



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311447-21

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<b>Development</b>	36 houses and 28 apartments and associated site development works. Temporary permission (5 years) for the erection of 3 advertising signs.
<b>Location</b>	Lands at Ballymastone, Donabate, Co Dublin
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F20A/0510
<b>Applicant(s)</b>	Cairn Homes Properties Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	David Fletcher (Donabate Portrane Community Council)
<b>Date of Site Inspection</b>	15 <sup>th</sup> January 2022
<b>Inspector</b>	Colin McBride



## 1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 1.96 hectares, is located a short distance to the south east of Donabate. The appeal site is located at the junction of New Road and the R126. The appeal site is currently in agricultural use. The boundaries of the site is defined by hedgerow along its northern and western boundaries and a post and rail fence along the road side boundaries (New Road to south and the R126 to the east). The appeal site is flat and low lying relative to the level of New Road. Adjoining uses include similar agricultural lands to the west and north. There is an existing footpath running along the northern side of New Road and the R126 has footpaths and cycle paths running along each side of the road.

## 2.0 Proposed Development

2.1. Permission is sought for

(i) the construction of 36 no. houses comprising of 10 no. four-bedroom, 2-storey, semi-detached houses; 18 no. three-bedroom, 2-storey, semi-detached houses; and 8 no. two-bedroom, 2-storey, terrace houses. Each dwelling will feature a private rear garden and roof mounted solar panel or photovoltaic panels; (ii) construction of 28 no. apartment/duplex units, comprising of 14 no. two-bedroom apartments and 14 no. three bedroom duplex units, in 3 no. three-storey blocks and associated site works. Temporary permission (5 years) is sought for the erection of 3 no. advertising signs (totalling 42sqm) for the purposes of marketing on the sites eastern and southern boundaries.

2.2. The proposal was revised in response to both a further information and clarification of further information requests. The revisions made have resulted in the approved development consisting of 40 no. dwellings (4 no. two-bedroom, 24 no. three-bedroom and 12 no. four bedroom units) and 32 no. apartment units (13 no. one-bed, 15 no. two-bed and 4 no. three bed-duplex units). The approved proposal entails the provision of a four-storey apartment block at the junction of the R126 and New Road (consisting of 24 apartments, 13 no. one bed and 11 no. two-bed).

2.3 The proposed development is to link into an approved housing development for 151 units on the site to the west. The proposal is designed to integrate with the approved scheme with the internal service road open space linking into the approved development.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Permission granted subject to 28 conditions. The conditions are standard in nature.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

Planning report (04/12/20): Further information is required including revised design proposal regarding the apartment/duplex blocks, submission of an archaeological impact assessment, the issues raised in the internal reports outlined below.

Planning Report (28/04/20): Clarification of further information regarding cycle parking, boundary treatment, revised proposal for the apartment/duplex blocks and clarification of land ownership.

Planning Report (26/08/21): The proposal was considered to be satisfactory in the context of the proper planning and sustainable development of the area. A grant of permission was recommended subject to the conditions outlined above.

##### **3.2.2. Other Technical Reports**

Archaeological Report (11/11/20):

EHO (12/10/20): Further information regarding noise with an acoustic assessment required.

Environment (16/11/20): Condition required in relation to construction waste.

Water Services (24/11/20): Further information required in relation to surface water and flooding.

Parks and Green Infrastructure (25/11/20): Further information required in relation to tree planting landscaping.

Transportation Planning (26/11/20): Further information required including revisions to have regard to DMURS, revision regarding pedestrian, cycling and road infrastructure.

Water Services (30/07/21): No objections subject to conditions.

Transportation Planning (13/08/21): No objection subject to conditions.

### 3.3. Prescribed Bodies

Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media: Archaeological Impact Assessment required prior to decision.

Irish Water (23/04/21): No objection subject to conditions.

### 3.4. Third Party Observations

3.4.1 A number of third party submission were made. The issues raised can summarised as follows...

- Issues concerning design and quality, need for upgrade of footpaths and cycle infrastructure, capacity of existing public transport infrastructure, history of flooding in the area, more detailed flood risk assessment required, failure of state to implement Flood Directive.

## 4.0 Planning History

No planning history on the appeal site.

Adjoining sites

PL06F.249206 (F17A/0373): Permission granted for construction of 151 residential units and crèche with link road, pedestrian/vehicular entrance (x3), playground, temp. foul pumping station, landscaping and associated site works. This is the site immediately to the west of the appeal site with the proposal to link into the approved development.

ABP-311059-21: Permission sought for a Strategic Housing development consisting of 1,365 no. units (346 no. houses, 1,019 no. apartments), crèche and associated site works. This is located on a site to the south west (south of New Road). Pending decision.

ABP-304904 (F18A/0618): Permission granted for a development of strategic open spaces, upgrades to the public road, reconfiguration of the car park serving Smyths Bridge House (A Protected Structure), upgrade of existing entrance onto Main Street, new access from Balcarrick Road, internal access roads, water services and a pumping station, and utilities.

ABP-307657-20 (F19A/0243): Permission granted for construction of an underground wastewater pump station on a site to east adjacent the junction of New Road and the R126.

## **5.0 Policy Context**

### **5.1. Development Plan/Local Policy**

The relevant development Plan is the Fingal Development Plan 2017-2023. The appeal site is zoned Objective 'RS' Residential with a stated objective 'to provide for residential development and protect and improve residential amenity'.

Variation no.2 of the Development Plan outlines that in the period 2016-2019 2,170 units have been constructed in Fingal in locations including Donabate. Donabate is identified as a Self-Sustaining Growth Town, with a development strategy to promote

the creation of a vibrant town core by providing a high-quality living environment for the existing and future population and providing for the development of necessary community, commercial, cultural and social facilities in tandem with new residential development and accordingly a 10% increase in population is appropriate. Table 2.4 'Total Residential Capacity provided under the Fingal Development Plan 2017-2023, updated as of September 2019' identifies remaining capacity in Donabate of 101ha equating to 3,532 remaining residential units.

Objective SS17 – states that the development and growth of Donabate should be managed in a planned manner linked to the capacity of local infrastructure to support new development of the area and taking account of the ecological sensitivity of qualifying features of nearby European Sites.

Variation no.2 also states the following in relation to Donabate: is also identified on the North – South Strategic Corridor (DART expansion) in the RSES. The DART Expansion Programme, to be delivered by 2027 will increase capacity on the northern commuter line and support ongoing urban expansion of Donabate. The Donabate Peninsula enjoys many natural areas including the Rogerstown and Malahide Estuaries, European Sites which form part of the Natura 2000 network. In addition, there is Newbridge Demesne and The Square ACA. While Donabate has experienced substantial housing development in recent years, there remains extensive areas of undeveloped residential zoned lands. Donabate is envisaged as performing a strong role for continuing future growth as a well-served commuter location.

General objectives regarding the settlement strategy are set out in the plan including SS01 to “Consolidate the vast majority of the County’s future growth into the strong and dynamic urban centres of the Metropolitan Area while directing development in the hinterland to towns and villages, as advocated by national and regional planning guidance”, SS02 is to “Ensure that all proposals for residential development accord with the County’s Settlement Strategy and are consistent with Fingal’s identified hierarchy of settlement centres” and SS15 to “ Strengthen and consolidate existing

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

Chapter 4 of the plan refers to urban Fingal. It includes specific Development Plan Objectives for Donabate relating to connectivity, education, social and community infrastructure. DONABATE 9 ‘Prepare an Urban Framework Plan for Donabate (including a Public Realm and Integrated Traffic Management Strategy) to guide and inform future development, to include measures to improve and promote the public realm of the village.’

Other objectives of the plan are PM33 “Enhance and develop the fabric of existing and developing rural and urban centres in accordance with the principles of good urban design, including the promotion of high quality well-designed visually attractive main entries into our towns and villages”.

Objective NH09 – maintenance of favourable conservation status for the habitats and species in Fingal to which the Habitats Directive applies. Objective NH27 is to protect existing woodlands, trees and hedgerows, Objectives NH33, NH34 and NH36 – concerning the preservation of unique landscape character and ensuring new development does not impinge of the character integrity and distinctiveness of highly sensitive areas, Objective NH40 – to protect views and prospects. Objectives NH51 and NH52 related to the protection of High Amenity areas from inappropriate development and retention of important features or characteristics. Objective DMS57, DMS57A and DMS57B – minimum of 10% of site area to be designated as public open space. Objective GI34 – integration of archaeological and architectural heritage into new developments. Objective GI36 – ensure green infrastructure responds and reflects landscape character including historic landscape character. Donabate is identified as a low lying character type.



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

Objective PM42 in Variation no.2: Implement the policies and objectives of the Minister in respect of Urban Development and Building Heights Guidelines (December 2018) and Sustainable Urban Housing: Design Standards for New Apartments (March 2018) issued under section 28 of the Planning and Development Act, as amended. Objective PM43 regard to 'Sustainable Urban Housing: Design Standards for New Apartments' (2007) (or any update or revision of these standards) when assessing apartment developments.

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

Donabate Local Area Plan 2016-2022. The appeal site is outside of the boundary of the Donabate Local Area Plan.

## 5.2. National Policy

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant section 28 Ministerial Guidelines and other national policy documents are:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual)
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities
- Urban Development and Building Heights Guidelines for Planning Authorities
- Design Manual for Urban Roads and Streets • Childcare Facilities Guidelines for Planning Authorities

- The Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices)

Other relevant national guidelines include:

- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.

#### Project Ireland 2040 - National Planning Framework

The recently published National Planning Framework includes a specific Chapter, No. 6, entitled 'People Homes and Communities'. It includes 12 objectives among which Objective 27 seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages. Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. Objective 35 seeks to increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

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

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

- RPO 3.2 - Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

- RPO – 4.1 – Settlement Hierarchy – Local Authorities to determine the hierarchy of settlements in accordance with the hierarchy, guiding principles and typology of settlements in the RSES.
- RPO 4.2 – Infrastructure – Infrastructure investment and priorities shall be aligned with the spatial planning strategy of the RSES.

Rebuilding Ireland Action Plan for Housing and Homelessness, (Government of Ireland, 2016),

'Housing for All - a New Housing Plan for Ireland' (September 2021).

### 5.3. Natural Heritage Designations

A number of designated sites are located in the surrounding areas...

Site Name & Code	Approx. distance from site
Malahide Estuary SAC (0205)	c.330m south of the site
Malahide Estuary SAC (4025)	c.330m south of the site
Rogerstown Estuary SAC (site code 0208)	c.1.7km to the north
Rogerstown Estuary SAC (site code 4015)	c.1.7km to the north
Rockabill to Dalkey SAC (site code 3000)	c. 4km to the east
Lambay Island SAC (site code 0204)	c.6.9km to the east
Lambay Island SPA (site code 4069)	c.6.9km to the east
Balydole Bay SPA (site code 4016)	c.7.3km to the south

Balydole Bay SAC (site code 0199)	c.7.3km to the south
Irelands Eye SAC (site code 2193)	c.9.5km to the south east
Irelands Eye SPA (site code 4117)	c.9.5km to the south east
Skerries Island SPA (site code 4122)	c.10.7km to the north
North Dublin Bay SAC (site code 0206)	c.10.7km to the south
North Bull Island SPA (site code )	c.11.9 km to the south
Rockabill SPA (site code 4014)	c.11km to the north east
Howth Head SAC (site code 0202)	c.12.3km to the south
Howth Head Coast SPA (site code 4113)	c.12.3km to the south

#### 5.4. EIA Screening

5.4.1 The proposal for 72 no. residential units on a site of 1.96 ha is below the mandatory threshold for EIA. The nature and the size of the proposed development is well below the applicable thresholds for EIA. I would note that the uses proposed are similar to predominant land uses in the area and that the development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation and does not contain habitats or species of conservation significance.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1 A third party appeal has been lodged by David Fletcher, Donabate Portrane Community Council.

- The Board cannot consider the proposal due to the failure of the State to properly transpose the Flood Directive (Directive 2007/760/EC). This is characterised by a failure to produce adequate flood maps with the appellant referring to lack of adequate data in relation to groundwater/or pluvial flooding.
- The Councils Strategic Flood Risk Assessment is also flawed on the basis of lack of adequate data in relation to groundwater/or pluvial flooding.
- The Flood Risk Assessment submitted is inadequate as it fails to identify the true extent of pluvial and groundwater flooding present on the site. The presence of a locally important acquirer and borehole test results illustrate the high level of the water table. The risk of pluvial flooding is high and is not reflected in the OPW data. A justification test is required as per the Flood Risk Management guidelines. The Flood Risk Assessment submitted fails to acknowledge the risk or impact of pluvial flooding.
- The appellants provide details of the borehole test carried out on the site that illustrate the high level of the water table.
- The appeal raises concerns regarding surface water proposals and consider that such do have adequate regard to the impact of surface water drainage and overland flow in the wider area and will cause flood issues in the area. There are a number of surface water objectives in the development that should be implemented before any development is permitted on the appeal site.
- The appellants raise concerns about the principle of the proposed development in terms of capacity of public transport infrastructure, the deficit of infrastructure in the area, the lack of sufficient capacity in terms of schools and childcare facilities, ESB capacity constraints.

- The appellants question the quality of design in terms of its context and its location at a junction, the quality of the development in terms of separation distances, provision of private open space (duplex units), and provision of public open space is inadequate in size.
- The loss of existing hedgerows is noted as being a concern and the impact on bird species.
- The appeal includes a supplementary report critiquing the Appropriate Assessment screening. The issues raised include a lack of consideration of sites more than 15km from the appeal site and the use of a 15k radius should not be used. No consideration of winter bird SPA's and the potential for such to use sites in this area for foraging. The lack of assessment of Rogerstown Estuary is also noted and the lack of consideration of other plans and projects. The Appropriate Assessment Screening is considered inadequate.

## 6.2. Applicant Response

### 6.2.1 Response by Hughes Planning and Development on behalf of the applicant, Cairn Homes Properties Ltd.

- Validity of the appeal regarding the individual who submitted the appeal in comparison to the one that made the initial submission.
- The applicant states that the Flood Directive has been correctly transposed into Irish legislation and has submitted an accompanying legal opinion outlining such. The submission also refers to this point in terms of the appellants assertion regarding the Council's failure comply with Irish and EU law in relation to preparation of a Strategic Flood Risk Assessment for the Development Plan.
- The applicant refute the appellant claims regarding the Flood Risk Assessment, question whether the boreholes tests were carried out by competent qualified person and note that the test results submitted by the applicants are not accompanied by a methodology or a report from a suitably qualified person. The submission is accompanied by a peer review of the

Flood Risk Assessment and a report by the authors of the Flood Risk Assessment addressing this issue raised by the appeal submission.

- The submission by Waterman Moylan Consulting Engineers deal with possible impact on the aquifer and concludes it will not interfere negatively with such.
- The proposed development is consistent with national, regional and local planning policy.
- A Childcare and Schools Capacity Assessment is included in Appendix F of the applicant response submission and such outlines that there is sufficient capacity in terms of childcare facilities and schools for the proposal.
- In relation to public transport the site is serviced by good quality public transport with access to the Dublin Belfast train line (Donabate Station 750m from the site) and the area is served by a number of bus routes. It is stated there is sufficient capacity to cater for the proposed development.
- Sufficient capacity exists in the electrical network to cater for the proposal with accompanying engineering report outlining such.
- The proposal provides an appropriate design response to the site and its context at a junction. The proposal is satisfactory in terms of quality of design, provision of private and public open space.
- The proposal has adequate regard to the retention of existing hedgerows and trees and proposes to augment such with additional planting. The documents submitted include a Screening report and an Ecological Impact Statement with the conclusion that the proposal would have no adverse impact in terms of ecology or significant effects on any Natura 2000 site.

### **6.3. Planning Authority Response**

#### **6.3.1 Response by the Fingal County Council**

- The Planning Authority has no further comment to make.

- In the event of a grant of permission the PA request that Condition no. 7(k) (tree bond) be included.

## 6.4. Further Response

### 6.3.1 Response by the appellant David Fletcher (Donabate Portrane Community Council).

- The appellant refutes the applicant claims about validity of the appeal.
- The appellants question the accuracy of information provided by the applicant including in their schools assessment and assessment of public transport facilities in the area with inaccuracies noted. The appellants reiterate their concern regarding capacity issues.
- It is noted that the flood maps are a work in progress and evolve based on report of incidences. The appellants consider based on the history of flooding issue on the site it should not be categorised as Flood Zone C. The information submitted included a lack of site investigations in terms of the drainage characteristics and the aquifer.
- The appellants reiterate concern regarding ESB constraints, lack of sufficient open space areas, and impact on hedgerow and protected species.

## 7.0 Assessment

7.1 Having inspected the site and the associated documents the main issues can be assessed under the following headings.

Principle of the proposed development

Density, Core Strategy, Area Capacity

Layout & Design/Development Control Standards

Residential Amenity/Adjoining Amenity

Traffic and transportation

Flood Risk



## Ecological Impact/Tree Removal

### Appropriate Assessment

#### 7.2 Principle of the proposed development:

7.2.1 The proposed development is located on lands zoned 'RS' Residential with a stated objective 'to provide for residential development and protect and improve residential amenity'. The proposal was originally for 64 residential units with 36 no. dwellings and 28 no. apartment proposed. The approved development was amended in response to further information and clarification requests and entails the provision of 40 no. dwellings and 32 no. apartments with associated site works. The proposed development is to link into the site to the west on which permission was granted under PL06F.249206 for the construction of 151 residential units and crèche with link road. The proposed development is consistent with the zoning objective of the site. The principle of a housing development at this location is supported by both Local Area Plan and Development Plan policy, and would constitute planned development. The principle of the proposed development at this location is acceptable.

#### 7.3 Density, Core Strategy, Area Capacity:

7.3.1 The appeal has an area of 1.96 hectares and the proposed/approved development consists of 72 no. residential units yielding a density of 38 units per hectare. National policy on density is contained under the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual'). Chapter 5 relates to Cities and Larger Towns. The application site is on the periphery of a large town (defined as population of 5,000 or more) and would constitute an Outer Suburban/Greenfield Site "defined as open lands on the periphery of cities or larger towns whose development will require the provision of new infrastructure, roads, sewers and ancillary social and commercial facilities, schools, shops, employment and community facilities". The guidelines identify that "the greatest efficiency in land usage on such lands will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities (involving a variety of housing types where possible)

should be encouraged generally". The original development proposed consisted of 64 no. units yielding a density of 33 units and just below the recommended standard. The approved development of 72 no. residential units yields a density of 38 per hectare density. I would be of the view that the density proposed is consistent with the recommendations of national policy and an appropriate density at this location.

7.3.2 The Fingal Development Plan 2017-2023 Core Strategy identifies Donabate as a moderate sustainable growth town as self-sustaining growth town. The Plan identifies a requirement for 39,585 units up to 2023 and 49,536 up to 2026 (including previous figure). The Plan identifies that there is zoned land with a capacity for 76,450 units with a capacity for 4,056 units in Donabate. The approved development accounts for 72 units with a permitted proposal on the lands to the west for 151 units and a current SHD application (pending decision) for 1365 units on a site to the south west. It would appear based on current information that the level of the provision of units proposed on lands zoned for residential under this application can be facilitated under the core strategy of the Fingal Development Plan.

7.3.3 The appeal submission raises a number of issues regarding the overall principle of additional residential development in this area relating to the capacity of the area to facilitate such. The issues raised relate to the capacity of existing school/childcare in the area, the capacity of public transport facilities and capacity of ESB infrastructure to cater for the proposal. On these issues I would refer to the previous paragraphs under which it is clear that the appeal site is zoned for residential development and would be consistent with the Core Strategy of the Fingal Development Plan. In addition the density of development is consistent with that recommended under the relevant national guidelines. I would also point to the fact that the proposal to provide for new residential development in the Greater Dublin Area is consistent with the objectives of local, regional and national policy, in particular the Fingal Development Plan 2017-2023, the National Planning Framework, the Regional Spatial and Economic Strategy for the Eastern and Midland Region and Housing for All.

7.3.4 In relation to childcare and schools capacity, the applicants' response to the appeal includes a Childcare and School Capacity Assessment. In relation the childcare it is noted that the number of units proposed is below the threshold requiring a crèche. The assessment outlines the demand for school places and childcare facilities generated by the proposal and an assessment of existing and planned childcare and school facilities in the area. It is concluded that sufficient capacity exists for the demand likely to be generated. In relation to crèche facilities the proposed development is to link into a permitted development of 151 units in which a crèche facility is proposed. As noted above the development is a planned development, on lands zoned for new residential development, within walking distance of an existing settlement and its facilities, public transport infrastructure, is at density appropriate for the location based on national guidelines and is consistent with the settlement strategy/core strategy under Development Plan policy.

7.4 Layout & Design/Development Control Standards:  
Housing Mix

7.4.1 The approved proposal provides for 72 no. units split into 40 no. dwellings and 32 no. apartment units. The mix of units provides more variety from the approved proposal on the site to the west under PL06F.249206. I note that while the surrounding residential developments contain a mix of dwelling types, there remains a predominance of 3 and 4 bedroom houses in the area as many of the adjacent developments were permitted prior to the NPF or the RSES. I consider that the proposed mix of houses, apartment and duplex units will add to the variety of housing typologies in the area. I note SPPR 4 of the Building Height Guidelines, which requires that planning authorities must secure a greater mix of building heights and typologies in planning the future development of greenfield or edge of city/town locations and avoid mono-type building typologies such as two-storey own door houses only, particularly in developments > 100 units and I consider that the development is consistent with this guidance. As discussed above, the density complies with the guidance for outer suburban sites in the Sustainable Residential Development Guidelines and is therefore also consistent with SPPR 4 in this regard. The development also meets the requirements of SPPR 1 of the Apartment Guidelines. The proposed housing mix is considered acceptable on this basis.

Development Control Standards:

7.4.2 The approved development entails a mix of dwellings (40) and apartments (32). The relevant guidance in terms of the apartments is the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (December 2020) whereas there are development control standards set out under the Fingal Development Plan for housing developments as well as guidelines for housing developments under Quality Housing for Sustainable Communities including standards for space provision and room dimensions in dwellings. The submitted document include a housing quality assessment that outlines the standard of the proposed units in the context of key development control standards including unit area, room size/dimensions, private and public open space provision.

7.4.3 Minimum floor area for apartments under Section 3.4 of the Apartment Guidelines is 45sqm, 63sqm (two bed 3 person units) 73sqm (two bed 4 person units) and 90sqm for one, two and three bed units respectively. All apartments meet these standards. In addition there is a requirement under Section 3.8 for “the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10% (any studio apartments must be included in the total, but are not calculable as units that exceed the minimum by at least 10%)”. In this case this standard is also met.

7.4.4 In relation to the minimum number of dual aspect apartments that may be provided in any single apartment scheme, the following shall apply:

(ii) In suburban or intermediate locations it is an objective that there shall generally be a minimum of 50% dual aspect apartments in a single scheme.

All apartment units are dual aspect with some being triple aspect with the requirement of the guidelines met.

All apartment units are provided with balcony areas or garden areas. The requirement under the Sustainable Urban Housing: Design Standards for New

Apartments (December 2020) being for 5, 6, 7 and 9sqm for one bed, two (3 person), two bed (4 person) and three bed units respectively. This standard is met in all cases. All apartment units meet the required standards in terms of room dimensions and storage space.

- 7.4.5 In case of the proposed dwellings the recommended room size/dimensions are as set out under the Quality Housing for Sustainable Communities guidelines. All dwellings are provided with rear gardens with areas of a reasonable size (no figure specified in Development Plan) with the smallest size rear garden being 75sqm.
- 7.4.6 The requirements for car parking under development Plan policy is under Table 12.8 of the County Development Plan. Based on the number of units proposed the parking requirement for the apartment portion of the development is 126.5-130.5 (including 1 visitor space per 5 apartment units). The parking provision in the scheme consists of 76 spaces to serve the dwelling units with all dwellings apart from 4 dwellings (one off-street space per dwelling) provided with two off-street car parking spaces, which is consistent with Development Plan policy standards. In the 32 no. apartments there is a provision of 38 communal parking spaces. The requirement under Development Plan policy is for the amount and configuration of apartments is 44 spaces plus an addition 6.4 spaces for visitors. There is a shortfall based on the Development Plan standards of about 12 spaces based on the apartment component. I would be of the view that the level of parking proposed is satisfactory and the Planning Authority did not consider such to be deficient. I would highlight the fact the development is in walking distance of the village core (existing pedestrian infrastructure in place) and in walking distance of public transport infrastructure.
- 7.4.7 Provision of bicycle parking for the dwellings is within their curtilage and there is provision of a secure bike store adjacent the apartment blocks with capacity for 32 bikes. This is consistent with Development Plan policy which has a standard of 1 bike space per apartment unit (Table 12.9).

7.4.8 The requirement for public open space is for at least 10% of the site area under the Development Plan. The proposed development entails the provision of two areas of public open space. The main area adjoining the northern boundary is 2050sqm in size and includes a 250sqm playground area. A separate open space area of 255sqm is provided adjacent the southern boundary and between the three-storey duplex block and the four-storey apartment block. The requirement based on development plan standards is 1960sqm. The proposal provides for 11.7% of the site area, which is compliant with Development Plan policy.

#### Layout/Urban Design

7.4.9 The proposal was amended in response to further information, in particular in response to concerns regarding architectural treatment and scale adjoining the junction of the R126 and the New Road. The design and layout approved provides for a mix of two-storey dwellings, a three-storey apartment block (duplex units) and a four-storey apartment block. The approved layout positions the apartment block along the New Road frontage and the four-storey block adjacent the junction between the two roads to provide a stronger urban edge.

7.4.10 I would consider that the proposal provides for a design that is of an acceptable standard in terms of layout and urban design. As noted above the proposal provides for sufficient level of public open space. The main area is linked in to the main area of public space associated with the approved development on the site to the west. The proposal provides pedestrian linkages to the eastern boundary and the R126.

7.4.11 I would be of the view that the overall design and layout has adequate regard to the provision of relevant guidelines in relation to urban design such as the, Urban Design Manual-A Best Practice Guide, the Urban Development and Building Heights Guidelines for Planning Authorities and the Design Manual for Urban Roads and Streets. The overall development provides for a satisfactory design and layout in terms of providing a sense of place, a good standard of amenity, adequate provision

for vehicular traffic without being at the expense of the provision of pedestrian friendly spaces/infrastructure.

#### 7.5 Residential Amenity/Adjoining Amenity:

7.5.1 In relation to residential amenity/adjoining amenity, the appeal site is a greenfield site with all adjoining lands being agricultural in nature and the south and eastern boundaries of the site defined by existing public roads. As outlined above the proposal is compliant with all relevant development control standards and would provide a sufficient level of residential amenity to adjoining properties. The layout has adequate regard to the development permitted on the adjoining site to the west and provides for a type and scale of development similar in nature and scale. I do not consider that there are any circumstances in which there is requirement for a daylight/sunlight or shadow analysis with no existing structures within the vicinity of the appeal site and the nature and scale of the development being consistent with suburban type development.

#### 7.6 Traffic and Transportation:

7.6.1 The proposed development is to link into a permitted development on the adjoining site to the west for 151 residential units granted under PL06F.249206. The proposed development will integrate with the internal service road network of the permitted development and use a vehicular access approved off New Road to serve the approved development on the adjoining site. The entrance in question is located within the 50kph speed limit zone for Donabate. I would consider that the use of the approved entrance would be acceptable and that such is designed to a reasonable standard, is located off New Road, which provides for a good standard of visibility and has existing pedestrian facilities in the form of footpaths along its northern side. The layout of the proposed development provides for pedestrian access points onto the R126, which has existing dedicated footpath and cycle paths. I am also satisfied that the design and layout has adequate regard to the recommendations of the Design Manual for Urban Roads and Streets.

7.6.2 The issue of parking provision is addressed in the previous section with sufficient provision of such. I am satisfied that the design and layout of the development has adequate regard to the recommendation of the Design manual for Urban Roads and Streets. In addition the appeal site is in close proximity to the train station (Dublin Belfast line), which is 1km from the site (13 minute walk).

## 7.7 Flood Risk

7.7.1 One of the key issues raised in the appeal relates to flood risk issues. Firstly the appeal states that the transposition of EU Flood Directive into Irish Law is flawed and that the whole basis for assessing flood risk including the Fingal Development Plan and its Strategic Flood Risk Assessment, flood maps including the OPW flood maps are flawed and inadequate to assess the issue. Secondly the appellant questions the scope of the Flood Risk Assessment and indicates that the assessment of such is inadequate and fails to acknowledge the presence of an aquifer beneath the site, the high water table levels indicated on site (borehole testing) and the impact of pluvial flooding at this location with incidences of historical flooding on the site and in the vicinity. The appeal submission indicates that a justification test is required under the Flood Risk Assessment guidelines.

7.7.2 The applicant submitted a Flood Risk Assessment with it stated that such is prepared in accordance with The Planning System and Flood Risk Management Guidelines, 2009. The assessment includes a description of the project including details of modifications to the site with the finished floor level of the dwellings being between 8.10m and 8.40 OD Malin, which is c. 1.10m above the lowest level of the site currently. It is proposed to fill the site by between c0.5m to 1.0m across the whole site. There is an assessment of Tidal, Fluvial and Pluvial flood sources as per the requirements of guidelines.



- 7.7.3 In relation to Tidal flooding the site is located 1.1km from the Malahide Estuary and 1.6km from the Irish Sea. The site is outside of the tidal flood plain and no pathway exists between for this type of flooding in relation to site. No tidal mitigation measures are necessary. In relation to Fluvial Flooding the closest watercourse/stream is the River Pill c.1km to the south east of the site. Given the distance of the site from the nearest watercourse there is no CFRAM fluvial flood maps with the risk of flooding from this source rated as low and no mitigation necessary.
- 7.7.4 In relation to Pluvial Flooding it is proposed to install on-site surface water drainage sewer designed to accommodate a 5 year return event It is indicated the likelihood of surcharging of the on-site drainage system is considered high and the risk of flooding is mitigated by providing SuDS measures for the development, which include attenuation that can store water for 1:100 year storm event plus a 20% allowance for climate change. The assessment report states there are no recorded instances of flooding on the site. It is proposed to discharge surface water at a restricted rate (hydro-brake or similar) to existing surface water culverts to the north and south of the site located in the new distributor road. The likelihood of surcharging of the surrounding networks is described as low. Surface water measures will reduce run-off from the site during storm events and surface water discharge will be limited as described earlier with such reducing the effect on developments downstream of the site. The assessment includes a map showing all flood event within proximity of the subject site with its noted such are remote form the site with a low likelihood of flooding from surrounding areas. In relation to overland flooding drainage is provided to collect rainwater and discharge such to existing culverts. The levels on site are designed to ensure any overland flooding as a result of poor maintenance will be directed along the roads and will not enter other properties. The assessment include a map showing the overland flow route. As a result of the measures proposed residual risk is from surface water is rated as low.
- 7.7.5 In relation to groundwater it is stated that there is no history of groundwater/springs seeping through the ground. Any possible groundwater seepage will be identified

once a site-specific investigation is obtained. The proposal entails construction of roads and buildings above the existing ground level. The risk of groundwater flooding is classified as low. The impact of human/mechanical error is also addressed with there being a low residual risk of overland flooding due to human/mechanical error due to the design of the proposals and surface water measures to be implemented.

7.7.6 The sequential test set out under the Flood Risk Assessment with it stated that such is prepared in accordance with The Planning System and Flood Risk Management Guidelines, 2009 is referred to. The proposed development is in Flood Zone C, which has a low risk of flooding and therefore there is no need to carry out a justification test.

7.7.7 The applicant has submitted a site specific flood risk assessment as part of the application documents. This identifies the risk of flooding associated with the site, with reference to OPW Flood Maps and historical flood events. I note that the appellants are concerned with the accuracy of this data. I have viewed the flood maps and note that the maps for this area are currently under review (following an objection, submission and/or further information received) and there is a report of pluvial flooding on site recorded in January 2021. This area has been classified as Flood Zone C and I would refer to the Donabate Local Area Plan 2016-2022 and Figure 7.4 showing Flood Zones A and B for a study area that includes the appeal site.

7.7.7 The appeal submission raises concerns regarding a high water table level and the presence of an aquifer beneath the site that should be taken into account. The applicant in their response outlines that the site is underlain by a bedrock aquifer of local importance. The response indicates that the development will not interfere with such with no groundwater boreholes, wells or other pathways, discharge of foul effluent to the public sewer and no deep excavation works proposed.

7.7.8 Having inspected the site and examined all documents including the appeal submissions and third party submissions it is apparent that there are drainage issues on site with pooling of water and it is clear that the site as it stands currently exhibits poor drainage characteristics. I am satisfied based on the information available and on which we rely to evaluate flood risk that the appeal site is located in an area classified as Flood Zone C. The proposed uses of this site based on such classification is appropriate in the context of The Planning System and Flood Risk Management Guidelines, 2009 and that a justification test is not required. The appeal site is a low lying site relative to adjoining lands and is currently lacking in surface water drainage measures. The proposal for redevelopment of the site represents an opportunity to deal with drainage issues on site and it is in the applicant's interest to deal with such issues. The proposal includes provision of dwellings and infrastructure at a level higher than currently provided for on-site and the provision of surface water drainage infrastructure including SuDs measures. I am satisfied based on the information on file including the Flood Risk Assessments submitted that the proposal would be satisfactory in the context of flood risk.

7.7.9 In relation to the issue regarding transposition of the Flood Directive and the status of the Council's Strategic Flood Risk Assessment the appellant has submitted a legal opinion indicating that such has not been carried out properly whereas the applicant has responded with a legal opinion to the contrary. I would question whether this issue is one which can be determined as part of an assessment of an individual planning application/appeal. The assessment of this issue is a legal matter and it is not clear whether this assertion has been challenged in a legal forum. As far as I am concerned the appeal should be assessed on its merits and in the context of national, regional and local policy and in terms of flood risk such as on the basis of the Fingal County Development Plan, the OPW flood maps and the national guidance in the form of The Planning System and Flood Risk Management Guidelines, 2009.

7.8 Ecological Impact/Tree Removal:

7.8.1 The application was accompanied by an Ecological Impact Statement, a Bat Fauna Assessment and Arboricultural Report. The Ecological Impact Statement outlines the

characteristics of the site, designated sites in the vicinity and site surveys carried out on site. The report outlines the impact of the construction phase, operational phase and mitigation measures to offset the impact of the proposal. The site is classified as being of low ecological sensitivity with some hedgerows of high local biodiversity value, no habitats or species of high conservation status or Annex I Habitats. A separate report was submitted in relation to bats the separate report concludes that the site low potential in terms of bat roosts and no evidence of such was found on site. The arboricultural report includes an assessment of trees and hedgerow with the indicating that the existing trees and hedgerow are mainly of low value and in poor/fair condition. It is notable that there is a proposal to retain a portion of existing hedgerow to the north west corner of the site regarded to be of local importance in terms of ecological impact.

7.8.2 I am satisfied based on the information submitted that the appeal site is not an ecologically sensitive site. The proposal does include the retention of some trees and hedgerow at the north western corner of the site as well as proposals to provide for additional planting/landscaping.

7.9 Appropriate Assessment:

7.9.1 This section of the report considers the likely significant effects of the proposal on European sites with each of the potential significant effects assessed in respect of each of the Natura 2000 sites considered to be at risk and the significance of same. The assessment is based on the submitted Appropriate Assessment Screening submitted with the application. I have had regard to the submissions of prescribed bodies in relation to the potential impacts on Natura 2000 sites.

#### The Project and Its Characteristics

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

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

7.9.3 The development site is not within or directly adjacent to any Natura 2000 site. The site is located on the edge of existing residential settlements to the west. The

predominant habitat on the site itself is made up agricultural grassland with boundary hedgerow. The submitted and Ecological Impact Statement and such confirms that the majority of habitats identified on the site are generally considered to be modified and of low conservation value with the boundary hedge to the north west of some conservation value. No plant species of conservation significance or high impact invasive plant species are noted.

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

Site Name & Code	Approx. distance from site
Malahide Estuary SAC (0205)	c.330m south of the site
Malahide Estuary SAC (4025)	c.330m south of the site
Rogerstown Estuary SAC (site code 0208)	c.1.7km to the north
Rogerstown Estuary SAC (site code 4015)	c.1.7km to the north
Rockabill to Dalkey SAC (site code 3000)	c. 4km to the east
Lambay Island SAC (site code 0204)	c.6.9km to the east
Lambay Island SPA (site code 4069)	c.6.9km to the east
Balydole Bay SPA (site code 4016)	c.7.3km to the south
Balydole Bay SAC (site code 0199)	c.7.3km to the south

Irelands Eye SAC (site code 2193)	c.9.5km to the south east
Irelands Eye SPA (site code 4117)	c.9.5km to the south east
Skerries Island SPA (site code 4122)	c.10.7km to the north
North Dublin Bay SAC (site code 0206)	c.10.7km to the south
North Bull Island SPA (site code )	c.11.9 km to the south
Rockabill SPA (site code 4014)	c.11km to the north east
Howth Head SAC (site code 0202)	c.12.3km to the south
Howth Head Coast SPA (site code 4113)	c.12.3km to the south

In addition, the AA screening report outlines through figure 4 the geographical spread of sites and proximity to the subject site. In my view the zone of influence of the project does not extend to most of the sites listed and based on the information on file and the characteristics of the designated sites listed, the majority of the sites listed are outside of the zone of influence of the project.

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

7.9.6 I concur with the conclusions of the applicant's screening, in that there is the possibility for significant effects on the following European sites (associated with impact to species of conservation interest), as a result of surface water pathways to the Malahide Estuary SAC (site code 0205) and Malahide Estuary SPA (site code 4025), and a wastewater pathway to Rockabill to Dalkey SAC (site code 3000).

7.9.7 Significant impacts on the remaining Natura sites or any other sites at further distances are considered unlikely, due to the distance and the lack of hydrological connectivity or any other connectivity with the application site in all cases. As such, it is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Sites:

Site Name & Code	Approx. distance from site
Rogerstown Estuary SAC (site code 0208)	c.1.7km to the north
Rogerstown Estuary SAC (site code 4015)	c.1.7km to the north
Lambay Island SAC (site code 0204)	c.6.9km to the east
Lambay Island SPA (site code 4069)	c.6.9km to the east
Balydole Bay SPA (site code 4016)	c.7.3km to the south
Balydole Bay SAC (site code 0199)	c.7.3km to the south
Irelands Eye SAC (site code 2193)	c.9.5km to the south east
Irelands Eye SPA (site code 4117)	c.9.5km to the south east

Skerries Island SPA (site code 4122)	c.10.7km to the north
North Dublin Bay SAC (site code 0206)	c.10.7km to the south
North Bull Island SPA (site code )	c.11.9 km to the south
Rockabill SPA (site code 4014)	c.11km to the north east
Howth Head SAC (site code 0202)	c.12.3km to the south
Howth Head Coast SPA (site code 4113)	c.12.3km to the south

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

European Sites/Location and Qualifying Interests

<b>Site (site code) and Conservation Objectives</b>	<b>Distance from site (approx.)*</b>	<b>Qualifying Interests/Species of Conservation Interest (Source: EPA / NPWS)</b>
Malahide Estuary SAC (0205) 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.	330m	1140 Mudflats and sandflats not covered by seawater at low tide 1310 Salicornia and other annuals colonising mud and sand 1320 Spartina swards (Spartinion maritimae) 1330 Atlantic salt meadows (Glaucopuccinellietalia maritimae)



		<p>1410 Mediterranean salt meadows (Juncetalia maritimi)</p> <p>2120 Shifting dunes along the shoreline with Ammophila arenaria (white dunes)</p> <p>2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)*</p>
<p>Malahide Estuary SAC (4025) To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SPA has been selected.</p>	330m	<p>Great Crested Grebe (Podiceps cristatus) [A005]</p> <p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Shelduck (Tadorna tadorna) [A048]</p> <p>Pintail (Anas acuta) [A054]</p> <p>Goldeneye (Bucephala clangula) [A067]</p> <p>Red-breasted Merganser (Mergus serrator) [A069]</p> <p>Oystercatcher (Haematopus ostralegus) [A130]</p> <p>Golden Plover (Pluvialis apricaria) [A140]</p> <p>Grey Plover (Pluvialis squatarola) [A141]</p> <p>Knot (Calidris canutus) [A143]</p> <p>Dunlin (Calidris alpina) [A149]</p> <p>Black-tailed Godwit (Limosa limosa) [A156]</p> <p>Bar-tailed Godwit (Limosa lapponica) [A157]</p> <p>Redshank (Tringa totanus) [A162]</p> <p>Wetland and Waterbirds [A999]</p>
<p>Rogerstown Estuary SAC (site code 0208)</p>	1.7km	<p>Estuaries [1130]</p>

<p>to maintain and restore the favourable conservation condition of the qualifying interests.</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 SAC (site code 4015) to maintain the favourable conservation condition of the qualifying interests.</p>	<p>1.7km</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>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Wetland and Waterbirds [A999]</p>

<p>Balydole Bay SAC to maintain the favourable conservation condition of the qualifying interests. (site code 0199)</p>	<p>7.3km</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]  Salicornia and other annuals colonising mud and sand [1310]  Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330]  Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p>
<p>Rockabill to Dalkey SAC (3000) to maintain the favourable conservation condition of the qualifying interests.</p>	<p>4km</p>	<p>Reefs [1170]  Phocoena phocoena (Harbour Porpoise) [1351]</p>
<p>Balydole Bay SPA (site code 4016) to maintain the favourable conservation condition of the qualifying interests.</p>	<p>7.3km</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]  Shelduck (<i>Tadorna tadorna</i>) [A048]  Ringed Plover (<i>Charadrius hiaticula</i>) [A137]  Golden Plover (<i>Pluvialis apricaria</i>) [A140]  Grey Plover (<i>Pluvialis squatarola</i>) [A141]  Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]  Wetland and Waterbirds [A999]</p>
<p>North Dublin Bay SAC (site code 0206) to maintain and restore the favourable conservation</p>	<p>10.7km</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]  Annual vegetation of drift lines [1210]  Salicornia and other annuals colonising mud and sand [1310]</p>

<p>condition of the qualifying interests.</p>		<p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330]  Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]  Embryonic shifting dunes [2110]  Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]  Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]  Humid dune slacks [2190]  <i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p>
<p>North Bull Island SPA (site code 4006) to maintain the favourable conservation condition of the qualifying interests.</p>	<p>11.9km</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]  Shelduck (<i>Tadorna tadorna</i>) [A048]  Teal (<i>Anas crecca</i>) [A052]  Pintail (<i>Anas acuta</i>) [A054]  Shoveler (<i>Anas clypea</i>) I concur with the conclusions of the applicant's screening for AA, in that the only Natura 2000 sites where there is potential for likely significant effects is the Baldoyle Bay SAC (0199) and SPA (4016) as a result of a direct hydrological pathway via the existing attenuation and Mayne River.  13.3.6. Significant impacts on the remaining SAC and SPA sites are considered unlikely, due to the distance and the lack of hydrological connectivity or any other connectivity with the application site in all cases. As such, it is</p>

		<p>reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Sites:ta) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>
<p>Howth Head SAC (site code 0202) to maintain the favourable conservation condition of the qualifying interests.</p>	<p>12.3km</p>	<p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p>

Howth Head Coast SPA (site code 4113) to maintain or restore the favourable conservation condition of the qualifying interests.	12.3km	Kittiwake ( <i>Rissa tridactyla</i> ) [A188]
Irelands Eye SAC (site code 2193) to maintain the favourable conservation condition of the qualifying interests.	9.5km	Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]
Irelands Eye SPA (site code 4117) to maintain and restore the favourable conservation condition of the qualifying interests.	9.5km	Cormorant ( <i>Phalacrocorax carbo</i> ) [A017] Herring Gull ( <i>Larus argentatus</i> ) [A184] Kittiwake ( <i>Rissa tridactyla</i> ) [A188] Guillemot ( <i>Uria aalge</i> ) [A199] Razorbill ( <i>Alca torda</i> ) [A200]
Lambay Island SAC (site code 0204) to maintain the favourable conservation condition of the qualifying interests.	6.9km	Reefs [1170] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] Halichoerus grypus (Grey Seal) [1364] Phoca vitulina (Harbour Seal) [1365]
Lambay Island SPA (site code 4069) to maintain and restore the favourable conservation	6.9km	Fulmar ( <i>Fulmarus glacialis</i> ) [A009] Cormorant ( <i>Phalacrocorax carbo</i> ) [A017] Shag ( <i>Phalacrocorax aristotelis</i> ) [A018]

condition of the qualifying interests.		<p>Greylag Goose (<i>Anser anser</i>) [A043]</p> <p>Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183]</p> <p>Herring Gull (<i>Larus argentatus</i>) [A184]</p> <p>Kittiwake (<i>Rissa tridactyla</i>) [A188]</p> <p>Guillemot (<i>Uria aalge</i>) [A199]</p> <p>Razorbill (<i>Alca torda</i>) [A200]</p> <p>Puffin (<i>Fratercula arctica</i>) [A204]</p>
Skerries Island SPA (site code 4122) to maintain and restore the favourable conservation condition of the qualifying interests.	10.7km	<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> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Herring Gull (<i>Larus argentatus</i>) [A184]</p>
Rockabill SPA (site code 4014) to maintain the favourable conservation condition of the qualifying interests.	11.9km	<p>Purple Sandpiper (<i>Calidris maritima</i>) [A148]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p>

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

Potential Effects on Designated Sites

7.9.9 The subject site itself does not support significant populations of any fauna species linked with the qualifying interests or species of conservation interest populations of any European sites. As a result, and due to the distance of the subject site to these SACs, there is no significant risk to protected habitats and species of the Natura 2000 sites listed above as a result of habitat fragmentation or loss, disturbance or reduction in species density. There are no ex-situ impacts in the site is composed of agricultural lands which are not suitable for feeding or roosting wetland birds. In addition the appeal site consists of agricultural lands of which there is a significant level of land similar in nature and conditions in the vicinity that can adequately accommodate any species that may have been present on the site. There are no watercourses on the site that could act as a direct pathway any of the designated sites and no potential for sediments to make their way into watercourses discharging to any of the designated sites.

7.9.10 Wastewater from the proposed development is to discharge to the Portrane-Donabate wastewater treatment plant. The plant is licensed by the EPA to discharge treated effluent to the Irish Sea and therefore there is an indirect pathway to the Rockabil to Dalkey SAC from this source. The existing plant has a capacity of for 65,000 population equivalent and has still a capacity of 30,941 PE in 2019. It is noted the status of the coastal waters in the SAC is assessed as 'high' (Annual Environmental report 2019). Based on information available the wastewater treatment plant is not having a significant effect on the qualifying interests of the SAC. The proposal to connect to the existing wastewater treatment system means the proposal would have no significant effects on any of designated sites.

7.9.11 There is a potential for environmental water quality to be impacted by surface water run-off. As noted earlier there are no water courses on site or adjacent the site and no impact on surface water quality from the proposed development. On the basis of the foregoing, I conclude that the proposed development will not impact the overall water quality status of Dublin Bay 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 in or associated with



Dublin Bay. In relation to in-combination impacts, given the negligible contribution of the proposed development to the wastewater discharge, I consider that any potential for in-combination effects on water quality in Dublin Bay can be excluded.

Furthermore, other projects within the Dublin Area which can influence conditions in Dublin Bay via rivers and other surface water features are also subject to AA. In this way in-combination impacts of plans or projects are avoided.

7.9.12 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 effects on the Malahide Estuary SAC (site code 0205), Malahide Estuary SPA (site code 4025), to Rockabill to Dalkey SAC (site code 3000) and that Stage II AA is not required.

#### AA Screening Conclusion

7.9.13 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 Malahide Estuary SAC (site code 0205), Malahide Estuary SAC (site code 4025), and the Rockabill to Dalkey SAC (site code 3000), 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.

#### 7.10 Other Issues:

7.10.1 An issue raised by the applicant in their response to the appeal relates to the validity of the appeal with the applicant noting that the name on the appeal submission is not the same as that on any of the third party submissions. Having examined the appeal submission, the appeal is from David Fletcher, Chairman of Donabte Portrane Community Council. The appeal is clearly on behalf of Donabate Portrane Community Council who submitted a third party submission during the application. The appeal has been accepted as being valid and would not consider there is any issue requiring further consideration.

## 8.0 Recommendation

8.1. I recommend a grant of permission subject to the following conditions.

## 9.0 Reasons and Considerations

Having regard to the following:

(a) the provisions of the Fingal Development Plan 2016-2022 a, including the zoning objective C1-New Residential with a stated objective 'to provide for new residential development',

(c) the Housing for All-A New Housing Plan for Ireland (September 2021),

(d) the 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

(e) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009

(f) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2020,

(g) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009,

(h) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018,

(i) the nature, scale and design of the proposed development,

(j) the availability in the area of a wide range of social, community and transport infrastructure,

(k) the pattern of existing and permitted development in the area,

(l) the planning history within the area,

(m) the report of the Chief Executive and associated appendices and

(n) the report of the Inspector and the submissions and observations received,

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density, 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 and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended by the revised plans submitted on the 01<sup>st</sup> April 2001 and the 15<sup>th</sup> of July 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

3. 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.

4. Proposals for an estate / street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interest of urban legibility.

5. 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/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any dwelling unit. Reason: In the interests of amenity and public safety

6.

(a) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths, and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS.

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

(b) Prior to the first occupation of the development, a finalised Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking, and carpooling by residents/occupants/staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development. (c) The Mobility Management Strategy shall incorporate a Car Parking Management Strategy for the overall development, which shall address the management and assignment of car spaces to residents and units over time and shall include a strategy for the community use and any car-share parking.

Reason: In the interest of encouraging the use of sustainable modes of transport.

7. All roads and footpaths shown to adjoining lands shall be constructed up to the boundaries with no ransom strips remaining to provide access to adjoining lands. These areas shall be shown for taking in charge in a drawing to be submitted and agreed with the planning authority.

Reason: In the interest of permeability and proper planning and sustainable development.

8. Bicycle parking spaces shall be provided within the site in accordance with the provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020). Revised details of the number, layout, and design, marking demarcation and security provisions for these spaces shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

9. A minimum of 10% of all car parking spaces should be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces

facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, the development shall submit 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.

10. 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.

11. (a) Drainage arrangements including the attenuation and disposal of surface water, shall comply with the detailed requirements of the planning authority for such works and services.

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

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

(d) A maintenance policy to include regular operational inspection and maintenance of the SUDS infrastructure and the petrol/oil interceptors should be submitted to and agreed in writing with the planning authority prior to occupation of proposed dwelling units and shall be implemented in accordance with that agreement.

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

12. The developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interests of clarity and public health.

13. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –

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

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

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

14. The site shall be landscaped and earthworks carried out in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development. 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 three 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.

Reason: In the interest of residential and visual amenity.

15.(a) Prior to commencement of development, all trees/hedgerow which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height.

This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length and shall be maintained until the development has been completed.

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

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

(d) No trench, embankment or pipe run shall be located within three metres of any trees which are to be retained adjacent to the site unless otherwise agreed with the planning authority.

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

16. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse.

b) Location of areas for construction site offices and staff facilities.

c) Details of site security fencing and hoardings.

d) Details of on-site car parking facilities for site workers during the course of construction.

e) A Construction Traffic Management Plan providing details of the timing and routing of construction traffic to and from the construction site and associated



directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.

f) Measures to obviate queuing of construction traffic on the adjoining road network.

g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.

h) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any footpath, cyclepath or public road during the course of site development works.

i) Details of appropriate mitigation measures for noise, dust and vibration, and the location and frequency of monitoring of such levels.

j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.

k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil. Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains. m) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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

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

Reason: In the interest of sustainable waste management.

18. 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 22. Prior to the commencement of development, the developer shall submit for the written agreement of the Planning Authority, drawings showing all development works to be taken in charge designed to meet the standards of the Planning Authority.

Reason: In the interest of the proper planning and sustainable development of the area.

19. 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.

20. Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of structures that support bat populations shall be carried

out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

Reason: In the interest of wildlife protection.

21. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

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

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the

Development Contribution Scheme made under section 48 of the Act be applied to the permission

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Colin McBride  
Senior Planning Inspector

31<sup>st</sup> January 2022