longer term, subject to the mitigation measures as set out in the EclA being implemented,
- 10.7.2. A number of observer submissions have raised issues related to general ecology, in relation to EIA Screening (which I have considered in Section 11 below) and in relation to Appropriate Assessment issues (which I have considered in Section 12 below). In relation to general ecology issues, observer submissions have stated that it is proposed to removal of trees on the site and that proposed replacement trees lie outside the demise of the developer. It is questioned as to how the proposal is protecting or enhancing biodiversity in line with Objective DMS 162 of the Development Plan.
- 10.7.3. The application is accompanied by an Ecological Impact Assessment (dated August 2021) and a Ba Assessment (date of survey 26/05/2021).
- 10.7.4. As described in the EclA, the dominant habitats locally include buildings and artificial surfaces, amenity grasslands and gardens as well as scattered trees and parkland. It is noted the site is 300m west of Balbriggan Bay and that the main habitats associated with this area include open water, and tidal mud and sand flats. Within the site itself it is noted that the habitats are limited and mainly consist of buildings and artificial surfaces (BL3) with some areas of scattered trees and shrubs along with pockets of recolonising bare ground. The biodiversity of the site is considered to be low, with no botanical features on the site of any scientific interest and no habitats

of biodiversity value in the site. There is no evidence the site is being used by any protected mammal species and there are no habitats within the site suitable for use by any of these protected species.

10.7.5. In relation to bats, the Bat Assessment carried out states that no signs of bat were found, with limited roosting potential on site. No bats were found roosting within the buildings. Two species of bat were recorded feeding and commuting around the building on site. The Bat Assessment concludes that there are low levels of bat activity in the area. In relation to birds, it is concluded that the site is not of high value for any bird species, given the limited habitats and the low availability of vegetated nesting habitats on the site. It is noted however that 5 no. pairs of nesting herring gulls were present on the roof of the existing building on the day of the survey, with a swallows nest recorded in one of the buildings, on the car park roof.

10.7.6. In relation the aquatic environment, it is noted that the site lies with the Nanny Delvin Hydrometric Area (08) and Catchment (09), the Palmerstown Sub-Catchment (010) and the Matt Sub-Basin (010). The closest watercourse is noted as the Bracken River, which runs 15m to the north of the application site. This flows behind the buildings which front on the north side of Quay Street, and it flows in a north-easterly direction where it discharges to Balbriggan Harbour, approximately 160m north-east of the site. The ecological status of the Bracken River or its tributaries has not been classified by the EPA, although the ECA states that it is generally considered to be At Risk of not achieving good ecological status as required under the Water Framework Directive.

10.7.7. Section 5.1 of the EclA sets out an Impact Assessment, with an emphasis on 'significant effects' rather than all ecological effects, as per CIEEM guidance. In relation to same I note the following:

Habitat Loss and Fragmentation – The development will lead to a loss and fragmentation of the majority of the habitats of the site. Such habitats are concluded to be of low biodiversity value, with some nesting sites lost. Overall the impacts are considered to be negligible. At operational stage, impacts are not considered significant.

Disturbance to local wildlife – There will be disturbance to local populations of birds and mammals during construction, but given the existing level of background noise,

such impacts are likely to be negligible. In relation to bats, the bat report (Bat Assessment) has concluded that there is low potential for bat roosts within the buildings, and little feeding opportunities on the site for bats, and therefore impacts on bats will be negligible. Subject to appropriate timing of demolition works, the impacts on the nesting herring gulls will not be significant, given the availability of similar nesting sites in the Balbriggan Area.

Pollution – Best practice measures are proposed during construction.

Landscaping – Appropriate landscaping will lead to beneficial impacts.

10.7.8. While no significant impacts are highlighted in the EclA, Section 6 of same sets out mitigation measures are these include best practice measures during construction, appropriate timing of nest removal, measures to ensure no spread of invasive species, introduction of bat boxes and appropriate lighting design, with appropriate planting at operational stage.

10.7.9. I consider that, subject to the recommendations of the appraisal being carried out, the impact on ecology will be minimal and I concur with the conclusions as set out in the EclA. I am of the view that, notwithstanding the comments from observer submissions, I am satisfied that sufficient surveys have been carried out, and that there is sufficient detail in the EclA in relation to the species on the site and mitigation measures design to minimise impacts on same, where appropriate. Specifically in relation to bats, while I acknowledge the submissions from observers in relation to the potential impacts on bats, I am satisfied that, subject to the measures as outlined in the EclA, and as set out in the Bat Assessment, being carried out, the impacts on bats will be as set out in the EclA; negligible at both construction and operational stage.

10.8. Flood Risk

10.8.1. Section 9.3 of the National Planning Framework (NPF) includes guidance for water resource management and flooding with emphasis on avoiding inappropriate development in areas at risk of flooding. National Policy Objective 57 requires resource management by “ensuring flood risk management informs place-making by avoiding inappropriate development in areas at risk of flooding in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities”.

- 10.8.2. Objective SW02 of the Fingal Development Plan (as varied) states the following; 'Allow no new development within floodplains other than development which satisfies the justification test, as outlined in the Planning System and Flood Risk Management Guidelines 2009 for Planning Authorities (or any updated guidelines)'. Objective SW04 requires the use of sustainable drainage systems (SuDS) to minimise and limit the extent of hard surfacing and paving and require the use of sustainable drainage techniques where appropriate, for new development or for extensions to existing developments, in order to reduce the potential impact of existing and predicted flooding risks.
- 10.8.3. The Planning Authority have not any objections in relation to Flood Risk and have stated that the proposal is in accordance with the Flood Risk Guidelines. Conditions are recommended.
- 10.8.4. Observer submissions note that Quay Street has been identified as an area that is prone to flooding. It is also stated that careful consideration is required in relation to groundwater levels to ensure no adverse impacts on neighbouring properties. The capacity of the existing sewerage system has been questioned also (see also discussion in Section 10.9).
- 10.8.5. A Flood Risk Assessment (August 2011) has been submitted with the application. It is noted that the nearest watercourse to the proposed site is the Bracken Stream located 15m to the north-west of the site. It is also noted the site lies approximately 450m south-west of Balbriggan Harbour and the Irish Sea. The site topography is such that the eastern part of the site is located on higher ground, between 13-14m OD while the rest of the site is relatively flat, with elevations ranging from 4-5m OD. Groundwater vulnerability is classified as 'high' to 'moderate' (such classifications reflect the potential risk of groundwater infiltrations through the bedrock and risk of groundwater contamination from the site). The report notes that there is no evidence of karst features at the site or in the surrounding area, which are generally linked to groundwater flooding.
- 10.8.6. In terms of historical flood events, no such events were recorded on or immediately adjacent to the site, with the nearest such event recorded 5550 to the north-west (Flooding at Covetown, Balbriggan from coastal sources). In terms of predictive flood mapping, it is noted that the site and surrounding area, has been subject to two flood

mapping and modelling studies (Irish Coastal Protection Strategy Study Phase 3 - North East Coast – 2010 and Fingal East Meath Flood Risk Assessment and Management Study (FEM FRAM) – 2014). The latter study was the more detailed and set out fluvial flood mapping for the 10%, 1% and 0.1% AEP events. The report indicates that the northern boundary of the site is within the 1% and 0.1% AEP Fluvial Flood extent. The northern boundary of the site is within the 0.1 AEP Tidal flood extent. The FRA concludes, having regard to the results of the FEM Flood Mapping, that the majority of the site is within Flood Zone C and at low risk of flooding, with the remaining 20% being within Flood Zone A/B.

- 10.8.7. In relation to other sources of flood risk, the risk of surface water flooding as a result of a poorly designed drainage system is highlighted and mitigations measures are set out in Section 5 of the report. The risk of groundwater flooding was considered low due to the lack of karst features in the area. There is no consideration of foul water flooding, as a result of insufficient capacity. The issue of foul water capacity has been highlighted by some observers. However, no previous events of foul overflow are cited on Quay Street, or on High Street, and the Planning Authority have not cited this as a concern. Irish Water have not highlighted any capacity constraints in relation to foul water (See also discussion in Section 10.9 below). As such I am of the view that the risk of foul water flooding, as a result of insufficient capacity, is low.
- 10.8.8. A site specific hydraulic model was developed for both fluvial and tidal flood risk, and the results of same are set out in Section 4 of the FRA. Results of the modelling are set out in Section 4.2.2 of the FRA and it is indicated that the site lies outside the extents of the 1% AEP and 0.5% AEP tidal events. An area along the north and north-west boundary of the site is shown to lie within the 0.1% AEP fluvial event.
- 10.8.9. Post development flood extents are set out in Section 4.2.3 and it is indicated that the development does not increase flood risk off-site. I am satisfied that there is no loss of flood plain as the proposed development replaces existing built form on the site which is of a similar extent at ground level to the proposed building line. Figure 4.4 indicates the ground floor level of the development with the retail unit 2, an area of the car parking, and a small area of the shared amenity space lying within the 0.1% AEP fluvial and 0.1% AEP tidal flood extents, with the remaining areas at ground floor level lying outside this extent, and therefore within Flood Zone C. The

FRA notes that the proposed residential units are located on the upper floors of the proposed development (on Quay Street) with minimum FFLs of 8.225m OD, providing a minimum freeboard of approximately 4m over all modelled flood events.

- 10.8.10. Mitigation measures are set out in Section 5 of the FRA with the Finished Floor Levels (FFLs) of the ESB substation, the shared amenities and the car park areas having a freeboard of at least 0.6m above the water level of the 0.1% AEP flood event, in compliance with the requirements of the Development Plan and the associated Strategic Flood Risk Assessment (SFRA). It is stated that in order to comply with Part M, the two no. retail units on Quay Street will have a FFL which will tie into the existing levels on Quay St. Retail unit No. 1 will still achieve a freeboard of 0.56m above the water level of the 0.1% AEP flood event while Retail Unit No. 1 will achieve only a 0.01m freeboard.
- 10.8.11. It is set out that access to the development can be maintained for events up to and including the 1% AEP flood event. While there is no identified pluvial flooding onsite, in order to minimise the risk of pluvial flooding, a threshold of 150mm is required from the FFL to the external ground levels. Surface water from the site will be managed by the proposed surface water proposals as described in Section below.
- 10.8.12. The impact of climate change is considered in Section 5.2 of the report, and it is shown that the achieved freeboard is reduced for each of the ground level uses, with the FFL of Retail unit 2 being 0.4m below the water level depth in a 0.5% AEP flood extent in the High End Future Scenario (HEFS).
- 10.8.13. Residual risks are set out in Section 5.3 of the report and the main residual risk is identified as the potential blockage of the upstream bridge. Modelling a blockage of 66%, it is shown that the freeboard to each of the uses at ground floor level is reduced with the two no. retail units at risk of flooding, with FFLs of same being at 0.05 and 0.41m below the predicted flood depth associated with such a blockage.
- 10.8.14. The report concludes that the key areas of the proposed residential dwellings and shared amenity areas will not be impacted by any of the modelled flood events. It is set out that the FRA was undertaken in accordance with 'The Planning System and Flood Risk Management Guidelines' and is in agreement with the core principles contained within. It is further stated that 'the Sequential Approach, and specifically

the Justification Test has been undertaken and passed as part of the Flood Risk Assessment Process’.

10.8.15. In relation to the latter statement, I note that no explicit Development Management Justification Test is included within the FRA, although it is the case that the Development Plan Justification Test has been carried out by the Planning Authority, and passed, in relation the zoning of the site (see below). Section 5 of ‘The Planning System and Flood Risk Management Guidelines’ sets out guidance in relation to the application of the Justification Test in development management. It is set out that when considering proposals for new development in areas at a high or moderate risk of flooding that includes types of development that are vulnerable to flooding (as set out in Table 3.2 of the Guidelines and reproduced below), the planning authority must be satisfied that the development satisfies all of the criteria as it applies to development management, outlined in Box 5.1 of the Guidelines (and as reproduced below). Box 5.1 states that the Justification Test is to be submitted by the applicant.

| | Flood Zone A | Flood Zone B | Flood Zone C |
|--|--------------------|--------------------|--------------|
| Highly vulnerable development (including essential infrastructure) | Justification Test | Justification Test | Appropriate |
| Less vulnerable development | Justification Test | Appropriate | Appropriate |
| Water-compatible development | Appropriate | Appropriate | Appropriate |

10.8.16. In this instance the highly vulnerable uses proposed include the residential units, the associated residential amenities and the ESB substation. The less vulnerable development uses include the 2 no. retail units. In terms of the associated uses not listed within the Guidelines, I am of the view that the car parking element could be defined as a less vulnerable use, noting its occasional use by occupants of the development.

10.8.17. It is my view, having regard to the site being identified as lying partially within Flood Zone A and B, and having regard to the fact that residential is defined as a vulnerable uses (requiring a Justification Test within Flood Zones A and B), and a retail use as a less vulnerable use (requiring a Justification Test within Flood Zone A), within the Flood Risk Management Guidelines, a Justification Test is required.

10.8.18. In terms of the requirements of the development management Justification Test, in setting out the below I have had regard to information that is accessible in the public domain (relating to the Fingal Development Plan 2017-2023 (as varied) and its associated Strategic Flood Risk Assessment (March 2017), and I have had regard to information that this contained within the applicant's Flood Risk Assessment.

| Development Management Justification Test | |
|--|--|
| Criteria | Response |
| The subject lands have been zoned or otherwise designated for the particular use or form of development in an operative development plan, which has been adopted or varied taking account of these Guidelines. | The site is a strategic site within Balbriggan Town Centre and is zoned for Major Town Centre uses, which includes residential and retail, under the Fingal County Development Plan 2017-2023 (as varied). The Development Plan, and the zoning objective for this site therein, have been subject to a Strategic Flood Risk Assessment (March 2017) and a Justification Test Carried out for same and was passed (as noted on Page 65 of the SFRA and within Appendix B 'Development Plan Justification Tests' of the SFRA). As noted with the FRA, the FFLs of the proposed development are based on the Development Plan and the associated SFRA. |

| | |
|---|--|
| <p>The proposal has been subject to an appropriate flood risk assessment that demonstrates that;</p> | |
| <p>a. The development proposed will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk;</p> | <p>The application is accompanied by a Flood Risk Assessment that demonstrates that the proposed development will not increase flood risk to other properties downstream of the site. The implementation of Surface Water Management Measures, including SUDS measures, will help to reduce flood risk to downstream areas by attenuating the flows that would have otherwise discharged directly into the surface water sewer or possibly the foul sewer.</p> |
| <p>b. The development proposal includes measures to minimise flood risk to people, property, the economy and the environment as far as reasonably possible;</p> | <p>The FRA notes that the residential units are located on the upper floors of the proposed development (on the Quay Street Frontage) with minimum FFLs of 8.225m OD, providing a minimum freeboard of approximately 4m over all modelled flood events. The FRA demonstrates that that retail unit No.1, the majority of the car parking and the shared amenity space, and the ESB substation are within Flood Zone C, and are at low risk of inundation. It is acknowledged that one of the retail units is located within Flood Zone B. Mitigation measures are set out in Section 5 of the FRA with the Finished Floor Levels (FFLs) of the ESB</p> |

| | |
|--|---|
| | <p>substation, the shared amenities and the car park areas having a freeboard of at least 0.6m above the water level of the 0.1% AEP flood event. It is stated that in order to comply with Part M, the two no. retail units on Quay Street will have a FFL which will tie into the existing levels on Quay St. Retail unit No. 1 will still achieve a freeboard of 0.56m above the water level of the 0.1% AEP flood event while Retail Unit No. 1 will achieve only a 0.01m freeboard. Access to the development can be maintained up to and including the 1% AEP flood event. To minimise the risk of pluvial flooding, a threshold of 150mm is required from the FFL to the external ground levels. Surface water from the site will be managed by the proposed surface water proposals as described in Section 10.9 below.</p> |
| <p>c. The development proposed includes measures to ensure that residual risks to the area and/or development can be managed to an acceptable level as regards the adequacy of existing flood protection measures or the design, implementation and funding of any future flood risk management measures and provisions for emergency services access.</p> | <p>Residual risks are set out in Section 5.3 of the report and the main residual risk is identified as the potential blockage of the upstream bridge. Modelling a blockage of 66%, it is shown that the freeboard to each of the uses at ground floor level is reduced with the two no. retail units at risk of flooding, with FFLs of same being at 0.05 and 0.41m below the predicted flood depth associated with such a blockage.</p> <p>The impact of climate change is considered in Section 5.2 of the report, and it is shown that the achieved</p> |

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| | <p>freeboard is reduced for each of the ground level uses, with the FFL of Retail unit 2 being 0.44m below the water level depth in a 0.5% AEP flood extent in the High End Future Scenario (HEFS).</p> <p>As per the Section 5.22 of the Flood Risk Management Guidelines, conditions in relation to additional flood resilience measures are required, namely details of proposed evacuation procedures, where necessary, for the two no. retail units, in the event of potential flooding of same in a future climate change scenario or in the event of a culvert blockage, as outlined the FRA.</p> |
| <p>d. The development proposed addresses the above in a manner that is also compatible with the achievement of wider planning objectives in relation to development of good urban design and vibrant and active streetscapes.</p> | <p>The proposed development delivers the wider planning objective of delivering residential and commercial uses within a town centre, is acceptable in terms of urban design, subject to conditions, and delivers an attractive, vibrant and active streetscape.</p> |

10.8.19. While the applicant has not submitted a 'standalone' Justification Test, I am satisfied that there is sufficient information within the Flood Risk Assessment, and within the public domain, to satisfy the requirements of the Justification Test as set out in the Flood Risk Management Guidelines. In relation to Objective SW02 of the Fingal Development Plan, I am satisfied that the proposed development satisfies the requirements of the Justification Test and, therefore, satisfies the requirements of this particular objective.

10.8.20. Having regard to the detailed considerations above, and having regards the conclusions of the Flood Risk Assessment, I am satisfied that the highly vulnerable elements of the proposed development (the residential units and the associated shared amenity areas) will not be subject to pluvial, fluvial flooding, groundwater or tidal flooding. While potential flooding of the retail units (a less vulnerable use) and an area of the car parking (which can be defined as a less vulnerable use) has been identified, I am satisfied that additional details relating to evacuation procedures can be sought by way of condition, as per Section 5.22 of the Flood Risk Management Guidelines. I have examined the mapping available on the OPW run website 'Floodinfo.ie' and this does not indicate any previous flooding events on site. The FRA notes other events in the wider area which I have discussed above. In relation to the operational stage of the development, I am satisfied that the proposal will not lead to an increased risk of flooding of adjacent sites.

10.9. Site Services

- 10.9.1. The application is accompanied by a Civil Planning Report (July 2021). This sets out proposals for water supply, surface water drainage and foul drainage.
- 10.9.2. The Planning Authority have not raised any in principle objection to the proposals to service the site. In relation to foul water, which is the remit of Irish Water, I note the Water Services Division have stated that it is noted that upgrades to the Quay Street foul pump station have been identified as a constraint on other applications in the wider Balbriggan Catchment and it is noted that proposed Development is within the Quay Street Pump Station catchment. However it is concluded that removal of the existing use, and removal of surface water discharging to the combined system have been considered [in relation to overall impacts] and no objections have been raised.
- 10.9.3. Observer submissions has cited similar concerns in relation to the Quay Street Pumping and has stated that there has been previous overflows from the pumping station.
- 10.9.4. In relation to wastewater, it is proposed to connect to the existing gravity sewer on Quay Street, which is a 525mm diameter sewer, as confirmed by Irish Water. Wastewater drainage will be separate to surface water drainage and will be designed according to Irish Water standard. As noted in Section 12 below, while not set out within the in the applicant's documentation on file, information within the public

domain¹ suggests that the foul discharge from Balbriggan (and therefore from the development site) is ultimately treated at the Barnageeragh/Balbriggan WWTP, located close to Skerries, which in turn discharges to the Irish Sea via a 2km long sea outfall. While there is some evidence on file that there are either capacity issues, or technical design issues, with the pumping station on Quay Street, I note Irish Water, who have oversight over same, have not cited any capacity concerns, in relation to the foul sewer network, the Quay Street Pumping Station or the Barnageeragh/Balbriggan WWTP, and have issued a Statement of Design Acceptance for the proposal. As noted by the Water Services Division the removal of the unattenuated surface water runoff from entering the sewer network will improve any capacity constraints on same.

- 10.9.5. In relation to surface water, it is noted that the existing surface water from the site does not appear to be attenuated and may be discharging directly into either the dedicated surface water sewer on Quay Street or into a combined sewer. The proposed operational surface water drainage strategy will include collection and attenuation of surface water runoff from the developed site via a blue roof system located on the flat roof elements and on the podium slab area. This will be supplemented by green roof systems. Interception storage is provided by planting on the green and blue roofs. In relation to this storage, it is noted the planted and landscaped areas total 1,850 sq. m with a drainage board within the green and blue roof build ups which stores up to 13.5mm of rainfall. This, in combination with the planting substrate will exceed the recommendations of the Greater Dublin Urban Drainage Strategy (GDSDS) in relation to interception storage. Interception storage is also provided within the paved area of the ground floor courtyard, which also exceeds recommendations of the Greater Dublin Urban Drainage Strategy (GDSDS) in relation to such storage, in relation to volume of storage.
- 10.9.6. The attenuation storage volume provided will cater for the runoff from a 1:100 year storm event and includes a 20% allowance for climate change.
- 10.9.7. For the rainfall that enters the car park area via the ventilation areas, this will drain to gullies and a class 1 bypass separator will be provided on the surface water outlet from the car parking, in the event of an oil spillage. Outlets from the attenuation

¹ Fingal County Council 2013 Annual Environmental Report for Balbriggan-Skerries Agglomeration
https://epawebapp.epa.ie/licences/lic_eDMS/090151b2804d3ceb.pdf

system will include flow control to limit discharge rates to greenfield rates. Surface water discharge will be to the existing surface water drainage sewer on Quay Street, via a piped gravity drainage system.

- 10.9.8. The report notes that due to the quantity of green roof and planting proposed in the development, surface water discharge volumes are likely to be very low and will only occur after significant rainfall events.
- 10.9.9. I am generally satisfied that, subject to details of the proposed foul and surface water infrastructure being to the satisfaction of the Planning Authority and Irish Water, the proposals will be adequate to serve the proposed development.

Water Supply

- 10.10. Water supply to the development will connect to the existing mains in Quay Street and High Street and all watermain infrastructure will be designed according to Irish Water Standards.

10.11. Other Issues

- 10.11.1. Archaeology – I note that no Archaeological Impact Assessment has been carried out. The submission from the DAU, in relation to archaeology, states that given the large-scale nature of the proposed development and its location, it is recommended that the applicants carry out an Archaeological Impact Assessment of the proposed development site. In relation to same, However, I note the site does not lie within a 'Zone of Archaeological Notification', as identified on Sheet 4 'Balbriggan' of the Fingal Development Plan. Mapping Information on the Historic Environment Viewer on Archaeology.ie website does not indicate any features of archeological interest on or within proximity to the site. I have had regard also to the previous works on the site which would have an impact on archaeology, and I note the site is almost entirely built over. The Planning Authority have not raised any concerns in relation to potential impacts on archaeology nor have observer submissions. However, I am of the mind, that a standard condition in relation to an archaeological appraisal and monitoring would be expedient in this instance and if the Board is minded to grant, I recommend the imposition of same. I do not consider that the lack of an Archaeological Impact Assessment represents a material deficit in terms of the information provided, and I am satisfied that there is sufficient information before the Board, including that information available in the public domain on the Historic

Environment Viewer on Archaeology.ie, to conclude that, subject to conditions, there is unlikely to be any significant impact on existing archaeology on the subject site, or on any archaeological features in proximity to the site.

10.11.2. Childcare Provision - No childcare provision is proposed under this application. The Planning Authority has not deemed the provision of childcare facilities necessary in this instance. The Childcare Assessment sets out that there is adequate childcare capacity in the area. As such I am satisfied that an additional childcare facility as part of this application is not warranted.

Oral hearing Request

10.11.3. Section 18 of the Planning and Development (Housing) and Residential Tenancies Act 2016 provides that An Bord Pleanála may in its absolute discretion hold an oral hearing, and in making its decision, shall have regard to the exceptional circumstances requiring the urgent delivery of housing, as set out in the Action Plan for Housing and Homelessness and shall only hold an oral hearing if there is a compelling case for such a hearing.

10.11.4. The submission made on behalf of Mark Kavanagh requests an Oral Hearing, although no specific grounds are requested. The submission raises a number of issues including matters relating to impacts on amenity, design and conservation, impacts on property values, nature of the BTR scheme, car parking, road safety and the need for investment in Balbriggan, as well as a consideration of the relevant Development Plan objectives that pertain to this proposed development.

10.11.5. In my opinion there is sufficient information on file to allow for a proper and full assessment of the case without recourse to an oral hearing. I do not consider that there is any exceptional circumstances or a compelling case for a hearing in this instance. I therefore recommend that the oral hearing request not be acceded to.

10.11.6. Property Values - A number of submissions have stated the proposal will result in a reduction in property values. This contention is not supported by any evidence of same and I do not consider the Board has sufficient evidence before it to conclude that the proposal would have an adverse impact on property values.

10.11.7. Part V - The applicant has submitted Part V proposals as part of the application documents. 10 no. units are currently identified as forming the Part V housing. The Planning Authority Housing Department have made detailed comments with respect

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

10.11.8. Objective RF04 (Variation 2) of the Fingal Development Plan 2017-2023 (as varied) I

note firstly there is in fact two objectives with the title 'Objective RF04'. Notwithstanding, RF04 of relevance in this instance is set out in Adopted Variation No. 2 of the Fingal Development Plan and the requirements of same are as follows: Submit a detailed statement for developments on land zoned residential or mixed use, in excess of 100 residential units outlining:

- Compliance with the sequential approach in relation to development of the area
- Potential for sustainable compact growth
- The scale of employment provision and commuting flows
- Extent of local services provision i.e. administration, education- particularly third level, health, retail and amenities
- Transport accessibility
- Environmental sensitivities, resources and assets and
- Current and planned infrastructure capacity

10.11.9. It is not stated if the applicant is required to submit the statement but it is likely that this is the case. In any case. I note that no standalone statement has been submitted in relation to this objective. However I am of the view that the information required by the objective is set out within other documentation as submitted with the application and in this regard I note the following:

10.11.10. The Planning Report, the Statement of Consistency and Statement of Response to Opinion from An Bord Pleanála, the Architectural Design Statement,

the Traffic and Transport Assessment, Mobility Management Plan address the issues of sequential development, compact growth, the scale of employment provision and commuting flows, the extent of local services provision and transport accessibility. The Ecological Impact Assessment, the Bat Assessment, the AA Screening Statement and the EIA Screening Statement consider the issue of environmental sensitivities, resources and assets. The Traffic and Transport Assessment and the Civil Planning Report consider the issue of current and planning infrastructure capacity. I have set out a detailed consideration of all of the above issues within the relevant sections of this report.

10.12. Planning Authority's Submission

10.13. The Planning Authority recommends that permission is REFUSED for the following 3 no reasons:

Having regard to the core principles of the National Planning Framework, and the RSES, which seek to deliver future environmentally and socially sustainable housing of a high standard for future residents and to achieve placemaking through Integrated planning and consistently excellent design, to the development strategy for Balbriggan contained in the Fingal Development Plan 2017-2023 and Our Balbriggan Rejuvenation Plan (2019 -2025) which seek to encourage sensitive redevelopment of this area within the ACA of Balbriggan. It is considered that the proposed development by reason of the response to the site context, and in particular the design, height scale, massing and positioning of the apartment blocks, would result in overdevelopment of the site, would be overbearing and visually obtrusive, and would detract from the character and amenities of the area, and therefore the proposed development in its current form would be contrary to the proper planning and sustainable development of the area. The proposed development would be contrary to objectives NH38, NH40, and DMS39 of the Fingal Development Plan (as varied) and would seriously injure the amenities of the area, including the residential amenity of nearby dwellings and the visual amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

10.13.1. I have considered all of the issues raised in the above recommended reason for refusal in Section 10.3 of the report and have concluded that subject to the

amendments as suggested above, the proposal would be in keeping with its immediate and wider context, and that the visual impact of same and the impact on the landscape would be acceptable, and the character and setting of the ACA would be preserved, and the setting of Protected Structures and other structures of heritage interest would be preserved, in line with the guidance as set out in Section 28 Guidance and as set out in the Development Plan.

Having regard to the Sustainable Urban Design Standards for New Apartments Guidelines for Planning Authorities Issued by the Department of Housing Planning and Local Government In March, 2018, the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities issued by Heritage and Local Government in May, 2009, and the policies and objectives in the Fingal Development Plan 2017-2023 (as varied), it is considered that the proposed development by reason of the response to the quality of a number of apartments with insufficient natural lighting, would result in low qualitative standards of design and layout and would be an overdevelopment of the site. The proposed development would be contrary to objectives DMS30, DMS90, and PMS6 of the Fingal Development Plan 2017-2023 (as varied) and would impair residential amenity to be enjoyed by future residents of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

10.13.2. I have considered the issue of residential standards, including daylight provision in Section 10.4 above and have concluded that the overall standard of amenity for the proposed units is acceptable, and will be further improved by the omission of floors on Block A and Block B as suggested above.

The level of car parking proposed at 25 spaces for 101 units overall, would by way of substantial underprovision, contravene the car parking standards set out in table 12.7 and materially contravene Objective DMS113 of the Fingal Development Plan 2017- 2023 which requires parking provision to be in accordance with table 12.7.

10.13.3. I have considered the issue of car parking in Section 10.6 above and have concluded that given the flexibility afforded by the plan in relation to town and village centre sites, the proposal does not represent a material contravention of parking standards as expressed in the Fingal Plan, and having regard to the BTR nature of the scheme, to the accessible town centre location and the flexibility afforded by the

Development Plan in relation to such sites, to the controlled parking in the surrounding area, I am satisfied that the proposed parking provision of 25 no. spaces is appropriate, and will not lead to overspill parking in the surrounding streets.

10.14. Section 5 sets out conditions in the event ABP are minded to grant planning permission. I have provided a response to those I consider to be of particular note are as follows:

Condition 2 – Block A to be a max of four storey shoulder height /deeper set back to the floor above this/Omit top two floors of Block B to a maximum of three-storey shoulder height

I have specifically considered this condition in Section 10.3 above

Condition 3 – Provide a brick finish which is light to dark brown

I have specifically considered this condition in Section 10.3 above

Condition 4 – Retail units of greater size and additional active entrances from Quay Street/Quay Street building line to be set back to allow for at least a 4m wide footpath in line with DMURS

I have specifically considered this condition in Section 10.2 above.

Condition 5 – Revised plans to ensure adequate ADF value/amend ground floor units to ensure residential amenity and defensibility

I have considered daylight provision and defensibility to the proposed units in Section 10.4 above and have suggest that the proposed amenity areas to the ground floor units on High Street be omitted from the scheme, and a larger bedroom area provided to same.

Condition 10 – Relating to play provision/street trees/financial contribution

I have considered this condition in Section 10.4 above.

Condition 13 – Revised Part V proposals

I have suggested a condition in relation to Part V.

10.15. Material Contravention

10.15.1. The applicant has submitted a Statement of Material Contravention which refers to potential material contraventions of the Fingal County Development Plan 2017-2023, in relation to the following:

- Height and Visual Impact (Policy Objectives DMS39, NH38 & NH40).
- Housing Mix (Policy Objectives PM38 & PM40).
- Public Open Space Provision (Policy Objectives PM52, DMS57 & DMS57a)
- Residential Design & Amenities (Policy Objectives DMS05, DMS23, DMS24, DMS25, DMS28, DMS32, & DMS75).
- Car Parking & Childcare Provision (Section 7.1, Table 12.8 Car Parking, & Policy Objective PM76).
- Development within an Architectural Conservation Area (Policy Objectives CH32, CH33, CH37, & DMS157).
- Compliance with Local Area Plan/Masterplan/Urban Design Framework (Policy Objectives SS02a & PM17).

10.15.2. The Planning Authority have stated that without omission of the proposed upper floors the proposal will lead to a material contravention of, inter alia, Objectives DMS30, DMS39, DMS90, DMS157, DMS158, NH38, NH40 and PM38 of the Fingal Development Plan 2017-2023.

10.15.3. Observer submissions have stated that the proposal is a material contravention of the zoning objective for the site. Other submissions have stated the proposal materially contravenes the Development Plan as relates to density, open space, building heights and visual impact, car parking requirements, provision of childcare, objectives as relate to Architectural Conservation Areas and as relates to Objectives SS02a and PM17 - Local Area Plan/Masterplan/Urban Design Framework.

10.15.4. Section 9(6)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 states that subjective to paragraph (b), the Board may decide to grant a permission for strategic housing development in respect of an application under section 4, even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned. Paragraph (b) of same states 'The Board shall not grant permission under paragraph

(a) where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land’.

10.15.5. Paragraph (c) states ‘Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development’.

10.15.6. The applicant has submitted a Statement of Material Contravention with the application identifying a number of potential areas that may be considered material contraventions of the Development Plan. The public notices make reference to a statement being submitted indicating why permission should be granted having regard to the provisions s.37(2)(b) of the Act. I note observer submissions state that the proposed development would not satisfactorily meet tests under national policy relating to material contraventions of the development plan, as well as suggesting additional matters that equate to material contraventions of the plan, and I set out my assessment of the application in relation to this below.

10.15.7. In relation to those matters raised in the applicant’s Material Contravention Statement, I note the following

Height and Visual Impact (Policy Objectives DMS39, NH38 & NH40).

10.15.8. DMS 39 States:

New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.

10.15.9. I have considered the issues of height, massing, boundary treatments in Section 10.3 of this report and I am satisfied that, subject to conditions, the proposal complies with same. I have considered the issues of trees and landscaping in Section 10.4 and I am satisfied that the removal of the trees will not have an impact on the character of the site and the landscaping proposals are appropriate. Notwithstanding I do not consider that the proposal in its submitted form would

materially contravene same, as there is no specific limits on heights or quantum of massing, or quantum or percentage of the boundary treatment to be retained, nor is there a determined level of tree removal that is set out in the objective.

Objective NH38

- 10.15.10. Objective NH38 seeks to 'Protect skylines and ridgelines from development'. I have considered these issue in Section 10.3 above. The development does not adversely impact on any views as identified in the Development Plan. Notwithstanding, it is not specified which skylines and ridgelines are to be protected. Development of built form within an area will most likely have some impact on a skyline and/or ridgeline and I am of the view that it is not the likely intention of the objective to prevent all development that has an impact on same. I am not of the opinion that the proposal materially contravenes Objective NH38.

Objective NH40

- 10.15.11. Objective NH40 seeks to 'protect views and prospects that contribute to the character of the landscape, particularly those identified in the Development Plan, from inappropriate development'.
- 10.15.12. As noted above, the development does not adversely impact on any views as identified in the Development Plan. I am not of the view the proposal as submitted, materially contravenes Objective NH40.

Housing Mix (Policy Objectives PM38 & PM40).

- 10.15.13. Policy Objective PM38 states '*Achieve an appropriate dwelling mix, size, type, tenure in all new residential developments*'. PM40 states '*Ensure a mix and range of housing types are provided in all residential areas to meet the diverse needs of residents*'.

- 10.15.14. I have considered the issue of mix in Section 10.4 above, and tenure in Section 10.2 above, and having regard to the BTR nature of the scheme, I am of the view that an appropriate mix, size, type and tenure has been provided, and the proposal will add to the mix and range of house types available, and as such I am not of the view that the proposal materially contravenes Objectives PM38 or PM40.

Public Open Space Provision (Policy Objectives PM52, DMS57 & DMS57a)

PM52 states *'Require a minimum public open space provision of 2.5 hectares per 1000 population. For the purposes of this calculation, public open space requirements are to be based on residential units with an agreed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms.'*

10.15.15. Objective PM57a – *Require a minimum 10% of a proposed development site area be designated for use as public open space. The Council has the discretion for the remaining open space required under Table 12.5 to allow provision or upgrade of small parks, local parks and urban neighbourhood parks and/or recreational/amenity facilities outside the development site area, subject to the open space or facilities meeting the open space 'accessibility from homes' standards for each public open space type specified in Table 12.5. The Council has the discretion for the remaining open space required under Table 12.5 to allow provision or upgrade of Regional Parks in exceptional circumstances where the provision or upgrade of small parks, local parks and urban neighbourhood parks and/or recreational/amenity facilities is not achievable. This is subject to the Regional Park meeting the open space 'accessibility from homes' standard specified in Table 12.5.*

10.15.16. The development does not provide any public open space. However I am of the view that the requirements of PM52 and PM57a are to be read in conjunction with Objective PM53 which states;
Require an equivalent financial contribution in lieu of open space provision in smaller developments where the open space generated by the development would be so small as not to be viable.

10.15.17. The Planning Authority has accepted that in this instance, a financial contribution is appropriate. I am also of that view, given the limited size of the site and the limited viability of any open space that could be provided on the site. As such I am not of the view that the proposal contravenes Objective PM52, and the Planning Authority are not of the view that the proposal contravenes Objectives PM52

Objective PM57 *'Require that intensive recreational/amenity facilities be agreed with, and given in ownership to the Council. The Council may directly manage these facilities and may grant management licences and/or sporting leases in respect of*

the operation of these facilities, and uses shall be consistent with the provisions of any deed of dedication to which the lands are subject. In areas which are subject to Local Area Plans, the general policy will be decided in the first place at Local Area Plan level, rather than when considering individual planning applications.

- 10.15.18. The Planning Authority have not suggested that such recreational or amenity facilities are required in lieu of open space and as such I am not of the view the proposal contravenes this objective.

Residential Design & Amenities (Policy Objectives DMS05, DMS23, DMS24, DMS25, DMS28, DMS32, & DMS75).

Policy Objective DMS05 states:

Require new residential developments in excess of 100 units and large commercial/retail developments in excess of 2000 sq m to provide for a piece of public art to be agreed with the Council.

- 10.15.19. The proposal does not proposed to provide a piece of public art. While the report of the Property Services Division, Economic, Enterprise, Tourism and Cultural Development suggests a condition requiring a piece of public art to be provided, and Condition No. 29 of the PA submission suggests the same. A condition can be imposed to required same, in an agreed location, as the objective does not require this art to be located on the site itself.

Objective DMS23 *'Permit up to 6 apartments per floor per individual stair/lift core within apartment schemes'*

- 10.15.20. I have set out my consideration of this issue in Section 10.4 above, while the proposal contravenes the above objective, I am not of the view that the contravention is material (for reasons set out in Section 10.4 above), nor is the Planning Authority of this view.

- 10.15.21. Objective DMS24 *'Require that new residential units comply with or exceed the minimum standards as set out in Tables 12.1, 12.2 and 12.3. of the plan'*. Table 12.2 of the Fingal Development Plan provides minimum standards for apartments. I have described in detail my qualitative assessment of the proposed development against standards in the Apartment Guidelines and I am satisfied that the proposed development is acceptable in this regard. Notwithstanding while the proposal

contravenes the above objective (see discussion of same in Section 10.4.34 above). I am not of the view that the contravention is material, nor is the Planning Authority of this view.

Objective DMS25 Require that the majority of all apartments in a proposed scheme of 100 or more apartments must exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10%.

10.15.22. The proposal has achieved this and therefore does not represent a material contravention of this Objective.

Objective DMS28 'A separation distance of a minimum of 22 metres between directly opposing rear first floor windows shall generally be observed unless alternative provision has been designed to ensure privacy. In residential developments over 3 storeys, minimum separation distances shall be increased in instances where overlooking or overshadowing occurs'.

10.15.23. The Planning Authority is not of the view that the proposed separation distance is a material contravention of their Development Plan. For reasons I have set out in Section 10.4 of this report, I am of the view the proposal complies with this objective, and therefore is not a material contravention of same.

Objective DMS32 'Prohibit proposals that would create a gated community for any new residential developments'

10.15.24. The Planning Authority are not of the view the proposal contravenes this objective of their Development Plan, nor have they referred to the term 'gated community'. The proposal does not provide any area of public open space nor does it provide a public thoroughfare through the site, nor is there ample opportunity to do so, as discussed in Section 10.6 above, and as such there is no overriding reason for general public access to the scheme. As with other apartment schemes of this type, the scheme provides security for residents by way of access gates. I am of the view that the term 'gated community' generally refers to traditional housing estates which prevent access to the wider community by way of gated vehicular access points, and I am not of the view it applies to the current proposal.

Objective DMS75 states 'Provide appropriately scaled children's playground facilities within residential development. Playground facilities shall be provided at a rate of 4 sq m per residential unit. All residential schemes in excess of 50 units shall

incorporate playground facilities clearly delineated on the planning application drawings and demarcated and built, where feasible and appropriate, in advance of the sale of any units.

- 10.15.25. The Planning Authority have not stated that the proposal contravenes this objective. The proposed courtyard includes a furnished play area that is 65m² plus a lawn of 192m² for more informal play and older children. I am of the view, that while the proposal does not provide the 404 sq. m as required by the objective, the shortfall is not material, in my view.

Car Parking & Childcare Provision (Section 7.1, Table 12.8 Car Parking, & Policy Objective PM76).

- 10.15.26. Section 7.1 refers to Transportation in general, including the application of parking control standards. The car parking standards as set out in Table 12.8 appear to be supported by Objective DM113 of the Development Plan and this states that, *inter alia*, the number of car parking spaces at new developments will be in accordance with the standards set out in Table 12.8. As such there is a specific objective within the Development Plan that refers to the quantum of parking to be provided. However, the supporting text for same states

In town and village centres where plot sizes are small, it can be difficult to provide car parking for new developments. Where Pay and Display systems are in operation, the parking demand can be accommodated on-street. As the use of on-street parking, especially permit-parking, saves developers the cost of providing their own car parking spaces and reduces Council revenue from Pay and Display, a contribution in lieu of parking is appropriate.

- 10.15.27. I have considered this issued in detail in Section 10.6 above, the proposal does not represent a material contravention of parking standards as expressed in the Fingal Plan, having regard to the considerations as set out in Section 10.6 above.

Objective PM76 - *Require as part of planning applications for new residential and commercial developments that provision be made for appropriate purpose built childcare facilities where such facilities are deemed necessary by the Planning Authority.*

- 10.15.28. No childcare provision is proposed under this application. The Planning Authority has not deemed the provision of childcare facilities necessary in this

instance. The Childcare Assessment sets out that there is adequate childcare capacity in the area. As such the proposal does not contravene this objective.

Development within an Architectural Conservation Area (Policy Objectives CH32, CH33, CH37, & DMS157).

Objective CH32 Avoid the removal of structures and distinctive elements (such as boundary treatments, street furniture, paving and landscaping) that positively contribute to the character of an Architectural Conservation Area.

10.15.29. I have considered this issue in Section 10.3 above and I do not consider the proposal contravenes same, nor or the Planning Authority of this view.

Objective CH33 Promote the sympathetic maintenance, adaptation and re-use of the historic building stock and encourage the retention of the original fabric such as windows, doors, wall renders, roof coverings, shopfronts, pub fronts and other significant features of historic buildings, whether protected or not.

Objective CH37 Seek the retention, appreciation and appropriate revitalisation of the historic building stock and vernacular heritage of Fingal in both the towns and rural areas of the County by deterring the replacement of good quality older buildings with modern structures and by protecting (through the use of Architectural Conservation Areas and the Record of Public Structures and in the normal course of Development Management) these buildings where they contribute to the character of an area or town and/or where they are rare examples of a structure type.

10.15.30. Insofar as these objectives are relevant to this application, I have considered this issue in Section 10.3 of this report, I do not consider the proposal contravenes same, nor or the Planning Authority of this view.

Objective DMS157 Ensure that any new development or alteration of a building within or adjoining an ACA positively enhances the character of the area and is appropriate in terms of the proposed design, including: scale, mass, height, proportions, density, layout, materials, plot ratio, and building lines.

10.15.31. I have considered the issue of I have consider these issues in Section 10.3 of this report and I am satisfied that, subject to conditions, the proposal is acceptable. Notwithstanding, I do not consider that the proposal in its submitted form would materially contravene same, as there is no specific limits on heights, density, plot

ratio or quantum of massing, nor is there a determined layout, materiality or building line that is required to be adhered to.

Compliance with Local Area Plan/Masterplan/Urban Design Framework (Policy Objectives SS02a & PM17).

Objective SS02a Development will be permitted in principle on lands where there is a Local Area Plan or Masterplan in place and only when these lands are substantially developed will permission be granted for the development of lands without such a framework. Should the lands identified within a LAP or Masterplan not come forward for development in the short term, consideration will be given to other lands.

- 10.15.32. The site is not located in an area subject to a Local Area Plan or a Masterplan. I am not of the opinion that the proposal represents a material contravention of Objective SS02a.

Objective PM17 Consider the Urban Design Framework prepared for the centre of Balbriggan to inform and guide development in this area

- 10.15.33. As set out in the applicant's Material Contravention Statement, the Urban Design Framework (2004) is no longer publicly available. The Planning Authority have not made reference to this plan. The applicant's Material Contravention Statement states that this plan has been superseded by the Our Balbriggan 2019 – 2025 Rejuvenation Plan, which the application has had regard to (as set out in the Statement of Consistency and the Landscape Design Rationale). I am of the view that it would be unreasonable to require a development to comply with a framework document that no longer appears to be available, or relied upon by the Planning Authority. Furthermore the Development sets out that such Urban Framework Plans are advisory, indicating that strict adherence to same is not necessary. The Planning Authority do not consider the proposal represents a material contravention of PM17 and I am also of this opinion.

Other Potential Material Contraventions

- 10.15.34. While the Planning Authority's 3 no. recommended reasons for refusal only refer to one potential material contravention (as relates to car parking), the submission from the Planning Authority have also suggested additional matters that amount to material contraventions of the Development Plan, namely.

Objective DMS30 (as relates to compliance with BRE 209 and B.S.8206)

- 10.15.35. I have considered same in Section 10.4 above and I am not of the view that the proposal represents a material contravention of same.

Objective DMS157 (as relates to development within ACAs); Objective DMS158 (ACAs – Regard to Table 12.11)

- 10.15.36. I have considered the impact on ACA, and the requirements of Table 12.11 in Section 10.3 above. In relation to the wording of these objectives, I consider the requirements of same are subject to a subjective assessment, and I am not of the view the proposal in its submitted form would materially contravene same.

Objective DMS90 (as relates to screening of amenity spaces)

- 10.15.37. I have considered the issue of screening of balconies in Section 10.5 above, and subject to conditions requiring a more solid screening type I am satisfied that they will provide adequate screening for both proposed residents and will mitigate any overlooking of existing neighbouring residents. In any case, the wording of the policy is such that it requires a subjective assessment of same, and I am not of the view the proposal in its submitted form would materially contravene same.

- 10.15.38. Observer submissions have submitted that the proposal is a material contravention of the following additional policies and objectives, not considered above:

- 10.15.39. *MC Zoning Objective* – I have considered same in Section 10.2 above and I am not of the view that the proposal represents a material contravention of the zoning objectives for reasons set out therein.

- 10.15.40. *Density* – There is no specific objective in the Development Plan that sets out a specific density limitation for residential development in Balbriggan. As such I am not of the view the proposal represents a material contravention of any objective in the plan relating to density.

- 10.15.41. *Building Heights* – There is no specific restriction on heights for proposed development in Balbriggan. As such I am not of the view the proposal represents a material contravention of any objective in the plan relating to heights.

- 10.15.42. *Urban Framework Plan* – Objective BALBRIGGAN 2 also requires the implementation of the Urban Design Framework. As per the reasoning set out in

relation to Objective PM17 above I am not of the view the proposal represents a material contravention of this objective, nor is the Planning Authority of this view.

Conclusion

- 10.15.43. For reasons as set out above, I am not of the view that the proposal represents a material contravention of any aspect of the Fingal Development Plan 2017-2023 (as varied).

11.0 Environmental Impact Assessment (EIA) Screening

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

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

*a 'business district' means a district within a city or town in which the predominant land use is retail or commercial use.

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

- 11.1.3. It is proposed to construct 101 no. residential units, 2 no. retail units and associated site works. The number of dwellings proposed is well below the threshold of 500 dwelling units noted above. The site has an overall area of 0.42 ha and hence falls below the area threshold that applies to a business district and that applies to other areas. The site is a brownfield site, located in the town centre of Balbriggan, where there is existing residential and commercial uses. The introduction of a residential development will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage. An AA Screening Report has been

submitted which concludes that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, in view of the sites' Conservation Objectives and I concur with the conclusions of same. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Fingal County Council upon which its effects would be marginal.

11.1.4. Section 299B (1)(b)(ii)(II)(A) of the regulations states that the Board shall satisfy itself that the applicant has provided the information specified in Schedule 7A. The criteria set out in schedule 7A of the regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that could and should be the subject of environmental impact assessment. The submitted EIA Screening Report (dated August 2021) includes the information required under Schedule 7A to the planning regulations. In addition, the various reports submitted with the application address a variety of environmental issues and assess the impact of the proposed development, in addition to cumulative impacts regarding other permitted developments in proximity to the site, and demonstrate that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment. I have had regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts. I have examined the sub criteria having regard to the Schedule 7A information and all other submissions, and I have considered all information which accompanied the application including *inter alia*:

- Statement of Screening for Appropriate Assessment
- Construction and Environmental Management Plan
- Stage 1/2 Road Safety Audit
- Flood Risk Assessment
- Architectural Heritage Impact Assessment
- Bat Assessment

- Microclimatic Wind Analysis and Pedestrian Comfort Report
- Ecological Impact Assessment
- Operational Waste & Recycling Management Plan
- Construction & Demolition Waste Management Plan
- Landscape and Visual Impact Assessment
- Viewpoints Document (Site & Context – LVIA Scope)
- Landscape Strategy & Design Report
- Architectural Design Statement
- Residential Quality Audit
- Traffic and Transport Assessment
- Mobility Management Plan
- Ground Condition Assessment Report
- Civil Planning Report
- Structural Intent Report – Retaining Wall Solution
- Mechanical Service Specification
- Electrical Service Specification
- Part L Compliance & BEP Assessment
- Public Lighting Design Calculations Report
- Property Management Strategy Report
- Building Lifecycle Report
- Planning Report
- Statement of Consistency
- Childcare Assessment
- Statement of Response to Opinion from An Bord Pleanala

11.1.5. Noting the requirements of Article 299B (1)(b)(ii)(II)(C), whereby the applicant is required to provide to the Board a statement indicating how the available results of

other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account, I note that the applicant has submitted a 'Statement in Accordance with Article 299B (1)(b)(ii)(II)(C)'. This notes that the following assessments / reports have been submitted: -

- A Statement of Screening for Appropriate Assessment, a Bat Assessment, an Ecological Impact Assessment, a Construction and Environmental Management Plan and a Public Lighting Report have been submitted with the application, in support of the Habitats Directive (92/43/EEC), have been submitted with the application.
- A Statement of Screening for Appropriate Assessment, a Bat Assessment, an Ecological Impact Assessment, a Construction and Environmental Management Plan and an Operational Waste & Recycling Management Plan have been submitted, in support of the Water Framework Directive (2000/60/EC).
- A Statement of Consistency and a Material Contravention Statement have been submitted, in support of the SEA Directive (2001/42/EC).
- A Construction and Environmental Management Plan has been submitted, in support of the Environmental Noise Directive (2002/49/EC) and the Clean Air for Europe (CAFE) Directive (Directive 2008/50/EC).
- A Flood Risk Assessment and Civil Planning Report have been submitted, which was undertaken in response to the EU Floods Directive (2007/60/EC)

11.1.6. In addition to that set out in the applicant's 299B Statement I note the following:

- A Statement of Screening for Appropriate Assessment and an Ecological Impact Assessment, have been submitted with the application in support of the Birds Directive (2009/147/EC)
- SEA Environmental Reports for the Fingal Development Plan 2017-2023 (as varied)
- SFRA of the Fingal Development Plan (2017-2023 (as varied)
- A Construction & Demolition Waste Management Plan and Operational Waste & Recycling Management Plan which were undertaken in accordance with the Waste Management Act, 1996.

11.1.7. I have taken into account the above documentation above when screening for EIA. I have completed an EIA screening assessment of the proposed development with respect to all relevant considerations, as set out in Appendix A to this report. I am satisfied that the nature and scale of the project, the location of the project and the environmental sensitivity of the geographical area would not justify a conclusion that the proposed development would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects of which would be rendered significant by their extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances, the application of the criteria in Schedule 7 of the Regulations to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment and that an EIA is not required before a grant or permission is considered. This conclusion is consistent with the EIA Screening Statement submitted with the application. I am satisfied that information required under Section 299B(1)(b)(ii)(II) of the Regulations has been submitted. A Screening Determination should be issued confirming that there is no requirement for an EIAR based on the above considerations, and as per the conclusions of the EIA screening assessment in Appendix A of this report.

12.0 Appropriate Assessment

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

Compliance with Article 6(3) of the Habitats Directive

12.1.2. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal

will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

12.1.3. The applicant has submitted a Screening Report for Appropriate Assessment as part of the planning application (Statement of Screening for Appropriate Assessment). The Screening Report has been prepared by Noreen McLoughlin, MSc of Whitehall Environmental and is supported by an Ecological Impact Assessment prepared by the same author. The Report provides a description of the proposed development and identifies European Sites within a possible Zone of Influence (ZOI) of the development. The AA screening report concludes that the application, whether individually or in combination with other plans and projects, will have no impacts upon the Natura 2000 sites identified within the Zone of Influence and that the application does not need to proceed to Stage II of the Appropriate Assessment process.

12.1.4. Having reviewed the documents and submissions, I am satisfied that the submitted information allows for a complete examination and identification of all the aspects of the project that could have an effect, alone, or in combination with other plans and projects on European sites.

Need for Stage 1 AA Screening

12.1.5. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

Brief Description of the Development

12.1.6. The applicant provides a description of the project in Section 3.1 of the Screening Report. The development is also summarised in Section 2 of this Report. In summary, permission is sought for the demolition of the existing buildings on the site and construction of 3 no. apartment blocks (Blocks A - C) ranging in height from 3 to

6 storeys (with Block B over 3 no. lower courtyard floors) providing a total of 101 units as well as the provision of resident support facilities and services, 2 no. retail units, car parking (at ground floor), cycle parking, ESB substation/switch room, plant, bin stores, open space, landscaping, boundary treatments and all associated site works and services provision. The area is characterised by residential and commercial development and the site is within a town centre location.

12.1.7. The site is serviced by public water and drainage networks. Foul effluent will drain to an existing gravity sewer on Quay Street. Surface water will be separate from wastewater drainage and all wastewater infrastructure will be designed and constructed in accordance with Irish Water requirements as set out in Irish Water's "Code of Practice for Wastewater Infrastructure" and "Wastewater Infrastructure Standard Details". In relation to surface water, it is noted that the existing surface from the site does not appear to be attenuated and may be discharging directly into either the dedicated surface water sewer on Quay Street or into a combined sewer. The proposed operational surface water drainage strategy will include collection and attenuation of surface water runoff from the developed site via a blue roof system located on the flat roof elements and on the podium slab area. This will be supplemented by green roof systems. Interception storage is provided by planting on the green and blue roofs. For the rainfall that enters the car park area via the ventilation areas, this will drain to gullies and a class 1 bypass separator will be provided on the surface water outlet from the car parking, in the event of an oil spillage. Outlets from the attenuation system will include flow control to limit discharge rates to green field rates. Surface water discharge will be to the existing surface water drainage sewer on Quay Street, via a piped gravity drainage system.

12.1.8. The applicant's Screening Report notes that the habitats within the study area are limited and mainly consist of buildings and artificial surfaces (BL3), with some areas of scattered trees and shrubs along with pockets of recolonising bare ground. There was some evidence of previous growth of Japanese Knotweed, which was found to be dead, and it had been previously treated with herbicide. In relation the aquatic environment, it is noted that the site lies with the Nanny Delvin Hydrometric Area (08) and Catchment (09), the Palmerstown Sub-Catchment (010) and the Matt Sub-Basin (010). The closest watercourse is noted as the Bracken River, which runs 15m to the north of the application site. This flows behind the buildings which front on the

north side of Quay Street, and it flows in a north-easterly direction where it discharges to Balbriggan Harbour, approximately 160m north-east of the site. The ecological status of the Bracken River or its tributaries has not been classified by the EPA, although the Screening Report states that it is generally considered to be At Risk of not achieving good ecological status as required under the Water Framework Directive.

Submissions and Observations

- 12.1.9. The Planning Authority have not raised any issues as relates to Appropriate Assessment, nor have objections being raised in relation to surface water proposals. Irish Water have not raised any issues in relation to foul water proposals, nor have Irish Water cited capacity constraints as relates to foul water drainage, storage or treatment.
- 12.1.10. An observer submission has stated that the information provided with the AA Screening Report contains lacunae and is not based on appropriate scientific expertise. It is contended that the Zone of Influence is not reasoned or explained and that the criteria for determining the zone of influence has no basis in law. The limitation of the Zone of Influence to 15km from the site is not explained. It is further stated that the report does not provide sufficient reasons or findings as required, and that the conclusions and statements made therein do not identify any clear methodology and no analysis is offered in respect of the protected sites 'screened out'. It is further stated the report does not consider all aspects of the proposed development – including arising during the construction phase, such as construction compounds and haul roads. It is further contended that insufficient surveys have been carried generally, and also in relation to bird collision/flight paths, the report fails to consider all potential impacts on protected bird species, that no regard or inadequate regard has been given to cumulative effect and that the screening has had regard to mitigation measures. Other submissions have cited capacity constraints in the foul sewerage system, uncertainty in relation to the existing sewer network and cited the potential for pollution of the harbour and beach area, and impacts on the Bracken River. Previous overflows of raw sewerage from the underground sewerage storage tanks in Quay Street have been cited.

Zone of Influence

12.2. Section 2.5 of the Screening Report sets out the assessment methodology and stated the assessment considered all potential impact sources and pathways connecting the proposed development to Natura 2000 sites. A summary of the 11 no. European Sites that occur within a 15km radius of the proposed development is presented in Section 3.3 of the applicant's AA Screening Report. In relation to the use of the 15km radius, the screening report states that other sites further than this, but potentially within the zone of interest, were considered (although these are not explicitly referenced within the applicant's screening report). I have set out the 11 no. sites as identified in the applicant's Screening Report below, with approximate distance to the application site indicated:

- River Nanny Estuary and Shore SPA (004158) 5km north
- Skerries Islands SPA (004122) 6.4km south-east
- Rockabill to Dalkey Island SAC (003000) 7.9km east
- Rockabill SPA (004014) 8.3km east
- Boyne Coast and Estuary SAC (001957) 10.8km north
- Rodgerstown Estuary SAC (000208) 11.2km south
- Rogerstown Estuary SPA (004015) 11.2km south
- The Boyne Estuary SPA (004080) 12.7km north
- The River Boyne and River Blackwater SAC (002299) 14.7km north-west
- Malahide Estuary SAC (000205) 14.9km south
- Malahide Estuary SPA (004026) 14.9km south

12.3. The specific qualifying interests and conservation objectives of the above sites are described below. In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to Natura 2000 sites, and any potential pathways which may exist from the development site to a Natura 2000 site, aided in part by the EPA Appropriate Assessment Tool (www.epa.ie), as well as by the information on file, including observations on the application made by prescribed bodies and observers, and I have also visited the site.

12.3.1. In terms of determining the zone of influence, I would note that the site is not within or immediately adjacent to a Natura 2000 site. In identifying potential impact sources and pathways connecting the development to Natura 2000 site, I am satisfied that those sites identified with the applicant's screening report are within Zone of Influence of the project, as they could reasonably be considered downstream of the site, given the site's proximity to the Bracken River, and the fact this flows into Balbriggan Harbour and the Irish Sea, which has a hydrological connection with the sites identified above. There are no other immediately identifiable connections or pathways to any other Natura 2000 sites.

Table 1: European Sites/Location and Qualifying Interests

| Site (site code) and Conservation Objectives (source: NPWS) | Qualifying Interests/Species of Conservation Interest (Source: EPA / NPWS) |
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| <p>River Nanny Estuary and Shore SPA (004158)</p> <p>To maintain the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA and To maintain the favourable conservation condition of the wetland habitat in River Nanny Estuary and Shore SPA as a resource for the regularly occurring migratory waterbirds that utilise it.</p> | <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Herring Gull (<i>Larus argentatus</i>) [A184]</p> <p>Wetland and Waterbirds [A999]</p> |
| <p>Skerries Islands SPA (004122)</p> <p>To maintain or restore the favourable conservation condition of the bird species</p> | <p>Cormorant (<i>Phalacrocorax carbo</i>) [A017]</p> <p>Shag (<i>Phalacrocorax aristotelis</i>) [A018]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Purple Sandpiper (<i>Calidris maritima</i>) [A148]</p> |

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| listed as Special Conservation Interests for this SPA. | Turnstone (<i>Arenaria interpres</i>) [A169] Herring Gull (<i>Larus argentatus</i>) [A184] |
| Rockabill to Dalkey Island SAC (000300) To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. | Reefs [1170] Phocoena phocoena (Harbour Porpoise) [1351] |
| Rockabill SPA (004014) To maintain the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA. | Purple Sandpiper (<i>Calidris maritima</i>) [A148] Roseate Tern (<i>Sterna dougalli</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna parasitica</i>) [A194] |
| Boyne Coast and Estuary SAC (001957) To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. | Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] |

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| <p>Rogerstown Estuary SAC (0208)</p> <p>To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p> | <p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> |
| <p>Rogerstown Estuary SPA (004015)</p> <p>To maintain the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p> | <p>Greylag Goose (<i>Anser anser</i>) [A043]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Kinglet Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Wetland and Waterbirds [A999]</p> |
| <p>The Boyne Estuary SPA (004020)</p> <p>To maintain the favourable conservation condition of the bird species listed as Special</p> | <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> |

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| <p>Conservation Interests for this SPA and to</p> <p>to maintain the favourable conservation condition of the wetland habitat in Boyne Estuary</p> <p>SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.</p> | <p>Lapwing (<i>Vanellus vanellus</i>) [A142]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Little Tern (<i>Sterna albifrons</i>) [A195]</p> <p>Wetland and Waterbirds [A999]</p> |
| <p>The River Boyne and River Blackwater SAC (002299)</p> <p>To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected:</p> | <p>Alkaline fens [7230]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Pedion, Alnion incanae, Salicion albae) [91E0]</p> <p><i>Lampetra fluviatilis</i> (River Lamprey) [1099]</p> <p><i>Salmo salar</i> (Salmon) [1106]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p> |
| <p>Malahide Estuary SAC (0205)</p> <p>To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p> | <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> |

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| <p>Malahide Estuary SPA (4025)</p> <p>To maintain the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p> | <p>Great Crested Grebe (<i>Podiceps cristatus</i>) [A005]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Goldeneye (<i>Bucephala clangula</i>) [A067]</p> <p>Red-breasted Merganser (<i>Mergus serrator</i>) [A069]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis arctica</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Wetland and Waterbirds [A999]</p> |
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- 12.3.7. Section 3.4 of the applicant's screening report sets out an Impact Assessment and the issues examined are *inter alia* the size and scale of the project, land take, distance from Natura 2000 site, resource requirements, emissions, excavation requirements, transportation requirements, in-combination/cumulative impacts, duration of construction, reduction of habitat area, disturbance to key species, habitat or species fragmentation, reduction in species density and water quality. It is noted that the site has no ecological connectivity to any Natura 2000 site, and that there is sufficient distance between the application site and all Natura 2000 sites to ensure that potential direct and indirect impacts will be avoided, and that there will be no impacts upon the Qualifying Interests of any designated site. Direct, indirect and

cumulative impacts are ruled out due to the small size and scale of the development in relation to the overall size of the Natura 2000 sites identified. The closest water feature to the site is noted as being the Bracken River, which discharges to Balbriggan Harbour, which is not designated as an SAC/SPA. Clean surface water from the site will be directed into the public system and wastewater is discharged into the existing foul sewer. It is stated that the construction and operation of the proposed development will have no impacts when considered in combination with other plans and projects that have been screened for Appropriate Assessment or where mitigation measures have been included as part of Appropriate Assessment (Natura Impact Statement). In relation to potential impacts on bird species associated with any of the SPAs within 15km of the site, the applicant's Screening Report notes that the bird species in question are mostly wading species that use the estuarine and coastal habitats of the estuaries of Co. Dublin and Meath and surrounding areas and will not be impacted by the construction or operation of the proposed development. In relation to the five pairs of nesting herring gulls on site (as referred to in the EclA) it stated that demolition of the building will be done outside of the nesting season for these gulls, with alternative nesting opportunities being available within either the replacement building or the surrounding urban area.

- 12.3.8. In applying the 'source-pathway-receptor' model in respect of potential indirect effects, I note there is no watercourses on the site or on the immediate boundaries of the site. I note the Bracken River is some 15m from the site and that Balbriggan Harbour is some 150m from the site. There are indirect foul and surface water connections to Natura Sites as set out below. In terms of foul water connections I note that foul water from the development, this will be discharged to the existing foul sewer system. Information with the public domain indicates that wastewater is treated at the Barnageeragh/Balbriggan WWTP (as per discussion in Section 10.9 of this report) which discharges to the Irish Sea. As such there is an indirect connection to those Natura 2000 sites that are located in the Irish Sea. Surface water will be discharged to the existing surface water sewer network on Quay Street. This appears to outfall to the Bracken River, which discharges into Balbriggan Harbour and the Irish Sea, and as such there is an indirect connection to those Natura 2000 sites that are located in the Irish Sea, as listed in Table 1 above. There is no other evident pathway or connections from the site to any other Natura Sites. As such I am

satisfied that those sites as set out above in Table 1, and as identified by the applicant, are within the Zone of Influence of the development.

12.3.9. Consideration of Impacts on the Natura 2000 sites as set out in Table 1 above.

- There is nothing unique or particularly challenging about the proposed urban development, either at construction phase or operational phase.
- There will be no loss or alteration of habitat associated with the above Natura 2000 sites detailed in Table 1 as a result of the proposed development. In relation to the five pairs of nesting gulls (*Larus argentatus*) on the site, I note that this bird species is listed as a Species of Conservation Interest for both the River Nanny Estuary and Shore SPA (004158), which is located approximately 5km north of the site, and the Skerries Island SPA (004122), located 6.4km to the south-east of the site. The habitat provided on the site within which the gulls are nesting, are similar to those habitats which are ubiquitous throughout the urban area of Balbriggan, and in urban areas in general, and I am satisfied then that this habitat on the site is not associated with either the River Nanny Estuary and Shore SPA (004158), which is located approximately 5km north of the site, or the Skerries Island SPA (004122), located 6.4km to the south-east of the site. The displacement of the herring gulls from the site is not likely to result in an *ex-situ* impact on either of the SPA's, in my view. The NREWS have not raised a concern in relation to *ex-situ* impacts on the above listed SPAs, nor have they raised any other concerns in relation to any impacts on any Natura sites. As such I am of the view that *ex-situ* impacts on the River Nanny Estuary and Shore SPA (004158) and the Skerries Island SPA (004122) are not likely in view of the sites' conservation objectives. While the proposed displacement of the nests is scheduled to take place outside of nesting season (as legally required under other legislative codes), this is not done to avoid impacts on the River Nanny Estuary and Shore SPA (004158) and the Skerries Island SPA (004122), and is a standard measure employed when site works, which could affect nesting birds, are carried out, and I am not of the view that it constitutes mitigation for the purposes of AA.

- There is no evidence to suggest that the site encompasses any *ex-situ* breeding, roosting, staging or foraging habitats for any other bird species listed as Species of Conservation Interest (SCI) for the any of the Natura 2000 sites detailed in Table 1 above.
- There are no surface water features within the site although I note that there is a stream/river located approximately 15m to the north of the site (Bracken River). During the operational stage surface water from the proposed development will water discharge will be to the existing surface water drainage sewer on Quay Street, via a piped gravity drainage system. It is not set out within the AA screening report the surface water outfall is located, but I note that the applicant's EIA Screening Report, submitted with this application, states that it appears to outfall directly to the Bracken River. This then discharges to the Balbriggan Harbour. EPA mapping indicates 2 no. storm water overflow discharge locations, one within close proximity of the Bracken River and one within the Harbour itself. As such it is likely that attenuated surface water will discharge to either to the Bracken River, and which in turn discharges to Balbriggan Harbour or directly to the Harbour itself. According to the EPA Map Viewer, the Harbour area and the sea area surrounding it (Northwestern Irish Sea) is classified as 'Unpolluted' and has a WFD risk score of 'not at risk'. This coastal waterbody has a status of 'High' under the WFD 2013-2018.
- The nearest European sites to the proposed development site are as set out above, with the closest Natura 2000 site being River Nanny Estuary and Shore SPA (004158) 5km north of the site and Skerries Island SPA (004122), with the remaining 9 no. sites at a greater distance from the development site. The surface water pathway creates the potential for an interrupted and distant hydrological connection between the proposed development and European sites as set out above. During the construction phase standard pollution control measures are to be used to prevent sediment or pollutants from leaving the construction site and entering the water system. During the operational phase controlled volumes of clean, attenuated surface water will discharge to either to the Bracken River, and which in turn discharges to Balbriggan Harbour, or directly to the Harbour itself. The pollution control

measures to be undertaken during both the construction and operational phases are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface water treatment measures were not implemented or failed, I remain satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites as set out in Table 1 above can be excluded given the distant and interrupted hydrological connection, the nature and scale of the development and the distance and volume of water separating the application site from Natura 2000 sites as set out in Table 1 above (dilution factor).

- While not documented in the applicant's Screening Report, or within the documentation on file, information within the public domain states that the foul discharge from Balbriggan (and therefore from the development site) is ultimately treated at the Barnageeragh/Balbriggan WWTP, located close to Skerries, which in turn discharges to the Irish Sea via a 2km long sea outfall². The Planning Authority have cited general concerns in relation to the capacity of the foul water pumping station on Quay Street. An observer submissions has cited similar concerns and has stated that there has been previous overflows from the pumping station. I note Irish Water have not cited any capacity concerns, in relation to the foul sewer network, the Quay Street Pumping Station or the Barnageeragh/Balbriggan WWTP. However it would appear there is potential for an interrupted and distant hydrological connection between the site and sites in the Irish Sea (as listed in Table 1 above) due to the wastewater pathway via the WWTP or via an overflow from the Quay Street Pumping Station, which would ultimately flow to Balbriggan Harbour and the Irish Sea. In relation to the discharge from the WWTP, I note that the foul discharge from the site is negligible in the context of the overall capacity of the WWTP (which according the EPA Mapping is designed to serve a Population Equivalent of 70,000) and thus its impact on the overall discharge would be negligible. I note also the WWTP operates under a discharge

² Final County Council – Annual Environmental Report for Balbriggan-Skerries Agglomeration (https://epawebapp.epa.ie/licences/lic_eDMS/090151b2804d3ceb.pdf)

licence from the EPA and must comply with the licence conditions. The EPA is the competent authority in respect of issuing and monitoring discharge licences and the license itself is subject to the provisions of the Habitats Directive. I note the relevant coastal waterbody (Northwestern Irish Sea) is currently classified by the EPA as 'Unpolluted' and has a WFD risk score of 'not at risk'. Should there be an overflow of the Quay Street foul pumping station, I would note again the volume of foul water generated from this site is likely to be relatively minor relative to the volume received by the pumping station. Should there be a foul water overflow into the Harbour and subsequently the Irish Sea, again I remain satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites as set out in Table 1 above can be excluded given the distant and indirect hydrological connection (with the closest Natura 2000 site being 5km north of the site), the nature and scale of the development and the distance and volume of water separating the application site from Natura 2000 sites as set out in Table 1 above (dilution factor). Again I note the closest Natura 2000 site is 5km from this site.

12.3.10. On the basis of the foregoing, I conclude that the proposed development will not impact the overall water quality status of the Irish Sea and that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of European sites therein (and as listed in Table 1 above) in relation to in-combination impacts, given the negligible contribution of the proposed development to the wastewater discharge from Barnageeragh/Bulbriggan WWTP, I consider that any potential for in-combination effects on water quality in the Irish Sea can be excluded. Furthermore, other projects within the Fingal Area which can influence conditions in the Irish Sea via rivers and other surface water features are also subject to AA. In this way in-combination impacts of plans or projects are avoided.

12.3.11. It is evident from the information before the Board that the proposed development, individually or in combination with other plans or projects, would be not be likely to have a significant effect on those Natura sites listed in Table 1 above and that Stage II AA is not required.

12.3.12. Specifically in response to observer submissions I note the following:

AA Screening Report contains lacunae and is not based on appropriate scientific expertise

12.3.13. In relation to same I note the AA Screening Report does not set out ultimate discharge points for either surface water or foul water. I am satisfied that the surface water is likely to discharge to the Bracken River or Balbriggan Harbour, given the proximity of the surface water sewer to same. In relation to foul water, publically information available from appropriate sources, sets out that foul water from Balbriggan is treated at the Barnageeragh/Balbriggan WWTP, and I have discussed this above. The AA Screening Report is authored by Noreen McLoughlin, MSc, MCIEEM of Whitehill Environmental and I am satisfied that the conclusions therein are based on appropriate scientific expertise.

Zone of Influence is not reasoned or explained and that the criteria for determining the zone of influence has no basis in law. The limitation of the Zone of Influence to 15km from the site is not explained

12.3.14. The methodology for determining the zone of influence is set out in the AA Screening report and I am satisfied that the methodology employed is appropriate.

Report does not provide sufficient reasons or finding as required/conclusions and statements made therein do not identify any clear methodology/ no analysis is offered in respect of the protected sites 'screened out'/report does not consider all aspects of the proposed development – including arising during the construction phase, such as construction compounds and haul roads. –

12.3.15. I am satisfied that the reasoning and conclusions with the screening report are generally sound, and the screening report has considered all reasonable aspects of the development, having regard to the nature and scale of the development proposed.

Insufficient surveys have been carried generally, and also in relation to bird collision/light paths, the report fails to consider all potential impacts on protected bird species, that no regard or inadequate regard has been given to cumulative effect and that the screening has had regard to mitigation measures.

12.3.16. I am satisfied that sufficient site surveys have been carried out and sufficient consideration of potential impacts on birds is demonstrated within the report.

Capacity constraints in the foul sewerage system/uncertainty in relation to the existing sewer network/potential for pollution of the harbour and beach area/impacts on the Bracken Rive/Previous overflows of raw sewerage from the underground sewerage storage tanks in Quay Street.

12.3.17. I have considered this issued above. I note also Irish Water have not cited capacity constrained as relate to foul water and have issued a Statement of Design Acceptance for the proposal.

AA Screening Conclusion

12.3.18. It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the following sites: River Nanny Estuary and Shore SPA (004158); Skerries Islands SPA (004122); Rockabill to Dalkey Island SAC (003000); Rockabill SPA (004014); Boyne Coast and Estuary SAC (001957); Rodgerstown Estuary SAC (000208); Rogerstown Estuary SPA (004015); The Boyne Estuary SPA (004080); The River Boyne and River Blackwater SAC (002299); Malahide Estuary SAC (000206); Malahide Estuary SPA (004026) 14.9km, or any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

13.0 Conclusion and Recommendation

13.1.1. The proposed residential scheme is acceptable in principle at this site with regard to the relevant zoning objectives of the Fingal Development Plan 2017-2023 (as varied). The provision of a higher density residential development at this location is desirable having regard to its location with the town centre of Balbriggan, adjacent to existing residential and commercial development, its proximity to existing and proposed public transport services, and having regard to existing and proposed pedestrian and cycle infrastructure facilities. In addition, the site is located in an area with a wide range of social infrastructure facilities. The height, bulk and massing, detailed design and layout of the scheme are acceptable, subject to conditions omitting the two upper floors of Block A and the upper floor of Block B, and reducing the extent of the remaining upper floor of Block B. I am also satisfied that the

development would not have any significant adverse impacts on the amenities of the surrounding area. The future occupiers of the scheme will also benefit from a high standard of internal amenity and the proposal will contribute to the public realm. The overall provision of car parking and cycle parking is considered acceptable, subject to conditions. I am satisfied the future occupiers of the scheme will not be at risk from flooding, and the proposal will not increase the risk of flooding elsewhere.

- 13.1.2. Having regard to the above assessment, I recommend that section 9(4)(a) of the Act of 2016 be applied and that permission be GRANTED for the proposed development, subject to conditions, for the reasons and considerations set out below.

14.0 Recommended Order

Planning and Development Acts 2000 to 2019

Planning Authority: Fingal County Council

- 14.1.1. 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 11th Day of August 2021 by Rhonellen Developments Limited care of McGill Planning Ltd, 45 Herbert Lane, Dublin 2, D02 RR92

Proposed Development:

The development will consist of the following:

- Demolition of existing buildings (former supermarket building, car park, substation, and outbuildings (partially in retail use).
- Construction of a Build to Rent (BTR) development comprising 3 no. apartment blocks (Blocks A - C) ranging in height from 3 to 6 storeys (with Block B over 3 no. lower courtyard floors) providing a total of 101 units (19 no. studios, 41 no. 1-beds, 41 no. 2-beds).
- Provision of Resident Support Facilities/Resident Services and Amenities (c.217.03 sq.m)
- Provision of 2 no. retail units (c.110.15 sq.m)

- Provision of 25 no. car parking spaces (at ground floor and accessed from Quay Street), 182 no. cycle parking spaces.
- Provision of ESB substation/switch room, plant areas, bin stores, telecoms areas.
- Provision of open spaces, landscaping, boundary treatments, all associated site works and services provision.

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.

Reasons and Considerations

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

- (a) the location of the site in an established urban area, with the site zoned 'MC-Major Town Centre' within which residential and retail uses are 'acceptable in principle';
- (b) the policies and objectives of the Fingal County Development Plan 2017-2023 (as amended by Variation 1, 2 and 3);
- (c) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (d) Housing for All - a New Housing Plan for Ireland 2021;
- (e) the National Planning Framework which identifies the importance of compact growth;
- (f) 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;

- (g) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018 and particularly Specific Planning Policy Requirement 3;
- (h) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December 2020;
- (j) 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;
- (k) The Planning System and Flood Risk Management (including the associated Technical Appendices), 2009;
- (l) Architectural Heritage Protection – Guidelines for Planning Authorities (2011);
- (m) Childcare Facilities – Guidelines for Planning Authorities (2001);
- (l) The nature, scale and design of the proposed development and the existing availability in the area of a wide range of social, transport and water services infrastructure;
- (m) The pattern of existing and permitted development in the area;
- (n) The submissions and observations received;
- (o) The Chief Executive Report from the Planning Authority; and
- (p) The report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

Appropriate Assessment

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 Appropriate Assessment Screening document submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in

the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment

The Board completed an environmental impact assessment screening of the proposed development and considered the Environmental Impact Assessment Screening Report submitted by the applicant, which contains the information set out Schedule 7A to the Planning and Development Regulations 2001 (as amended), identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

Having regard to: -

(a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,

(b) The existing use on the site and pattern of development in surrounding area;

(c) The availability of mains water and wastewater services to serve the proposed development,

(d) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)

(e) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003),

(f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and

(g) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction and Environmental Management Plan, the Flood Risk Assessment, the Bat Assessment, the Ecological Impact Assessment, Operational Waste & Recycling Management Plan, the Landscape Strategy & Design Report and the Civil Planning Report;

The Board did not consider that the proposed development would be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

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 and quantum of development, would be acceptable in terms of pedestrian safety and would provide an acceptable form of residential amenity for future occupants. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

15.0 Conditions

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

Reason: In the interest of clarity.

2. The period during which the development hereby permitted may be carried out shall be five years from the date of this Order.

Reason: In the interests of proper planning and sustainable development.

3. The proposed development shall be amended as follows:

- (a) The fourth and fifth floors of Block A and the seventh floor of Block B shall be omitted from the proposal and the setback of the sixth floor plan of Block B shall be increased from the north-western (side) elevation of Block

B via the omission of the studio unit (Type 03) and the 2 bed apartment unit (Type 01A). The remaining quantum of units permitted is therefore 77 units.

- (b) The proposed colour renders proposed for Blocks A and B shall be replaced with alternative light coloured brick, the detail of which shall be agreed in writing with the Planning Authority.
- (c) The private amenity areas to the 5 no. units fronting onto High Street at third floor level of Block B (which are at street level on High Street) shall be omitted from the proposal and the bedrooms of each of the units shall be subsequently increased in floor area.
- (d) The proposed balustrading/screening proposed for the remaining private amenity areas of Blocks A and B shall be replaced with a design which is more solid in appearance, the final details of which shall be agreed in writing with the Planning Authority.

Amended plans detailing the above amendments shall be submitted and agreed in writing with the planning authority prior to the commencement of the development.

Reason: In the interests of protecting the setting of the Architectural Conservation Area, in the interests of visual amenity and in the interests of the amenity of the future occupants of the proposed development.

- 4. All mitigation and monitoring measures outlined in the plans and particulars, including the Ecological Impact Assessment, Bat Assessment, Construction and Environmental Management Plan (CEMP), the Flood Risk Assessment and subsequent reports submitted with this application 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.

- 5. The following requirements in terms of traffic, transportation and mobility shall be incorporated, and where required revised drawings/reports showing

compliance with these requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development:

- (a) The proposal shall incorporate an additional 10 no. cycle spaces.
- (b) The proposed development shall be undertaken in accordance with the recommendations and mitigation measures of the Traffic and Transport Impact Assessment.
- (c) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.
- (d) All works to public roads/footpaths/cycle ways shall be completed to the satisfaction of the planning authority.
- (e) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.
- (f) The applicant shall submit a Mobility Management Plan and details of car parking design, layout and management to the planning authority for agreement in writing prior to the commencement of development.

In default of agreement, the matter(s) in dispute shall be referred to An Board Pleanála for determination.

Reason: in the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

6. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. The spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission. Car parking spaces shall not be sold, rented or otherwise sub-let or leased to other parties. Car parking serving the entire development site shall be managed based on a detailed car parking

management plan. Prior to the commencement of development, such a detailed car parking management plan shall be submitted for agreement in writing with the Planning Authority.

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

7. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle 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.

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

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

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

Reason: In the interest of visual amenity.

10. The area of communal open space, as shown on the lodged plans shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within 3 years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

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

11. Public lighting shall be provided in accordance with a scheme which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any dwelling.

Reason: In the interests of amenity and public safety.

12. Water supply and the arrangements for the disposal of foul water, shall comply with the requirements of the Irish Water for such works and services.

Reason: In the interest of public health and to ensure a satisfactory standard of development

13. The developer shall enter into water and wastewater connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

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

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

15. Prior to the commencement of development, a revised Flood Risk Assessment shall be submitted to, and agreed in writing with the planning authority detailing the following amendments:

- a) Details of flood warning, and evacuation measures if necessary, in relation to retail units Nos. 1 and 2 which are shown to be flooded in a culvert blockage scenario and, in relation to retail unit No. 2, which is shown to be flooded in a High End Future Scenario (HEFS) as a result of climate change.

Reason: To minimise flood risk and in the interests of proper planning and sustainable development of the area.

16. 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.

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

17. 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.

18. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

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

19. The construction of the development shall be managed in accordance with a Final Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details of proposals as relates to soil importation and exportation to and from the site; details and location of proposed construction compounds, details of intended construction practice for the development, including noise and vibration management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.

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

20. The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material, and cleaning works shall be carried out on the adjoining public roads by the developer and at the developer's expense on a daily basis.

Reason: To protect the residential amenities of property in the vicinity.

21. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

22. Site development and building works shall be carried out only between the hours of 0700 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.

23. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

24. All items and areas for taking in charge shall be undertaken to a taking in charge standard. Prior to development the applicant shall submit construction details of all items to be taken in charge. No development shall take place until these items have been agreed.

Reason: To comply with the Councils taking in charge standards.

25. Prior to the commencement of development, the applicant shall liaise with the Fingal County Council Public Art Coordinator in relation to the provision of a piece of public art, the location of which shall be agreed with the Planning Authority.

Reason: In the interest of the amenity of the area and in accordance with Objective DMS05 of the Fingal Development Plan 2017-2023 (as varied).

26. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and

(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

(i) the nature and location of archaeological material on the site, and

(ii) the impact of the proposed development on such archaeological

material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

27. 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.

28. 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 reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, 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 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 of the development.

29. 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 for Fingal County Council 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.

30. In accordance with sections 9(4), 9(7) and 9(8) of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended the developer shall pay to the planning authority a financial contribution in lieu of the provision of public open space within the site, will be applied towards the upgrade of Bremore Regional Park, in accordance with the Fingal County Council Development Contribution Scheme 2021-2025, made under Section 48 of the Planning and Development Act 2000. The amount of contribution 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 for determination. The contribution shall be paid prior to commencement of

development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index-Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the development should pay a financial contribution in lieu of the provision of public open space within the site where the site is considered by the planning authority and An Bord Pleanála to be too small or inappropriate to fulfil useful purpose in this regard.

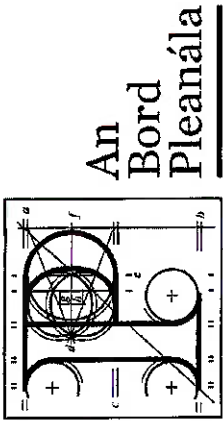


Rónán O'Connor
Senior Planning Inspector

22nd November 2021

DECISION QUASHED

Appendix A: EIA Screening Form



EIA - Screening Determination for Strategic Housing Development Applications

A. CASE DETAILS

An Bord Pleanála Case Reference

ABP-311095-21

Development Summary

Demolition of existing buildings, construction of 101 no. Build to Rent apartments and associated site works.

Yes / No /
N/A

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

An AA Screening Report has been submitted with the application

No

| | | |
|---|-----|--|
| 2. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR? | | |
| 3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant directives – for example SEA | Yes | Please see Sections 11.1.5 and 11.1.6 of Inspector's report for details of same. |

| B. EXAMINATION | | | |
|--|--------------------|---|--|
| | Yes/ No/ Uncertain | Briefly describe the nature and extent and Mitigation Measures (where relevant) | Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain |
| 1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning) | | (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect. | |

| | | | |
|--|-----|--|----|
| 1.1 Is the project significantly different in character or scale to the existing surrounding or environment? | No | The residential use, and the 2 no. retail units proposed, and the size and design of the proposed development would not be unusual in the context of this town centre location. | No |
| 1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)? | Yes | Such changes in land use and form are not considered to be out of character with the pattern of development in the surrounding area. | No |
| 1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply? | Yes | Construction materials will be typical of such urban development. Development of this site will not result in any significant loss of natural resources or local biodiversity. | No |
| 1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment? | Yes | Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be minimal and temporary in nature and implementation of a Construction and Environmental Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated. | No |

| | | | |
|--|-------------------|---|------------------|
| <p>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p> | <p>Yes</p> | <p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction and Environmental Management Plan will satisfactorily mitigate potential impacts.</p> <p>Operational waste will be managed via a Waste Management Plan to obviate potential environmental impacts. Other significant operational impacts are not anticipated.</p> | <p>No</p> |
| <p>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p> | <p>No</p> | <p>No significant risk identified. Operation of a Construction Environmental Management Plan will satisfactorily mitigate emissions from spillages during construction. There is no direct connection from the site to waters. The operational development will connect to mains water and drainage services. Irish Water have not cited any capacity constraints in relation to the foul water connection.</p> | <p>No</p> |

| | | | |
|--|-------------------|--|------------------|
| <p>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</p> | <p>Yes</p> | <p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Environmental Management Plan. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts. Lighting is designed to avoid overspill to adjoining lands</p> | <p>No</p> |
| <p>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</p> | <p>No</p> | <p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction, Environmental Management Plan would satisfactorily address potential impacts on human health. No significant operational impacts are anticipated.</p> | <p>No</p> |
| <p>1.9 Will there be any risk of major accidents that could affect human health or the environment?</p> | <p>No</p> | <p>No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. While part of the site is within Flood Zone A and B, the scheme has been designed to ensure the highly vulnerable elements of the proposal are not at risk of flooding. There are no Seveso / COMAH sites in the vicinity of the location.</p> | <p>No</p> |

| 1.10 Will the project affect the social environment (population, employment) | Yes | | No |
|---|-----|---|----|
| 1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment? | No | <p>The site is a brownfield site within Balbriggan Town Centre. The zoning of the site allows for a residential led development and the development of this site has been foreseen by the Fingal Development Plan 2017-2023 (as varied) which has undergone an SEA and has been subject to a Strategic Flood Risk Assessment (SFRA).</p> <p>Other developments in the wider area are not considered to give rise to significant cumulative effects.</p> | No |
| 2. Location of proposed development | | | |
| 2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following: <ol style="list-style-type: none"> 1. European site (SAC/ SPA/ pSAC/ pSPA) 2. NHA/ pNHA | Yes | <p>There are no conservation sites located on the site. An AA Screening Report has been submitted which concludes that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, in view of the</p> | No |

| | | | |
|---|-----|---|----|
| <p>3. Designated Nature Reserve</p> <p>4. Designated refuge for flora or fauna?</p> <p>5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</p> | | sites' Conservation Objectives and I concur with the conclusions of same. | |
| <p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p> | No | No such uses on the site and no impacts on such species are anticipated. | No |
| <p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p> | Yes | <p>The site is located within an Architectural Conservation Area, is within proximity of a number of Protected Structures and buildings listed on National Inventory of Architectural Heritage (NIAH) and is located within a Highly Sensitive Landscape' as defined in Map 14 Green Infrastructure' of the CDP. The application is accompanied by an Architectural Heritage Assessment and a Landscape and Visual Impact Appraisal which rules out any adverse impacts on the ACA, the setting of surrounding buildings of heritage interest on the landscape and townscape, and rules out any negative visual impacts. Subject to the two upper floors of proposed Block A and the upper floor of proposed Block B being omitted from the scheme I am of the view that there will be no</p> | No |

| | | | |
|--|----|--|----|
| | | | |
| <p>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p> | No | | No |
| <p>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</p> | No | <p>There are no direct connections to watercourses in the area. The development will implement SUDS measures to control surface water run-off. The site is within 15m of the Bracken River and is within 150m of Balbriggan Harbour and the Irish Sea. Part of the site is within Flood Zones A and B (fluvial and tidal). However, the scheme has been designed to ensure the highly vulnerable elements of the proposal are not at risk of flooding.</p> | No |
| <p>2.6 Is the location susceptible to subsidence, landslides or erosion?</p> | No | <p>There is no evidence in the submitted documentation that the lands are susceptible to landslides or erosion.</p> | No |

negative impacts on any features of landscape, historic, archaeological, or cultural importance.

| | | | |
|--|-----|--|----|
| 2.7 Are there any key transport routes(eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project? | No | The site is served by a local urban road network. | No |
| 2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project? | Yes | There is no existing sensitive land uses or substantial community uses which could be affected by the project. | No |

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

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

| | | | |
|--|----|--|--|
| Real likelihood of significant effects on the environment. | No | | |
|--|----|--|--|

DECISION QUASHED

D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (c) The existing use on the site and pattern of development in surrounding area;
- (d) The availability of mains water and wastewater services to serve the proposed development,
- (e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- (f) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003),
- (f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- (g) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction and Environmental Management Plan, the Flood Risk Assessment, the Bat Assessment, the Ecological Impact Assessment, Operational Waste & Recycling Management Plan, the Landscape Strategy & Design Report and the Civil Planning Report, it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

Inspector:

Ronan O'Connor

Date: 22nd November 2021

DECISION QUASHED

DECISION QUASHED