



An
Bord
Pleanála

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

Inspector's Report ABP-311771-21

Strategic Housing Development

189 no. Build to Rent apartments,
creche and associated site works.

Location

Canterbury Gate, Old Navan Road,
Mulhuddart, Dublin 15.
(www.canterburyplaceshd.com)

Planning Authority

Fingal County Council

Applicant

NME Capital Limited

Prescribed Bodies

The Department of Housing, Local
Government and Heritage
Irish Water
Transport Infrastructure Ireland

Observer(s)

Cllr. John Burtchaell and Ruth
Coppinger

Cllr. John Walsh

Cllr. Mary McCamley

Date of Site Inspection

27th January 2022

Inspector

Elaine Power

1.0 Introduction

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

2.0 Site Location and Description

- 2.1. The subject site is located c. 500 metres west of Mulhuddart Village, c 2km north west of the Blanchardstown Shopping Centre and c. 12km west of Dublin city centre. The site is bound to the north by the Old Navan Road (R121) and Tolka Valley Park, to the south by the N3 (Navan Road) and to the east by an existing 4-storey apartment development 'Canterbury Gate' which is within the ownership of the applicant. To the west the site is bound by a triangular portion of open space which is also within the ownership of the applicant further west there are employment uses including the 'Maxol M3 Mulhuddart Services' service station, the RSA Driving Test Centre and 'M3 Van Centre'.
- 2.2. The site has a total area of 1.434 ha. The residential development would be provided on a site with an area of 1.033 ha. This portion of the site is linear in nature with direct frontage onto the Old Navan Road. It is locally elevated and slopes in a south-north direction, with an elevational difference of c. 3.5m between the southern and northern boundaries. The remaining 0.401ha relates to lands within the ownership of Fingal County Council that would facilitate upgrade works to the public road.
- 2.3. The boundary with the Old Navan Road generally comprises a low stone wall with railing on top and an agricultural gate. There is an existing track running from the northern boundary with the Old Navan Road to the centre of the site. The southern boundary generally comprises a boundary wall with a line of trees which provide screening from the N3. There is an existing wooden panel fence at the eastern site boundary with the Canterbury Gate development. The western boundary is currently open and undefined. The majority of the site is overgrown with dense areas of scrub and construction / general waste. The eastern portion of the site contains the remnants of the foundations of an unfinished apartment scheme.

3.0 Proposed Strategic Housing Development

3.1. The proposed development comprises the construction of 189 no. Build to Rent apartments and a 270 sqm creche. The apartments comprise 63 no. 1-bed apartments and 126 no. 2-bed apartments in 4 no. Blocks (A-D) ranging in height from 5 storeys - 10 storeys over a single lower ground floor car park. The creche is located at the ground floor level in Block A. The development includes communal amenity spaces, comprising a residential amenity area, 3 no. common rooms, a parcel drop box, laundry rooms, a concierge and fitness suite with changing facilities.

3.2. The scheme includes public and communal open space comprising landscaped and play areas, 410 no. long stay bicycle parking spaces and 7 no. cargo bicycle parking spaces at lower ground floor level and 8 no. visitor bicycle space at surface level, 103 no. car parking spaces, 96 no. car parking spaces to serve the apartments and 7 no. spaces to serve the creche. A new vehicular and pedestrian access from the Old Navan Road is proposed to serve the lower ground floor level car parking spaces and 8 no. surface level spaces. It is also proposed to utilise an existing access from the Old Navan Road which serves the Canterbury Gate development to provide access to 7 no. surface level car parking at the site's eastern boundary.

3.3. The works also include the provision of a new pedestrian crossing on Old Navan Road linking the proposed development with the Tolka Valley Park, road and streetscape upgrade works along Old Navan Road, Damastown Close, and Damastown Road, to facilitate the provision of a shared footpath / cycle lane and pedestrian crossings, and all associated site, landscaping and infrastructural works, including tree planting, boundary treatments, street lighting, internal roadways, footpaths and shared surfaces, ESB substations, foul and surface water drainage, and potable water supply necessary to facilitate the development.

3.4. The application included the following:

- Statement of Consistency and Planning Report
- Statement of Response to Pre-Application Consultation Opinion
- Design and Concept Statement
- Housing Quality Assessment

- Daylight Analysis and Overshadowing
- Ecological Impact Statement
- Screening for Appropriate Assessment
- Natura Impact Statement
- Bat Survey Report
- Air Quality Impact Assessment
- Noise Impact Assessment
- Soil Classification Report
- Infrastructure Design Report
- Traffic and Transport Assessment
- DMURS Design Statement
- Flood Risk Assessment
- Landscape Design Statement
- Landscape Specifications
- Tree Survey and Planning Report
- Operational Waste Management Plan
- Construction and Demolition Waste Management Plan
- Construction Environmental Management Plan
- Microclimate Assessment
- Sustainability and Energy Report
- Public Lighting Report
- Building Lifecycle Report
- Property Management Strategy Report
- CGI images

4.0 Planning History

Subject Site

Reg. Ref. FW20A/0043: Permission was refused in 2021 for the realignment of a 450m long section of the Old Navan Road (R121) to provide a 6.5m road and all associated footpaths, verges, cycle tracks, street lighting, signage, road markings, pedestrian crossing points, landscaping, boundary treatments, drainage works, piped and other services, and other ancillary works necessary to facilitate the development

between Canterbury Gate Apartment and M3 Mulhuddart Service Station, Old Navan Road, and includes a linear portion of the north boundary of the subject site. The reasons for refusal are as follows: -

1. Having regard to the distances from the proposed realigned road, including the constructed embankment, to the back of the River Tolka, the proposed development would materially contravene Objective DMS171 of the Fingal County Development Plan which is to 'ensure that no development, including clearance and storage of materials takes place within 10m – 15m as a minimum, measured from each bank of any river, stream or watercourse'. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
2. The proposed development is located in an area at risk of flooding. Having regard to the lack of compensatory storage provided for Flood Zone B and based on the information submitted, the Planning Authority is not satisfied that the development would not increase the risk of flooding downstream. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
3. Based on the information submitted, the Planning Authority is not satisfied that consent to make the planning application has been provided from all relevant landowners. In the absence of this consent it would be inappropriate to grant permission for the development.

Reg. Ref. F06A/1879: Permission was granted in 2008 for the construction of 100 no. apartment in 4 no. four storey blocks and a single storey crèche (239sqm). The development included 2 no. vehicular and pedestrian entrances onto the Old Navan Road and 151 no. car parking spaces, 53 no. surface level and 98 no. underground spaces. This larger site incorporated the subject site. To date 1 no. residential block was constructed on the eastern portion of the site.

Surrounding Sites

Reg. Ref. FW17A/0083: Permission was granted in 2017 for the development of a new sewer, underground storage tanks, a single storey control building over an underground waste water pumping station, 5 no. vehicular accesses associated with construction, 11 no. vent stacks, 3 no. electrical kiosks, diversion of the existing sewer

and an existing watermain to facilitate construction of the storage tanks; diversion of 2 underground ESB lines and an overhead ESB line to facilitate the pumping station; 1 no emergency stormwater overflow to the River Tolka and all temporary works to facilitate the development at the Tolka River Valley Park in the townlands of Parslickstown, Buzzardstown, Coolmine, Corduff and Deanstown in Mulhuddart and Blanchardstown, Dublin 15.

ABP-308361-20, Reg. Ref. FW19A/0189: Permission was granted in 2021 for the demolition of an existing public house and the construction of 3 no. commercial units and 40 no. apartments with 84 no surface car parking spaces at a site located c. 500m east of the subject site.

5.0 Section 5 Pre-Application Consultation

5.1. A Section 5 pre-application virtual consultation took place on the 29th April 2021 in respect of a development of the demolition of an existing structure and the construction of 177no. Build to Rent apartments and a 283sqm creche. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. The main topics discussed at the meeting were –

- R121 / Old Navan Road Upgrade.
- N3 / M50 to Clonee Upgrade.
- Water Services Issues - Flood Risk Assessment; SUDS Strategy.
- Development Strategy – overlay of zoning map and site layout; ground level interface with Old Navan Road; movement around/between blocks and podium OS; access to Tolka Valley Park.
- Environmental Issues – Noise; Air Quality; Seveso Sites; Trees; Bat Survey.
- Transportation Issues.

Copies of the record of the meeting and the inspector's report are on this file.

5.2. In the Notice of Pre-Application Consultation Opinion dated 16th June 2021 (ABP-308853-21) An Bord Pleanála stated that it was of the opinion that the documents submitted required further consideration and amendment in order to constitute a

reasonable basis for an application for strategic housing development with regard to the following: -

1. Road Layout

Further consideration/justification of the documents as they relate to proposed realignment of the R121 refused under FW20A/0043, pedestrian and cycle improvements to the R121, and Objective of the development plan to upgrade the N3 from Littlepace to the M50.

2. Flood Risk

Further consideration/justification of the documents in relation to Flood Risk Management, in accordance with the Guidelines for Planning Authorities on the Planning System and Flood Risk Management issued by the Department of the Environment, Heritage and Local Government in November 2009.

3. Layout and Urban Design

Further consideration/justification of the documents in relation to the design/ layout and ground level interaction with the R121.

5.3. The opinion also stated that the following specific information should be submitted with any application for permission.

1. An overlay of the site layout plan and zoning map is required. Further consideration/justification in relation to any uses proposed on the lands zoned OS is required.
2. Additional details in relation to surface water management for the site. Any surface water management proposals should be considered in tandem with an appropriate flood risk assessment that demonstrates the development proposed will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk.
3. Further consideration/justification in relation to accessibility of communal spaces; connection from within blocks to the communal open space and residential amenity facilities; location and accessibility of play area; pedestrian movement between and around the blocks.
4. A plan detailing the hierarchy and function of public open space across the site, and access to immediately adjoining amenity of Tolka Valley Park and delivery

of any planned entrance/infrastructure relating to the park, to be considered in consultation with FCC.

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, when viewed from both the R121 and the N3.
6. Details of boundary treatment across the site, including boundary treatment along the N3 and the R121.
7. Ecological Impact Assessment and review of tree survey and bat survey submitted, to reflect accurately the boundaries of the site, with due consideration of proximity to the Tolka Valley Park.
8. Noise Impact Assessment.
9. Wind micro-climate study.
10. Sunlight, daylight and overshadowing analysis, having regard to the requirements of BRE209/BS2011.
11. A detailed Construction Environmental Management Plan
12. 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' 2018, including its specific planning policy requirements.
13. A building life cycle report shall be submitted in accordance with section 6.3 of the Sustainable Urban housing: Design Standards for New Apartments (2018). The report should have regard to the long term management and maintenance of the proposed development.
14. Response to issues raised by the Parks and Green Infrastructure Division (dated 21.01.21), Transportation Planning Section (dated 20.01.20, and Water Services Division (dated 14.01.21), as per the reports submitted in Appendix B of the Planning Authority Report, received on 26th January 2021.
15. 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.

16. The information referred to in article 299B(1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018, unless it is proposed to submit an EIAR at application stage.

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

A list of authorities that should be notified in the event of making an application were also advised to the applicant and included:

- Irish Water
- Transport Infrastructure Ireland
- National Transport Authority
- Health and Safety Authority
- Minister for Housing, Local Government and Heritage
- An Taisce (nature conservation)
- Fingal Childcare Committee

5.4. ***Applicant's Statement***

5.4.1. A statement of response to the Pre-Application Consultation Opinion was submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016. The Items that required further consideration are summarised below: -

Road Layout: As a result of the refusal of permission for the realignment of the Old Navan Road, the design team modified the development to reflect the existing road layout and site boundary being maintained. The proposal remains largely the same as that submitted at the pre-planning stage.

The R121 (Old Navan Road) runs east to west along the northern boundary of the site, providing access to Mulhuddart to the east and Damastown and the N3 to the west. It is proposed to widen the existing footpaths into Mulhuddart village along the R121 and

to widen the existing footpath along the R121, Damastown Close and Damastown Road to the west, providing a shared cycle/footpath connecting the subject site to bus stops located on Damastown Road and the N3. It is submitted that these upgrade works will greatly improve connectivity to and from the site.

There is an objective (MT41) in the development plan to upgrade the N3 from Littlepace to the M50. The applicant sought to engage with TII and Fingal County Council on this issue, however, they have received no correspondence in this regard. However, it would appear that it is intended to extend the road into the median rather than the land either side of the road, therefore, not affecting the subject site and not contravening Objective MT41. It is considered that the proposed development has been appropriately designed and is compliant with the policies and objectives of the Fingal Development Plan 2017-2023 as well as Regional and National Planning policy documents.

Flood Risk: A comprehensive Flood Risk Assessment has been submitted with the application. This report was informed by hydrological modelling of the Tolka River and provides an accurate flood model for the subject site. The Flood Risk Assessment found that the proposed residential block and ancillary under-croft car parking are located outside of Flood Zones A and B, thus complying with guidelines on the location of sensitive land uses within flood zones. The applicant has engaged with Fingal County Council in this regard.

Layout and Urban Design: The proposed entrances to each block have been revised to address concerns regarding the interaction with the Old Navan Road (R121). Blocks A to D are accessed via the northern facade of each block at lower ground floor level, with additional access being provided at ground floor level along the southern facades of each block. This will increase the proposed development's interaction with the Old Navan Road, providing pedestrian activity along the site's boundary. The road will also be overlooked by all apartments on the northern façade of each block with balconies and terraces providing passive surveillance along this stretch of road.

- 5.4.2. The applicant addressed items 1-17 of the specific information to be submitted with the application. Items of note are outlined below: -

1. An overlay of the site layout plan and zoning map has been submitted. It is noted that no works are proposed within the Open Space zoned lands to the east of the subject site. These lands will be maintained as open space.
2. A Flood Risk Assessment has been submitted. This assessment was informed by Hydrological modelling of the Tolka River and has informed the surface water management of the scheme.
3. The proposed development has been revised to improve permeability and access through the site, especially for people entering the buildings and communal open space. The previously proposed stair access to the communal open space has been removed and access will now be provided via gently sloping footpaths from the front of the building to the rear. Further access to open space is provided via entrances located at the ground floor levels on the southern façade of each block. The proposed play areas have been relocated to the western side of the subject site so as to protect the amenity of dwellings adjoining the courtyards located between each block. These courtyards will now serve as landscaped areas for sitting instead, thus reducing the noise in these areas
4. A Landscape Plan and Landscape & Open Space Strategy have been submitted which details the hierarchy and function of the proposed public open space. Public open space comprising 1120sqm will be provided in the western portion of the subject site and will contain children's play areas and a basketball court. In addition to 4,268qm of communal open space. The proposed development provides a future link into the Tolka Valley Park.
5. Details of the proposed materials and finishes have been included in the drawings submitted.
6. Details of boundary treatment across the site, including boundary treatment along the N3 and the R121 are provided in the Landscape Plan submitted.
7. An Ecological Impact Assessment which includes a tree survey and bat survey has been submitted.
8. Noise Impact Assessment has been submitted.
9. Wind micro-climate study has been submitted.
10. Sunlight, daylight and overshadowing analysis has been submitted.
11. A Construction Environmental Management Plan has been submitted.

12. A detailed schedule of accommodation has been submitted.
13. A building life cycle report has been submitted.
14. A response to issues raised by the Parks and Green Infrastructure Division, Transportation Planning Section and Water Services Division has been included in the Statement of Consistency and Planning Report.
15. It is considered that the proposed development does not materially contravene the development plan, therefore, a Material Contravention Statement has not been submitted.
16. An EIAR has not been submitted. A response detailing the information included in article 299B(1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018, has been included in the Statement of Consistency and Planning Report.
17. An Appropriate Assessment screening report and Natura Impact Statement have been submitted.

6.0 **Relevant Planning Policy**

6.1. ***Fingal County Development Plan 2017-2023 (as amended)***

The site is subject to 3 no. land use zoning objectives. The majority of the site is Zoned RS Residential Area with the associated land use objective to *'provide for new residential communities subject to the provisions of the necessary social and physical infrastructure'*. A small portion of land at the sites eastern boundary is zoned OS Open Space with the associated land use objective to *'preserve and provide for open space and recreational amenities'*. A small portion of land at the sites western boundary is zoned GE General Employment with the associated land use objective to *'provide opportunities for general enterprise and employment'*.

Mulhuddart is identified in the Core Strategy as a 'Consolidation Area within the Gateway' Section 2.8 of the plan states that these are settlements that have their own distinct character and sense of place but given their location in close proximity to Dublin City, form consolidation areas within the gateway. The policy approach in these areas will be to gain maximum benefit from existing transport, social, and community infrastructure through the continued consolidation of the city and its suburbs. Future

development will happen in a planned and efficient manner utilising opportunities to achieve increased densities where appropriate.

Chapter states the Mulhuddart Village is an important commercial, retail and local services centre for the surrounding community. It has undergone successful regeneration and enhancement in recent years with several opportunities existing for further additional redevelopment and improvement. The objectives for the area as follows: -

Objective MULHUDDART 1: *Provide for appropriate mixed use village-scale development which enhances local services and community facilities, and has a residential content.*

Objective MULHUDDART 2: *Improve pedestrian and cycle facilities in Mulhuddart Village and create a network of pedestrian and cycle routes between Mulhuddart, along the Old Navan Road towards the N3 and Damastown, Tyrrelstown, Kilmartin and Hollystown.*

Objective MULHUDDART 3: *Improve and promote links between the Tolka Valley Park, Blanchardstown Centre and Mulhuddart Village.*

Objective MULHUDDART 4: *Examine the feasibility of developing the redundant spur road(s) associated with the Old Mulhuddart Bridge to provide for its integration into the public realm and amenity associated with the village*

The following policies and objectives are considered relevant: -

Objective SS15: *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.*

Objective SS16: *Examine the possibility of achieving higher densities in urban areas adjoining Dublin City where such an approach would be in keeping with the character and form of existing residential communities, or would otherwise be appropriate in the context of the site.*

Objective PM38 *Achieve an appropriate dwelling mix, size, type, tenure in all new residential developments.*

Objective PM39 *Ensure consolidated development in Fingal by facilitating residential development in existing urban and village locations.*

Objective PM40 *Ensure a mix and range of housing types are provided in all residential areas to meet the diverse needs of residents*

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 *The Guidelines for Planning Authorities 'Sustainable Urban Housing: Design Standards for New Apartments', 2015 issued by the then Minister for the Environment, Community and Local Government under Section 28 of the Planning and Development Act, 2000 (as amended) are required to be applied by the Planning Authority in carrying out its functions.*

Objective MT04: *At locations where higher density development is being provided, encourage the development of car-free neighbourhoods, where non-motorised transport is allowed and motorised vehicles have access only for deliveries but must park outside the neighbourhood, creating a much better quality public realm with green infrastructure, public health, economic and community benefits.*

Objective DMS20: Require the provision of a minimum of 50% of apartments in any apartment scheme are dual aspect.

Objective DMS21: Allow a reduced percentage of dual aspect apartments only in circumstances where it is necessary to ensure good street frontage and subject to high quality design. In no instance will the provision be less than 33% of the number of apartments in the scheme.

Objective DMS22: Require a minimum floor to ceiling height of 2.7 metres in apartment units, at ground floor level.

Objective DMS23: Permit up to 8 apartments per floor per individual stair/lift core within apartment schemes.

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.

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 DMS131: *Seek to provide building setbacks along National Roads and Motorways and their junctions, and along sub-standard Regional and Local Roads to allow for future improvement to enable the provision of a safe and efficient network of National, Regional and Local Roads.*

Objective SW07 *Implement the Planning System and Flood Risk Management-Guidelines for Planning Authorities (DoEHLG/OPW 2009) or any updated version of these guidelines. A site-specific Flood Risk Assessment to an appropriate level of detail, addressing all potential sources of flood risk, is required for lands identified in the SFRA, located in the following areas: Courtlough; Ballymadun; Rowlestown; Ballyboghil; Coolatrath; Milverton, Skerries; Channell Road, Rush, Blakescross; Lanestown/Turvey; Lissenhall, Swords; Balheary, Swords; Village/Marina Area, Malahide; Streamstown, Malahide; Balgriffin; Damastown, Macetown and Clonee, Blanchardstown; Mulhuddart, Blanchardstown; Portrane; Sutton; and Howth, demonstrating compliance with the aforementioned Guidelines or any updated version of these guidelines, paying particular attention to residual flood risks and any proposed site specific flood management measures*

6.2. **Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019.**

The RSES is underpinned by key principles that reflect the three pillars of sustainability: Social, Environmental and Economic, and expressed in a manner which best reflects the challenges and opportunities of the Region. It is a key principle of the strategy to promote people's quality of life through the creation of healthy and attractive places to live, work, visit and study in.

The site is located within the 'Dublin Metropolitan Area'. The Metropolitan Area Strategic Plan (MASP), which is part of the RSES, seeks to focus on a number of large strategic sites, based on key corridors that will deliver significant development in an integrated and sustainable fashion. The following RPOs are of particular relevance:

RPO 5.4: Future development of strategic residential development areas within the Dublin Metropolitan Area shall provide for higher densities and qualitative standards

set out in the ‘Sustainable Residential Development in Urban Areas’. ‘Sustainable Urban Housing; Design Standards for New Apartment’ Guidelines, and Draft ‘Urban Development and Building Heights Guidelines for Planning Authorities’.

RPO 5.5: Future residential development in the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, supported by the development of Key Metropolitan Towns in a sequential manner as set out in the Dublin Area Strategic Plan (MASP) and in line with the overall settlement strategy for the RSES.

6.3. ***National Planning Framework***

The National Planning Framework addresses the issue of ‘making stronger urban places’ and sets out a range of objectives which it considers would support the creation of high quality urban places and increased residential densities in appropriate locations while improving quality of life and place. Relevant Policy Objectives include

- National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35: Increase residential density 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.

6.4. **Section 28 Ministerial Guidelines**

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 are:

- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2020
- Urban Development and Building Heights Guidelines, 2018
- Urban Design Manual, A Best Practice, 2009
- Design Manual for Urban Roads and Streets, 2013
- The Planning System and Flood Risk Management Guidelines, 2008

6.5. **Applicants Statement of Consistency**

The applicant has submitted a Statement of Consistency (as part of the Planning Report) as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of section 28 guidelines and the relevant Development Plan.

6.6. **Material Contravention Statement**

The applicant considered that the proposed development does not materially contravene the Fingal Development Plan 2017-2023 and, therefore, no Material Contravention Statement was included with this application.

7.0 **Third Party Submissions**

3 no. third party submissions were received from Cllr. John Burtchaell and Ruth Coppinger, Cllr. John Walsh and Cllr. Mary McCamley. The submissions generally support the redevelopment of the site for residential development. The concerns raised are summarised below: -

Housing Tenure

- The Build to Rent model maximises rental yields and not the wellbeing of the occupants or neighbouring residents.

Design Approach

- Concerns regarding the scale, height and character of this development which is out of character with the suburban village of Mulhuddart.
- This application shows a very significant intensification of development from the original planning permission granted in 2008 which allowed for 100 apartment dwellings in four storey blocks (of which only the first phase was constructed).
- Density is very high on this small site.
- The 5-storeys to 10-storey height is in excess of existing buildings, which are predominantly 2-storey residential with some 3 storey commercial units.
- A lower density and lower height development would be much more appropriate for this suburban location.
- The type of accommodation is exclusively 1 and 2 bed apartments which are needed in Dublin 15, however, building an entire development of this kind is not conducive to creating a settled community which puts down roots in the area.
- Block D, the 10-story block appears to be a co-living type development with common areas which again is not suitable for long term occupancy and community development.

Residential Amenity

- The development is directly beside the N3, one of the busiest dual carriageways in the country and the noise is severe. The site is also bounded on the other side by a busy road between Mulhuddart and the Damastown industrial area. Noise mitigation measures are required to ensure the amenity of future residents.
- The proposals for noise mitigation on the site are not adequate considering its proximity to the N3 and the likely impact of works on the N3 which may remove or impinge on existing trees.
- Concerns regarding the aspect of the apartment units and the balconies.
- The height of the proposed development would have a negative impact on the visual amenities of the area.
- This development does not provide an amenity for existing residents.
- Negative impact on existing residents during the construction phase from noise, dust and traffic and during the operations phase from bin storage and refuse trucks accessing the site on a narrow road.

Transportation / Car Parking

- A proposal by the applicant to realign the Old Navan Road was rejected by Fingal County Council (January 2021). It was indicated in the pre planning consultation that the application would not be lodged until permission for the realignment was granted. Therefore, it was suggesting that the realigned road was an essential prerequisite of the development.
- The existing road will have to accommodate a very significant increase in the level of vehicular traffic and potentially an even greater number of cyclists, in the absence of any immediate realignment or widening of the road. This presents risks to health and safety due to inadequate segregation of road users at the proposed access points of the new development and on the road itself.
- A development of this scale is premature in advance of the forthcoming upgrade to the N3 which may well have major implications for this site.
- There no bus service, Luas or light rail system which would be more appropriate to serve a dense, high-rise development.
- The 38 bus which is the only direct public transport link into the city centre does not serve this area or Mulhuddart village.
- This is a suburban location 13km outside the city centre. This development would be car reliant.
- The allocation of 96 car parking spaces (excluding 7 already provided at the creche) falls far short of the Development Plan standard of 262 car parking spaces for this development. Under provision of car parking. Residents will be forced to drive as Mulhuddart is very poorly served by public transport and is routinely gridlocked.
- Mulhuddart cannot credibly be considered a Central or Accessible Urban Location. The village and its environs are not located close to a high capacity train line or train station of any kind and do not have a high quality bus corridor leading to the city centre. Even the N3 does not have a consistent high quality bus route along its length and assuming a significant improvement as a result of BusConnects remains speculative at this stage.
- It is unclear how the development would be connected to the Tolka Valley Park via a pedestrian crossing. Fingal County Council would have to agree to these works which are located in the rivers flood plain. There would also be a

requirement for a bridge across the river. The location of the pedestrian crossing is also unsafe due to the bend in the road.

- There are no cycle lanes between this site and TU Dublin site.

Flood Risk

- The proposed development is located on a flood plain close to the River Tolka. The danger of flooding was flagged as a key issue by the Water Services department of Fingal County Council in the pre-planning consultation. A development of this scale and intensification is a significant gamble in the light of the proximity of the Tolka and the risk of flooding.
- Fingal County Council indicated at the pre planning consultation that the N3 upgrade may result in 'drainage and attenuation on the subject site which may affect the basement layout'. This matter has not been resolved and presents significant risks for development of the site and its eventual occupants.

Social Infrastructure

- The application fails to consider the impact on local schools and infrastructure more generally of such a large-scale development which goes so far beyond the original planning permission. The infrastructure report makes no reference to schools at all and takes no account of the impact of the proposed development on primary and post-primary schools in the area.

Ecology

- This development would have a negative effect on the nearby river which needs to be protected to safeguard wildlife.

8.0 Planning Authority Submission

- 8.1. The Chief Executive's Report, in accordance with the requirements of Section 8(5)(a) of the Act 2016, was received by An Bord Pleanála on the 22nd December 2021. The report includes a summary of the proposed development, site location and description, internal reports, relevant planning history, third-party submissions and prescribed bodies, and policy context. The views of the elected members of the Blanchardstown – Mulhuddart / Castleknock / Ongar Area Committee, at a meeting held on the 4th November 2021 are summarised as follows: the previous reasons for refusal on the site have not been addressed; tenure is similar to co-living; Tolka Park cannot be

accessed from the development as it is a flood plain; the tenure would not support the creation of a community; the scale of the development is not in keeping with the area; risk of flooding on the site; traffic; car parking; noise; ecology; social infrastructure / residential amenity space; unit mix; material contravention of the development plan .Reports from Parks and Green Infrastructure Division, Transportation Planning Section and Water Services Department have also been provided.

8.2. The key planning considerations of the Chief Executive's report are summarised below.

Settlement Strategy and Zoning: The site is primarily zoned 'RS' Residential. Residential and childcare facilities are permitted in principle under this zoning objection. The eastern end of the site is zoned 'OS' Open Space and is identified as open space in the site layout. The western end of the site is zoned 'GE' General Employment. This area is shown as open space. It is noted that residential uses are not permitted on lands zoned GE.

Density and Height: While the building height is greater than that of the adjoining development in Canterbury Gate, it is considered that the site has the capacity to cater for this scale of development, subject to quality architectural design and impact amenities. The acceptability of the density, at 182 units per ha, must be considered in terms of the residential amenity provided by the scheme and broader impacts on the amenities of the area.

Flood Risk: The Strategic Flood Risk Assessment for the Fingal County Development Plan indicates that the site is almost entirely located in Flood Zone B, with a small portion of the site located in Flood Zone A. A detailed hydraulic model was submitted by the applicant. This indicates that part of the site and a section of the Old Navan Road is in Flood Zone A and B with the extent of flooding less than that shown in the development plan. The updated mapping is considered acceptable.

The finished floor levels of the apartment blocks are outside flood zone A and B. However, the design allows for a significant amount of flooding at the entrance and in the vicinity of the underground parking area. The Old Navan Road is shown inundated with water. The applicant considers this as local transport infrastructure which would be regarded as less vulnerable use in the Flood Risk Guidelines. However, the

separation of elements of the proposed development on this basis is not considered appropriate. These are ancillary to the residential development and, therefore, the development in its entirety should be classified as highly vulnerable. This has implications for the applicants Flood Risk Assessment which states that the access roads and car parking are appropriate in Flood Zone B. It is, therefore, considered that this development needs to pass the justification test as set out in Bos 5.1 of the Guidelines. Details in this regard have not been submitted.

Having regard to the extent of the flood zones on the site the proposal would rely on the successful implementation of a Flood Risk Management Plan to moderate risk from future scenarios. Having regard to the areas at risk of flooding, it is not clear how vehicular access into the site can be maintained and where vehicles would be displaced during a flood event.

Furthermore, to limit any potential flooding downstream, this area would need to continue to operate as a flood plain. This is considered that future residents would request measures to prevent flooding on site, which would potentially result in additional downstream flooding. It is considered that the development requires revisions to address the issues of flood risk and to take into consideration the implications of flood risk on the amenity of the scheme. The current format the development is not considered acceptable.

Future Road Proposals The upgrade of the N3 route from Littlepace to the M50 is an objective of both the development plan (MT41) and (Section 5.8.1) the Transport Strategy for the Greater Dublin Area 2016-2035. This project is also included in the National Development Plan. The council and TII are currently assessing possible options for upgrading the N3 between Clonee and the M50. At present, it is considered that the proposed development would have an impact on the development of the N3 to M50 Clonee Scheme. The proposal is likely to conflict with outfall locations. It is noted that the submitted drawings indicate the presence of an existing outfalls and the diversion of 1 outfall.

It is not clear what is being proposed for the existing outfall pipe. It appears to be left untouched. The detail of protection of this pipe would need to be agreed prior to the commencement of development.

Objective DMS131 seeks to provide setbacks to allow for future improvements to enable the provision of safe and efficient road network. It is not envisioned that a boundary set back would be required along the N3, however, widening into the existing verge is a possibility.

It is considered that the proposed development is premature pending the determination of the road layout for this area.

Layout and Design

Unit Typologies and Mix: It is desirable to include 3-bed units to widen the household type. However, regard is had to SPPR8 of the Apartment Guidelines.

Residential Amenity – Proposed Units: Due to the limited size of the proposed residential amenity spaces in Blocks A, B and C they are considered to be of limited amenity value. More generous space are provided in Block D in the form of a fitness suite and 3 no. common rooms.

Given the site context it would have been useful to obtain baseline information in respect of air quality at the subject site. This would have provided information on the amenity value of outdoor space and informed decisions about the appropriate extent of indoor amenity space to be provided.

To mitigate against noise from the adjacent road networks mechanical ventilation and winter gardens are proposed. Having regard to the implications of these measures, which it is assumed includes a lack of openings, it is considered that it would have been appropriate to include compensatory factors such as more generously proportioned winter gardens and apartment units.

The separation distance between Block A and B is 10.5m at the closest point. Having regard to the proximity of the blocks, the level of overlooking into opposing units is considered unacceptable and contrary to the residential amenities of the scheme. It would also be contrary to Objective DMS28 to provide 22m between opposing windows at first floor level and a minimum of 22m at second floor level and above.

Visual Amenity: It is considered that the western elevation of Block C would benefit from additional detailing or fenestration particularly on the northern portion of this elevation.

Open Space and Landscaping: The shortfall in public open space should be addressed by way of financial contribution. Clear separation is required between the proposed public open space and the communal open space so there is no ambiguity between public and private areas in terms of general public access etc.

The landscaping proposals should include significant replacement planting having regard to the removal of mature trees.

Site Access and Transportation:

Access and Parking: It would be preferable to amend the set down area for the creche to one in which reversing manoeuvres are avoided in the interest of traffic and pedestrian safety. This may require a larger consideration of the development layout having regard to the change in zoning, and the location of lands identified as open space, adjacent to the creche. There are also a number of existing spaces currently used on this site associated with the existing apartment block to the east that would be used for the creche set down area. The status of the existing spaces should be clarified.

Parking is proposed at a ratio of 0.5 spaces per unit. Even in the context of SPPR of the Apartment Guidelines, this is considered low and there is no allowance being made for visitor parking, which should be provided to prevent haphazard on street car parking.

The level of bicycle parking at 410 no. spaces, is considered to be less than the minimum required.

The proposed development would improve the pedestrian and cycle connectivity in the area. However the proposed shared facilities are only 3m in width on one side of the road, which changes to the opposite side of the road. This may cause confusion for users. It would be preferable to have facilities on both sides of the road. In order to future proof the provision of adequate future facilities a shared surface of a minimum of 4m in width should be provided

Traffic and Transport Assessment.

There are some discrepancies identified in the TTA. The counts did not take into account the signalised junction in Mulhuddart Village. The counts were taken over 2 no. 3-hour periods and not over a 24-house period. The trip generation for the creche

were discounted by 50%. For a robust case this should not be the case. The data used from TRICS is more suited to developments in the UK and are considered lower and an underestimate of trips generated by apartment developments.

Concerns that the Old Navan Road / Damastown Road junction required further assessment. Notwithstanding the discrepancies in the TTA it is considered that any impact of the development on the surrounding road network would not be a significant negative impact.

Other Issues: Further consideration is required of the following: -

- Provision of charging points
- Swept path for fire tenders
- Gradients on access ramps and clearance heights
- Gradient of basement ramps and top of the ramp at surface level.

Water Services: The proposal is generally acceptable having regard to the site constraints. However, there are concerns over catchment B and the storage provided. The position of the underground attenuation tank for catchment B is in an area at risk of flood water inundation. The associated petrol interceptor for this catchment is located off site on the opposite side of the Old Navan Road. This requires further consideration. The area to the west of Block B may be feasible to provide storage or the relocation of this block to accommodate repositioning of floor waters and surface water management for Block D and associated roads services could be considered.

It is also noted that an existing surface water sewer traverses this area. The surface water management for this area requires further consideration and agreement.

Conclusion: As outlined above, there are a number of significant issues which are not addressed satisfactorily in the application. The planning authority recommended that permission be refused for 3 no. reasons outlined below: -

1. Having regard to the distance between opposing apartment blocks in the proposed development and the pattern of fenestration, the proposed development would give rise to unacceptable overlooking between opposing residential units which would adversely impact on the residential amenities of future occupants, would contravene materially objective DMS28 and the

predominant zoning objective which applies to this site in the Fingal County Development Plan 2017-2023 which seeks to protect and improve residential amenity. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. The proposed development would be premature pending the determination by Fingal County Council of a road layout for the area, and, as such is considered to be contrary to the proper planning and sustainable development of the area.
3. The proposed development is located in an area which is at risk of flooding. based on the information submitted, the planning authority is not satisfied that the mitigation measures proposed would satisfactorily manage flood risk to an acceptable level and not unacceptably compromise residential amenity. Taking into account the nature of the proposed development which is a highly sensitive use as defined in the 'Planning System and Flood Risk Management Guidelines', the proposed development would not satisfy the justification test in said Guidelines and consequently the proposed development would, if permitted, be contrary to the guidelines issued to planning authorities under Section 28 of the Planning and Development Act 2000, as amended, and to Objectives SW02 and SW07 of the Fingal County Development Plan 2017 – 2023. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

The planning authority also set out 28 no. recommended conditions in Appendix C of the report.

9.0 Prescribed Bodies

- 9.1. The list of prescribed bodies, which the applicant was required to notify prior to making the SHD application was issued with the Section 6(7) Opinion and included the following: -

- Irish Water
- Transport Infrastructure Ireland
- National Transport Authority
- Health and Safety Authority

- Minister for Housing, Local Government and Heritage
- An Taisce (nature conservation)
- Fingal Childcare Committee

Section 6(7) opinion. The letters were sent on the 22nd December 2021. A summary of the comments received are summarised below:

Irish Water

Irish Water confirms that the applicant has been issued with a statement of design acceptance for proposals within the redline boundary.

Water: In order to accommodate the proposed connection the following upgrade works are required:

- Connection main - (Approx.) 20m of new 150mm ID pipe main to be laid to connect the existing 6" AC. Bulk meter required on the connection main
- Upgrades – (Approx.) 80m of new 200mm ID pipe main to replace the existing 7" AC

Irish Water currently does not have any plans to extend its network in this area therefore, the applicant will be required to fund this network extension.

There are Irish Water pipes within and in close proximity to the development site boundaries. Therefore, the applicant shall ensure appropriate separation distances can be achieved as per IW standards codes and practices. Any proposed diversions by the applicant must be assessed and agreed with Irish Water prior to commencement of works.

Wastewater: New connection to the existing network (750 mm sewer to the north) is feasible without upgrade. No surface water from the development shall enter the Irish Water Network.

Development Applications Unit, The Department of Housing, Local Government and Heritage

Nature Conservation

Loss of nesting habitat due to the removal of the tree row should in the long term be compensated for to a considerable extent by the proposed planting of 130 no. trees as part of the landscaping of the new development, however, if clearance of vegetation of the site is carried out during the bird breeding season it could result in the direct destruction of bird nest eggs and nestlings. It is recommended that a condition be attached to any grant of permission that the clearance of vegetation should only be carried out outside of the bird breeding season.

The bat survey report emphasises the importance of preserving a dark zone along the River Tolka, this is supported by the DAU. Having regard to the height of the proposed buildings, the design of the internal and external lighting for the scheme should take account of the importance of preserving a dark corridor along the Tolka. It is recommended that a condition be attached to any grant of permission that the external lighting scheme be reviewed to ensure its design is in accordance with best practice guidelines for bat conservation.

It is noted that the flooded structure / artificial pond which consists of a former basement constructed on site, was not surveyed for amphibians due to health and safety issues. The occurrence of frogs were noted in the bat survey report. Therefore, it is possible that frogs could be utilising the flooded structure. It is recommended that a condition be attached to any grant of permission that the site be surveyed for frog spawn and tadpoles by an ecologist prior to commencement of development.

The AA Screening report considers that there is potential for polluting materials to be mobilised from the development site into surface water run off during the construction phase of the proposed development and that unmitigated such pollution transported into Tolka could possibly detrimentally impact on the Qualifying / Special Conservation Interests of some of Dublin Bay Natura 2000 sites. A suite of measures to prevent the mobilisation of pollutants are set out in the Construction Environmental Management Plan and the NIS. The DAU accepts that with the implementation of these measures it is considered that significant adverse effects to the integrity of any Natura 2000 site would not occur. It is recommended that a condition be attached that prior to the commencement of any works a CEMP be submitted to the planning authority and incorporate all the measures set out in the NIS to avoid any pollution of surface water run-off.

Transport Infrastructure Ireland

The submission raised no concerns regarding the proposed development and noted the following: -

- The Authority will entertain no future claims in respect of impacts (e.g. noise and visual) on the proposed development, if approved, due to the presence of the existing road or any new road scheme which is currently in planning.
- The Authority requests that regard is had to the provisions of Chapter 3 of the DoECLG Spatial Planning and National Roads Guidelines in the assessment and determination of the subject planning application.

No submissions were received from the National Transport Authority, the Health and Safety Authority, An Taisce (nature conservation) or Fingal Childcare Committee.

10.0 Assessment

The Board has received a planning application for a housing scheme under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. My assessment focuses on the National Planning Framework, the Regional Economic and Spatial Strategy and all relevant Section 28 guidelines and policy context of the statutory development plan and has full regard to the chief executive's report, 3rd party observations and submission by prescribed bodies. The assessment considers and addresses the following issues: -

- Principle of Development
- Density
- Design, Layout and Height
- Residential Amenity
- Housing Tenure and Housing Mix
- Landscaping / Open Space
- Water Services
- Flood Risk
- Transportation
- Ecology

- Material Contravention
- Chief Executives Recommendation

10.1. ***Principle of Development***

- 10.1.1. The site is subject to 3 no. land use zoning objectives. The majority of the site is zoned 'RS' Residential Area with the associated land use objective to 'provide for new residential communities subject to the provisions of the necessary social and physical infrastructure'. The 4 no. apartment blocks would be provided within this area, therefore, the principle of residential development with associated road infrastructure is considered in accordance with the zoning objectives.
- 10.1.2. A small portion of land at the sites eastern boundary is zoned 'OS' Open Space with the associated land use objective to 'preserve and provide for open space and recreational amenities'. A small portion of land at the sites western boundary is zoned GE General Employment with the associated land use objective to 'provide opportunities for general enterprise and employment'. Both of these areas would be used as open space associated with the residential element of the development which is permissible under these zoning objectives.
- 10.1.3. Mulhuddart is identified in the Core Strategy as a 'Consolidation Area within the Gateway'. Section 2.8 of the plan states that these are settlements that have their own distinct character and sense of place but given their location in close proximity to Dublin city form consolidation areas within the gateway. The policy approach in these areas will be to gain maximum benefit from existing transport, social, and community infrastructure through the continued consolidation of the city and its suburbs. It is envisioned that future development would happen in a planned and efficient manner utilising opportunities to achieve increased densities where appropriate. This is supported by Objective SS15 of the plan which aims to strengthen and consolidate existing urban areas joining Dublin city through infill and appropriate brownfield redevelopment in order to maximise the efficient use of existing infrastructure and services. It is my opinion that the proposed development is in accordance with the objectives of the Core Strategy and Objective SS15 of the development plan.
- 10.1.4. In addition, chapter 4 (Urban Fingal) of the development plan highlights Mulhuddart Village as an important commercial, retail and local services centre for the surrounding

community and it notes that it has undergone successful regeneration and enhancement in recent years with several opportunities existing for further additional redevelopment and improvement. The plan sets out a number of objectives for the area including appropriate mixed use village-scale development which enhances local services and community facilities, and has a residential content; improve pedestrian and cycle facilities in Mulhuddart Village and create a network of pedestrian and cycle routes between Mulhuddart, along the Old Navan Road towards the N3 and Damastown, Tyrrelstown, Kilmartin and Hollystown; Improve and promote links between the Tolka Valley Park, Blanchardstown Centre and Mulhuddart Village. It is my opinion that the proposed development is in accordance with the objectives set out in the development plan for Mulhuddart. It is noted that the planning authority and third parties raised no objection to the principle of the development.

10.2. ***Density***

10.2.1. The scheme has a density of 182 units per ha. Third parties have raised concerns that the proposed density is excessive for the subject site. The development plan does not set out density standards, however, Section 12.4 Design Criteria for Residential Developments states that in general the number of dwellings to be provided on a site should be determined with reference to the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009). As a general principle and to promote sustainable forms of development, higher residential densities will be promoted within walking distance of town and district centres and high capacity public transport facilities. In addition, Objective PM 41 seeks to encourage increased densities at appropriate locations whilst ensuring that the quality of place, residential accommodation and amenities for either existing or future residents are not compromised.

10.2.2. Having regard to the site's proximity to Mulhuddart Village and its location between an existing apartment development to the east and commercial development to the west it is my opinion that the scheme represents an infill development. The Sustainable Residential Development Guidelines do not set out a density standard for infill sites, however, the guidelines note that in residential areas a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings,

the protection of established character and the need to provide residential infill. The issue of residential amenity is addressed below in Section 10.5.

10.2.3. Plot ratio and site coverage are also relevant considerations to help control the bulk and mass of buildings and prevent the adverse effects of overdevelopment. The scheme has a plot ratio of 1.98 and a site coverage of 22% excluding lower ground floor car park or 32.81% including lower ground floor car park. The development plan does not set out standards for plot ratio or site coverage, however, in my opinion having regard to the urban nature of the site the proposed plot ratio and site coverage are acceptable.

10.2.4. While it is acknowledged that the proposed scheme has a significantly higher density than the existing residential estates in the environs of Mulhuddart it is my view that the proposed scheme should be viewed in the context of the surrounding area which has experienced a transition from a low density, single and two storey suburban area to a more urban area, with a mix of different types of dwellings, including apartment blocks of varying heights and significantly increased densities. As noted above Chapter 4 of the development plan notes that Mulhuddart has undergone successful regeneration and enhancement in recent years with several opportunities existing for further additional redevelopment and improvement. The planning history for Mulhuddart indicates that the village experienced significant residential development in the 1990's early 2000's with large number of applications for traditional housing schemes within the village environs and commercial development within the village centre. More recent applications in Mulhuddart include a grant of permission in 2021 (ABP. PL06F.308361, Reg. Ref. 19A/0189) for the construction of 3 no. commercial units 40 no. apartments in a single block with a maximum height of 4 storeys and a density of 80 units per ha. This site is located c. 500m east of the subject site at the junction of Church Road and Old Navan Road and a grant of permission (Reg. Ref. FW14A/0087) in 2014 for a service station and ancillary uses located c. 200m west of the subject site. It is also noted that the subject site previously formed part of a larger site (1.449ha) which was granted permission in 2006 (Reg. Ref. F06/0904) for 126 no. apartments in 6 no. blocks with a maximum height of 5-storeys. This scheme had a density of c. 87 units per ha. To date only 1 no. block (Canterbury Gate) was constructed which is located to the east of the proposed development.

- 10.2.5. Objectives 4, 13, 33 and 35 of the National Planning Framework, RPO 5.4 and RPO 5.5 of the Regional Spatial and Economic Strategy 2019-2031 and SPPR3 and SPPR4 of the Urban Development and Building Heights Guidelines, all support higher density developments in appropriate locations, to avoid the trend towards predominantly low-density commuter-driven developments.
- 10.2.6. Chapter 2 of the Design Standards for New Apartments Guidelines, 2020 notes that it is necessary to significantly increase housing supply, and City and County Development Plans must appropriately reflect this and that apartments are most appropriately located within urban areas, and the scale and extent should increase in relation to proximity to public transport as well as shopping and employment locations. I agree with the third parties that the subject site does not reach the criteria set out in the guidelines for a central or accessible site and it is my opinion that the subject site is situated in an intermediate location. The Apartments Guidelines (2020) identify intermediate urban locations as sites within or close to i.e reasonable walking distance of a principle town or suburban centres or employment locations and/ or sites within reasonable walking distance of high frequency urban bus services. The site is located in close proximity to large centres of employment and educational centres in this regard it is c. 600m south of Damastown Industrial Park, c. 1.6km south west of TU Dublin Blanchardstown, 1.7m north west of Blanchardstown Shopping Centre, c. 2.5km south west of Blanchardstown Corporate Park and c. 3km north west of Connolly Hospital Blanchardstown and bus stops with 15 min frequency within 500m of the site on Damastown Road, therefore, it is considered that the scale of the development complies with national guidance and is suitable for higher density.
- 10.2.7. While it is acknowledged that the density of the previous scheme on the site was lower than that currently proposed it is noted that this scheme pre-dated current national and regional policy, as outlined above.
- 10.2.8. In conclusion, it is my view that the proposed scheme would not result in overdevelopment of the site and that the proposed density is appropriate in this instance having regard to national and regional policy, the area's changing context, proximity to employment and educational centres, proximity to a wide variety of services and amenities and to public transport. It is also noted that the planning authority raised no objection in principle to the proposed density.

10.3. ***Design, Layout and Height***

- 10.3.1. The third parties raised concerns that the scale and character of the development which is out keeping with the suburban village of Mulhuddart. The proposed development comprises the construction of 189 no. Build to Rent apartments and a 270 sqm creche. The apartments comprise 63 no. 1-bed apartments and 126 no. 2-bed apartments in 4 no. Blocks (A-D) ranging in height from 5 storeys - 10 storeys over lower ground floor car park. The creche is located at the ground floor level in Block A. The scheme is laid out in a linear pattern with open space provided at the sites eastern and western boundaries. A linear area of open spaces is also proposed along the site's southern boundary.
- 10.3.2. The scheme includes a continuous lower ground floor level with 4 no. individual blocks above. The applicant describes the development as ranging in height from 5 – 10 storeys over a lower ground floor level. In this regard Block A is 6 storeys, Block B is 8 storeys, Block C is 10 storeys and Block D is 5 storeys all over a lower ground floor level. In my opinion this description is accurate when describing the development when viewed from the N3 at the site's southern boundary. However, due to the topographical differences on the site, the lower ground floor level of Blocks A and B are level with the Old Navan Road at the site's northern boundary and the lower ground floor level of Blocks C and D are located above the Old Navan Road. Therefore, when viewed from the Old Navan Road the scheme would appear to range from 6 – 11 storeys in height. The issue of height is addressed below in section 10.4.
- 10.3.3. **Block A** is 6 storeys in height over lower ground floor. It accommodates 38 no. apartments (6 no. 1-bed and 32 no. 2-bed) and a creche with associated outdoor space. Ground floor communal facilities comprising a laundry room, residential amenity area, and drop box area for parcels. Access to the block will be provided via the Old Navan Road on the northern façade of the block, with a secondary entrance located on the southern façade.
- 10.3.4. **Block B** is 8 no. storeys in height over lower ground floor. It accommodates 63 no. apartments (8 no. 1-bed and 55 no. 2-bedroom units). Ground floor level communal facilities comprising a laundry room, residential amenity area, and drop box area for parcels.

- 10.3.5. **Block C** is 10 no. storeys in height over lower ground floor. It accommodates 79 no. apartments (40 no. one bedroom and 39 no. two-bedroom units). Ground floor communal facilities comprising a laundry room, residential amenity area, and drop box area for parcels
- 10.3.6. **Block D:** is 5 no. storeys in height over lower ground floor. It accommodates 9 no. apartments all of which will be one-bedroom units. A communal gym, with shower rooms and changing facilities and a management office and concierge to serve the entire development is located on the ground floor. 3 no. communal rooms, a beverage preparation room, laundry room, cleaning store and disabled WC are proposed at first floor level.
- 10.3.7. Access to each of the blocks is via the Old Navan Road on the northern façade of the block, with a secondary entrance located on the southern façade. In my opinion the provision of pedestrian access to blocks from the ground floor level and the location of the creche provides a sufficient active frontage onto the Old Navan Road. It is also noted that the design of the blocks allows for passive overlooking of the public road.
- 10.3.8. The Housing Quality Assessment submitted with the application includes a Schedule of Accommodation. It is noted that all units reach and exceed the minimum requirements set out in the Apartment Guidelines. In addition, SPPR4 of the Apartment Guidelines requires that a minimum of 50% of units are required to be dual aspect in suburban or intermediate locations. Objective DMS20 of the development plan also requires that 50% of apartments be dual aspect. A total of 121 no. units (65%) are dual aspect, which is in excess of the standards. Of the single aspect units, 32 no. are north facing. In this regard 6 no. units in Block A, 8 no. units in Block B and 20 no. units in Block C. It is noted that these units front onto the Tolka Valley Park, which provides a high level of visual amenity. There are no single aspect north facing units in Block D. I have no objection to the limited number (17%) of single aspect north facing units and consider that the views of the Tolka Valley Park provides adequate compensation for the orientation.
- 10.3.9. The details of the material are provided on the elevational drawings and within the Building Lifecycle report, which indicated that each block would generally comprises 2 no. brick finishes with a vertical cladding panel. Each block also includes a feature

wall, with a differing shade of green. The Architectural Design Statement notes that shades of green from light to dark were chosen to reflect the wooded nature of the approach to the site from Mulhuddart Village whilst providing the clear identity of each Block without jarring with the surroundings. The blocks include winter gardens which provide a contrast to the brick. The position of the balconies vary from Block to Block.

10.3.10. I have no objection to a high quality brick finish and consider it appropriate at this location. However, in my opinion the submitted CGI images and elevational drawings do not actually indicate a brick finish, therefore, it is recommended that if permission is being contemplated that a condition be attached to ensure a high a high quality brick finish.

10.3.11. Although a limited vertical feature on the blocks I have concerns regarding the use and durability of both cladding and green feature walls. Having regard to the high visibility of this development it is my opinion that these elements could potentially have a negative impact on the visual amenities of the area, particularly when viewed from the N3. It is my opinion that the vertical emphasis could be achieved through the use of a high quality and durable material, such as brick or stone. It is considered that these issues could be addressed by way of condition.

10.3.12. The proposed scheme includes a creche at the ground floor level of Block A. The existing site sections submitted indicate that the lower ground floor level of Block A is generally level with both the northern (Old Navan Road) and southern (N3) site boundaries. This portion of the site currently comprise the remains of a part constructed basement level for the development previously granted on the site. The proposed sections also indicate that the area to the south of Block A would be filled to raise the level of the site to ground floor level. This allows for direct access to the creche from the southern elevation. It is noted that the site sections are north-south orientated, and no east-west sections have been provided. Therefore, it is unclear how the site levels at the eastern boundary (at the Canterbury Gate development) of rise towards Block A. The lower ground floor plan indicates the creche play space is located above at ground floor level and the elevational drawings appear to show the levels sloping from the northern boundary to the southern boundary adjacent to Block A. However, from the information submitted it is unclear if there would be avoid under the play area or if a wall would be provided. Notwithstanding these concerns it is

considered that it could be addressed by way of condition to ensure the outdoor play space associated with the creche is located at ground floor level and that, if required, details of any retaining structures should be submitted and agreed with the planning authority. It is also noted that the Noise Impact Assessment recommends that a 3m high noise wall be provided around the perimeter of the creche playground. The drawings submitted do not clearly indicate how this 3m high wall would interact with the communal open space. Therefore, if permission is being contemplated it is recommended that a condition be attached that final details of this 3m high wall be agreed with the planning authority.

10.3.13. During a site visit on the 25th January 2022, it was noted that the proposed car parking area and open space located to the east of Block A is in use by the existing Canterbury Gate development as open space and car parking. The layout appears to be generally in accordance with the layout granted under Reg. Ref. F06A/1879. It is noted that there is an existing access to the Canterbury Gate development and associated car parking at the eastern portion of the apartment development and therefore it would appear that residents are not reliant on this area for car parking. Canterbury Gate is also within the ownership of the applicant. I have no objection to the dual use of open space and car parking provision to serve the proposed development and existing development and consider that this could be controlled by the management company. The issue of open space is addressed below in Section 10.7 and car parking is addressed below in Section 10.10.

10.3.14. As noted above applicant describes the development as ranging in height from 5 – 10 storeys over a lower ground floor level. However, when viewed from the Old Navan Road the scheme would appear to range from 6 – 11 storeys in height. Concerns are raised by third parties that the height of the proposed development is excessive and note that Mulhuddart generally comprises 2-storey residential developments with some 3 storey commercial units. It is acknowledged that the proposed height of the development, on an elevated site, would result in a scheme that is highly visible in the immediate vicinity of the site. A booklet of photomontages is included with the application which provides a comparison of the existing site and the proposed development. It is my view that the submitted photomontages provide a reasonable

representation of how proposed development would appear. The application does not include a Landscape and Visual Impact Assessment.

10.3.15. The height of the 4 no. blocks is staggered with the lower heights (Blocks A and D) at the sites eastern and western boundaries and the taller block (Block C) located at the centre of the site. Block A is 6-storeys in height. It is located c. 45m from the boundary with the existing 4-storey Canterbury Gate, which previously forms of the applicant's landholding. Block D is 5 storeys and is located c. 60m from the site's western boundary with a 2-storey commercial building. Block C which is 10 storeys in height is located in the centre of the site and the 8 storey Block B is located between Blocks A and C. I have no objection in principle to the height strategy and consider that it successfully integrates with the Canterbury Gate development to the east. It is my view that that due to the site's proximity to the N3 to the south and the Old Navan Road and Tolka Valley Park to the north that it has the capacity to absorb taller buildings. The planning authority note that the building height is greater than that of the adjoining development in Canterbury Gate, however, it is also considered that the site has the capacity to cater for this scale of development, subject to quality architectural design and impact amenities.

10.3.16. The applicants planning report notes that this development would be a feature on the N3, acting as a gateway into the city and the use of appropriate materials would reduce the visual impact of the development. I agree with the applicant's assessment that this development would result in a visually prominent feature in the skyline when viewed from the N3 and I have no objection to a taller building at this location. However, from the information submitted I would have some concerns regarding the quality of the materials proposed and the colour scheme, in particular having regarded to the highly visible nature of this site. However, it is considered that this concern could be addressed by way of condition as outlined above.

10.3.17. The development plan does not set out any restrictions on height. It is noted that the planning authority and the applicant consider the proposed building heights to be in accordance with the provisions of the development plan and third parties have not raised any concerns regarding a material contravention in relation to height. SPPR 4 of the Building Height Guidelines states that there is a requirement for a greater mix of building heights and typologies in planning for the future development of suburban

locations and Section 3.4 notes that newer housing developments in suburban areas includes apartment developments of 4 storeys upwards. Section 3.2 of the Urban Development and Building Heights Guidelines sets out criteria for assessing the scale of the development with regard to the city, street and site level including, proximity to high frequency public transport; integration / enhancement of the character and public realm of the area; response to overall natural and built environment; architectural response; urban design; improved legibility; mix of uses and building typologies. Additional specific assessment may also be required for issues including daylight and sunlight; microclimate; communication. It is my view, that the proposed development would be in compliance with SPPR3, having specific regard to the high-quality design and layout of the scheme and its contribution to the consolidation of the urban area.

10.3.18. While it is accepted that the proposed height is significantly taller than the existing buildings and would introduce a new feature in the skyline, it is my view that it would not significantly detract from the visual amenities of the N3 and should be considered in the context of the existing taller buildings at Blanchardstown Shopping Centre, which are highly visible from the N3. It is also considered that it would not detract from the short range views from the Old Navan Road and would improve the visual amenity of this underutilised site in the urban area.

10.3.19. In conclusion, the concerns of the third parties regarding the height, scale and character of the development are noted. However, it is my opinion that the design and layout provides for an appropriate scale and massing which creates a visually interesting and high quality scheme on this prominent site within Mulhuddart and on the N3. It is also considered that the height of the development successfully integrates with the adjacent Canterbury Gate development to the east and the commercial development / service station to the west. Therefore, it is my view that the proposed scheme would provide a positive contribution to the area and would support the consolidation of the urban environment and represents a reasonable response to its context. It is noted that the planning authority raised no concerns regarding the architectural form or height of the development.

10.4. ***Residential Amenity***

Overlooking and Overbearing Impact

- 10.4.1. As noted above the proposed development comprises the construction of 4 no. new residential blocks (A, B, C and D) in a linear pattern of development, with Block A located c. 45m from the site's eastern boundary and Block D located c. 60m from the site's western boundary.
- 10.4.2. The planning authorities first recommended reason for refusal considered that having regard to the distance between opposing apartment blocks in the proposed development and the pattern of fenestration, the proposed development would give rise to unacceptable overlooking between opposing residential units which would adversely impact on the residential amenities of future occupants, would contravene materially objective DMS28.
- 10.4.3. The drawings submitted included detailed internal floor plans for each individual block. However an overall internal layout plan for all levels of the development has not been provided. Therefore, the exact position of windows in relation to one another has not been provided. It would appear from the information submitted that there is a c.10.5m separation distance between directly opposing K/D/L room windows on the western elevation of Block A and the eastern elevation of Block B. In this regard K/D/L room windows in units A0.02, A1.05, A2.12, A3.19, A4.26 and A5.33 directly overlook K/D/L in units B0.02, B1.09, B2.17, B3.25, B4.33, B5.41, and bedrooms in units B0.03, B1.10, B2.18, B3.26, B4.34 and B5.42 on the eastern elevation of Block B. Due to the height difference between the Blocks A and B I have no concerns regarding undue overlooking of sixth and seventh floor units in Block B, in this regard units B6.49, B6.50, B7.57 and B7.58. There is also a c.14m separation distance between directly opposing K/D/L and bedroom windows in units A0.01, A1.04, A2.11, A3.18, A4.25, A5.32 on the western elevation of Block A and units B0.03, B1.10, B2.18, B3.26, B4.34 and B5.42 on the eastern elevation of Block B.
- 10.4.4. I agree with some of the concerns raised by the planning authority. In particular it is my opinion that the proposed separation distances between Blocks A and B, in combination with the window size and placement of some windows in these Blocks has the potential to result in undue overlooking. However, as the Blocks are staggered and the units are dual aspect, and in some instances triple aspect, it is my opinion that undue overlooking could be prevented by omitting, amending and/or repositioning some

windows. If permission is being contemplated it is recommended that a condition be attached regarding the following: -

- The 3 no. windows at ground floor level and the 2 no. windows at first to fifth floor level on the western elevation of Block A, which serve the K/D/L rooms of units A0.02, A1.05, A2.12, A3.19, A4.26 and A5.33 be omitted and replaced with high level windows with obscure glazing.
- An additional window shall be provided on the southern elevation of Block A which serves the K/D/L rooms of units A0.02, A1.05, A2.12, A3.19, A4.26 and A5.33.
- The most southern window at ground to fifth floor level on the eastern elevation of Block B, which serve K/D/L in units B0.03, B1.10, B2.18, B3.26, B4.34, B5.42 be replaced with a high level window with obscure glazing.
- At ground floor level the balcony serving unit B0.03 shall be relocated from the eastern elevation to the southern elevation.
- Appropriate screening shall be provided on the western elevation of balconies serving units A0.02, A1.05, A2.12, A3.19, A4.26 and A5.33.
- Appropriate screening shall be provided on the northern elevation of balconies serving units A0.01, A1.04, A2.11, A3.18, A4.25, A5.32.
- Appropriate screening shall be provided on the eastern elevation of balconies serving units B0.03, B1.10, B2.18, B3.26, B4.34 and B5.42.

10.4.5. There is a separation distance of c. 12m between the western elevation of Block B and the eastern elevation of Block C. It would appear from the drawings submitted that the windows have been staggered to ensure there are no directly opposing windows. Therefore, I have no concerns regarding undue overlooking between Blocks B and C, subject to appropriate screening of the winter gardens / balconies.

10.4.6. There is a separation distance of c. 39m between Blocks C and D. Due to the separation distance proposed I have no concerns regarding undue overlooking between Blocks C and D.

10.4.7. The planning authority raised concerns that the proposed development would also materially contravene Objective DMS28. Objective DMS28 requires that minimum separation distances of 22m be increased in residential developments over 3 storeys in instances where overlooking or overshadowing occurs. The objective also states that these distances shall generally be observed unless alternative provision has been designed to ensure privacy. It is acknowledged that the minimum separation distance of 22m have not been provided between the blocks. However, the objective allows for flexibility where the design ensures privacy for future residents. It is my opinion that subject to the recommended conditions outlined above regarding alterations to the windows on the western elevation of Block A and the eastern elevation of Block B that the proposed development would ensure privacy and, therefore, would not be a material contravention of Objective DMS28.

10.4.8. In conclusion, while it is acknowledged that the proposed separation distances between Blocks A and B has the potential to result in undue overlooking it is my opinion that subject to the conditions outlined above, the design and layout proposed achieves a balance between protecting residential amenities of future residents from undue overlooking and overbearing impact and achieving a high quality design, with attractive and well connected spaces. It is considered that the design and layout of the scheme results in a high quality development that is visually interesting and at a scale and height that is appropriate and reflective of this urban site and would support the consolidation of the urban environment.

Daylight, Sunlight and Overshadowing

10.4.9. Section 3.2 of the Urban Development and Building Height Guidelines (2018) states 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. The Guidelines state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE '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, in respect

of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution. The Sustainable Urban Housing Design Standards for New Apartments Guidelines, 2020 also state that planning authorities should have regard to these BRE or BS standards.

10.4.10. The applicant's assessment of daylight and overshadowing relies on the standards in the following documents:

- BRE Report "Site Layout Planning for Daylight and Sunlight";
- British Standard BS 8206-2:2008 Lighting for Buildings – Part 2 Code of Practice for Daylighting; and
- The Design Standards for New Apartments – Guidelines for Planning Authorities, 2020

10.4.11. I have considered the reports submitted by the applicant and have had regard to BRE 2009 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011) and BS 8206-2:2008 (British Standard Light for Buildings - Code of practice for daylighting). While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in Buildings), which replaced the 2008 BS in May 2019 (in the UK) I am satisfied that this document / updated guidance does not have a material bearing on the outcome of the assessment and that the relevant guidance documents remain those referred to in the Urban Development and Building Heights Guidelines.

Internal Daylight and Sunlight

10.4.12. In general, Average Daylight Factor (ADF) is the ratio of the light level inside a structure to the light level outside of structure expressed as a percentage. The BRE 2009 guidance, with reference to BS8206 – Part 2, sets out minimum values for Average Daylight Factor (ADF) that should be achieved, 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 daylighted living room. This guidance does not give any advice on the targets to be achieved within a combined kitchen/living/dining layout. It does however, state that where a room serves a dual purpose the higher ADF value should be applied.

- 10.4.13. The proposed apartment layouts include a combined kitchen/living/dining room. As these rooms serve more than one function the 2% ADF value was applied to the kitchen / living /dining rooms. The applicant's assessment analysis the ADF for all rooms at ground and first floor levels within the development. I have no objection to the submitted analyses and consider this to be a reasonable approach, as these are considered to be the worst case scenario.
- 10.4.14. The information submitted indicates that all rooms assessed achieve the minimum recommended ADF target of 1% for bedrooms and 2% for LKD and in some instances significantly exceed the minimum recommended targets. Full details are provided in Tables 1 – 4 of the applicant's report. As outlined above, to prevent undue overlooking it is recommended that some windows be altered and / or relocated, however, having regard to the information submitted I am satisfied that all of the rooms within the scheme would receive adequate daylight.
- 10.4.15. Section 3.3 of the BRE guidelines state that good site layout planning for daylight and sunlight should not limit itself to providing good natural lighting inside buildings. Sunlight in the spaces between buildings has an important impact on the overall appearance and ambience of a development. It is recommended that at least half of the amenity areas should receive at least 2 hours of sunlight on 21st March. Section 3 of the applicant's report indicates that 100% of the 1,680sqm of proposed open space would received at least 2 hours of sunlight on the 21st March, which exceeds BRE recommendation.
- 10.4.16. Having regard to daylight and sunlight provision and to the overall levels of compliance with BRE targets it is my opinion that the proposed scheme would be well light and would provide a high level of amenity for future occupiers. It is noted that no concerns were raised by the planning authority or third parties regarding overshadowing.

Adjacent Residents – Canterbury Gate

- 10.4.17. In designing a new development, it is important to safeguard the daylight to nearby buildings. The site is bound to the east by an existing 4 storey apartment development, 'Canterbury Gate'. Block A is 6 storeys in height over a lower ground floor level. It is located c. 45m from the site's eastern boundary and c. 60m from the western boundary of the existing apartment development.
- 10.4.18. The Daylight Analysis submitted with the application does not include an assessment of adjoining properties, therefore, the report does not provide results for Vertical Sky Component (VSC), Daylight Distribution (DD) or Annual Probable Sunlight Hours (APSH) for the existing apartments within Canterbury Gate. Notwithstanding the absence of these assessments I am satisfied that due to minimum separation distance of 60m between the existing Apartments and Block A, which has a maximum height of 22.2m (including the lower ground floor level) that the proposed development is unlikely to have any overshadowing impact on existing properties or their associated amenity spaces. Therefore, I consider the potential impact to be acceptable.
- 10.4.19. It is noted that no concerns were raised by third parties or the planning authority regarding the impact of the development on the residential amenities of existing dwellings with regard to overshadowing, overlooking and overbearing impact. Although not raised by third parties, I have reviewed the proposals and carried out a site inspection in respect of all potential impacts on the residential amenity of neighbouring properties. I would note that Block A is the closest to the existing properties, and as such has the greatest potential to impact by reason of overlooking, overbearing and overshadowing. However, I am satisfied that having regard to the orientation of the existing properties relative to the development site, the height of Block A and the separation distances proposed it is my view that the proposed development would not have an undue negative impact on the existing residential amenities of these dwellings in terms of overlooking, overshadowing or overbearing impact.

Internal Residential Amenity Space

- 10.4.20. SPPR 7 (b) of the Apartment Guidelines provides that BTR developments must be accompanied by detailed proposals for (i) resident support facilities and (ii) resident

services and amenities. This information has been provided in the documentation submitted and includes a site specific Property Management Strategy Report

- 10.4.21. The development includes 773.4 sqm of internal communal amenity spaces, comprising a reception/concierges; gym; meeting/events rooms; residents amenity rooms; creche facility; laundry rooms; parcel drop boxes. The majority of the residential amenity space is provided in Block D, with a gym (194sqm) and concierge and parcel drop provided at ground floor level and 3 no. common rooms (47sqm, 25.7sqm and 25.7sqm), beverage prep room (8.5sqm), laundry room and toilets provided at first floor level. Blocks A, B and C also include a laundry room, parcel drop and residential amenity space at ground floor level.
- 10.4.22. The planning authority consider that due to the limited size of the proposed residential amenity spaces in Blocks A, B and C they are considered to be of limited amenity value. I agree with the planning authority that the facilities within Blocks A, B and C are limited and would in general provide support facilities to future residents. It is my view that the residential amenity area would be provided within Block D. The proposed internal residential services and amenities are considered to be in accordance with the provisions of the Apartment Guidelines and would offer adequate facilities to future occupants.

Noise

- 10.4.23. The applicants Noise Impact Assessment assessed the impact of noise intrusion from the N3 and operational noise generated by the proposed development. A baseline study was conducted at 4 no. locations within the site, the details of which are provided in figure 1 of the report. The dominate source of noise related to traffic movements on the N3. A summary of unattended noise measurements (3rd September – 6th September 2019) range from 71 to 76dB across the 4 no. locations monitored. A summary of attended noise measurements (3rd September – 6th September 2019) range from 66dB to 76 dB across the 4 no. locations monitored.
- 10.4.24. The report recommends mitigation measures to prevent the adverse impact of noise intrusion on the proposed development from traffic noise. The mitigation measures related to construction requirements and are set out in Section 5 of the report and include appropriate glazing, ventilation systems, wall and roof construction and the

provision of winter gardens. The report also notes that the internal layout of the creche is important to the assessment, with the sleeping areas provided away from the southern elevation. Without mitigation the location of the development so close to the N3 Road, the noise levels in the creche playground are predicted to be significantly above the recommended external amenity noise levels. To reduce the external playground noise levels to more acceptable levels it is currently proposed to implement a 3m high noise wall around the perimeter of the playground. The location of the extended noise wall. The location of this wall is indicated on Figure 3 of the report.

10.4.25. With regard to operational phase, noise is likely to occur from the usage of the creche playground. The assessment indicates that the creche playground noise levels are within acceptable levels during activity and further mitigation is not required. Further to this, the access road is predicted to comply with the operational noise criteria. . It is recommended that all external mechanical plant/ kitchen exhaust systems be designed in accordance with EPA Guidance Note for Noise and BS 4142:2014. Subject to the mitigation measures outlined in the Noise Impact Assessment it is my opinion that other noise levels would be reasonable and would not result in an unacceptable level of noise disturbance for future or existing residents. It is noted that the planning authority raised no objection in this regard.

10.5. ***Housing Tenure and Housing Mix***

10.5.1. The proposed development comprises 189 no. Build to Rent apartments. Concerns are raised by third parties regarding the tenure of the proposed development. Objective PM38 of the development plan aims to achieve an appropriate dwelling mix, size, type, tenure in all new residential developments. The applicant has not provided an analysis of the existing housing tenure in the surrounding area, however, from a site visit and search of relevant planning history for the area it would appear that the majority of the housing stock comprises traditional houses with a limited number of apartments in the village centre. While it is acknowledged that the scheme itself does not provide a mix of tenures it is my opinion that the proposed Build to Rent tenure contributes to a greater variety of accommodation types in the area. It is noted that the planning authority raised no objection to the proposed tenure.

- 10.5.2. Chapter 5 of the Apartments Guidelines notes that *'a key aspect of the BTR is its potential to accelerate the delivery of new housing at a significantly great scale than at present'*. Therefore, the provision of a BTR development would deliver a higher volume of units for the private rental sector over a shorter timeframe. Having regard to government policy to provide more housing as set out in Rebuilding Ireland – Action Plan for Housing and Homelessness additional housing units are welcomed.
- 10.5.3. Having regard to the sites location in close proximity to large employment and education centres, services and facilities within Damastown Industrial Park, TU Dublin Blanchardstown, Blanchardstown Shopping Centre, Blanchardstown Corporate Park and Connolly Hospital Blanchardstown and to public transport, it is my view that the proposed Build to Rent scheme is appropriate in this instance as it would provide an additional housing tenure in the wider Dublin 15 area, which is professionally managed and would support the provision of long-term residents.
- 10.5.4. SPPR 7(a) requires the submission of a proposed covenant or legal agreement to ensure the scheme remains as a BTR for at least 15 years, this has been prepared and an appropriate condition should be attached.
- 10.5.5. Concerns are also raised by third parties that Block D appears to be a co-living type development. Block D accommodates 9 no. 1-bed apartments which reach and exceed the standards set out in the Apartment Guidelines. Block D also provides communal residential amenity facilities for the overall development, including a gym, a management office, concierge to serve 3 no. communal rooms, a beverage preparation room, laundry room, cleaning store and disabled WC are proposed at first floor level. The provision of internal residential amenity space is in accordance with SPPR 7(b) which requires that residential support facilities and residential services and amenities be provided for Build to Rent developments. Having regard to the internal layout and design I am satisfied that this development is not a co-living scheme and it is noted that the applicant has not applied for planning permission for a co-living development.
- 10.5.6. Concerns are also raised by third parties that the proposed unit mix is not conducive to creating a settled community and the planning authority consider it desirable to include 3-bed units to widen the household type. The scheme comprises 63 no. 1-

bed apartments and 126 no. 2-bed apartments BTR apartments. Having regard to the existing traditional housing stock in the area, which generally comprises 3 and 4 bed houses I have no objection to the proposed housing mix and considered that it would add to the variety of housing available in the wider area. In addition, it is noted that SPPR 8(i) of the Apartment Guidelines states that no restrictions on dwelling mix shall apply to BTR schemes.

10.6. ***Landscaping / Open Space***

Public Open Space

- 10.6.1. Objective DMS57 of the development plan 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. The proposed scheme comprises 189 no. units with 2 or less bedrooms and, therefore, accommodates c. 283.5 bedspaces (189 no. units by 1.5 no. persons). I agree with the applicant's calculation that this would generate a requirement for 7,080sqm of public open space, based on 2.5ha per 1,000 population as set out in Objective DMS57.
- 10.6.2. The proposed development provides 1,120sqm of public open space on the western portion of the subject site and includes a playground, basketball court. The shortfall in the provision of public open space is noted by the applicant, however, it is stated that the proposed level of public open space is appropriate in this instance having regard to the proximity of the site to the Tolka Valley Park. It is noted that a future potential link to the park has been identified by the applicant and that they have engaged with the planning authority with regard to a future connection. However, having regard to the current inaccessible nature of the parkland from its southern boundary at the Old Navan Road and as the planning authority have no short term plans to provide access to the park from the Old Navan Road it is my view that this is not an acceptable compensatory solution in this instance. The planning authority recommended that a financial contribution be provided in lieu of public open space. It is noted that Objective PM53 of the development plan allows for a financial payment

in lieu of public open space. Therefore, if permission is being contemplated it is recommended that a condition be attached that a financial payment be made in lieu of public open space

Communal Open Space

- 10.6.3. The development plan does not set out communal open space standards. Appendix 1 of the Sustainable Urban Housing: Design Standards for New Apartments 2020 set out minimum required areas for public communal amenity space in this regard 5 sqm per 1-bedroom and 7 sqm per 2-bedroom (4 person). Therefore, there is a minimum requirement for 1,197 sqm of residential amenity space. The proposed development includes 4,268 sqm of communal open space comprising landscaped pocket parks and areas adjacent to the blocks, which is significantly in excess of the apartment standard.
- 10.6.4. The exact location and a breakdown of the size of the pocket parks has not been provided. From the drawings submitted it would appear that the communal open space is located between and to the north and south of Blocks A, B and C and at the site's eastern boundary to the east of Block A. The communal amenity space areas between Blocks A and B and B and C are passive in nature and link to the pathway along the southern boundary which accommodates outdoor gym equipment. This path leads to the public open space to the west of Block D. It is my opinion that high quality communal open space is provided between Blocks A and B and between Blocks B and C and to the north and south of these 3 no. blocks. It is also noted that a walking / running route is proposed along the southern boundary which provides access to residents of the proposed development as well residents of the existing apartment building at Canterbury Gate. The Daylight Analysis and Overshadowing report submitted also indicates that all areas of open space would exceed the minimum standards set out in the BRE Guidelines and, therefore, would be well lit.
- 10.6.5. With regard to the area of communal open space to the east of Block A it was noted during a site visit on the 27th January 2022 that this area of open space is existing and currently provides amenity space for Canterbury Gate and includes play equipment, swing set, play house etc. It is noted that this area was indicated as open space in the previous permission granted on site and that both the existing and proposed

development are in the ownership of the applicant. Having regard to the overall quantum of communal open space proposed I have no objection to this space also serving the existing Canterbury Gate development and consider that this can be controlled by the management company. As public access to the creche is proposed from the southern boundary of Block A it is recommended that if permission is being contemplated a condition be attached that an appropriate boundary treatment be provided to ensure that access to the communal open space is restricted.

- 10.6.6. It is noted that the Parks and Green Infrastructure Division of the Planning Authority also requested that a clear delineation be provided between public and communal open space.
- 10.6.7. The planning report notes that a number designated play areas are provided throughout the scheme, including a play space proposed as part of the creche. It is unclear if it is intended that the outdoor space associated with the creche would be utilised by future residents. Having regard to the ownership / management of the site it is recommended that the outdoor space for the commercial element of the development would remain independent from the residential element. It is considered that this could be addressed by way of condition.

Private Open Space

- 10.6.8. Appendix 1 of the Apartment Guidelines sets out minimum standards for private open space of 5sqm for a 1-bed apartment and 7sqm for a 2-bed apartment. It is noted that each apartment has been provided with a winter garden which reaches or exceeds the minimum requirement. The Noise Impact Assessment notes that balconies are not suitable on any façade of the proposed development due to the high noise levels at the site. An assessment of the winter gardens was undertaken, and the results indicate that these spaces are predicted to achieve the desirable external amenity noise levels provided the glazing complies with the minimum requirements. I have no objection to the quantity or quality of the private open space proposed.

Trees

- 10.6.9. A Tree Survey was submitted with the application. The attached schedule indicates 17 no. individual trees and 4 no. linear tree groups currently on the site. The report

notes that the dominant arboricultural feature of the site are the older mature trees that pre-date the construction of the Canterbury Gate apartments and the partially built foundations and groundworks located across the western bulk of the site. Unfortunately, most of these older trees are in poor condition, with most showing clear signs of physiological decline and several with indications of significant internal wood decay. It is likely, given the size of the trees and their likely root spread, that they sustained significant root damage during the course of previous activity on the site.

10.6.10. To facilitate the proposed development it is proposed to remove the majority of trees from the site. Linear tree groups G1 and G3 at the site's southern boundary and 4 no. trees at the sites north eastern boundary would be retained. The Tree protection plan also indicates the retention of 4 no. existing trees to the east of the subject site, however, it is noted that these trees are outside of the redline boundary and located within the Canterbury Gate Development. To compensate for the loss of existing trees and vegetation it is proposed to provide 130 no. new individual tree and to improve the species mix and the proportion of native species.

10.6.11. The subject site is located in an urban area on zoned and serviced lands. It is my view that the proposed tree loss would be adequately compensated by the planting of an additional 130 no. trees and the significant landscaping proposed within the areas of open space. The Parks and Green Infrastructure Division raised no objection in principle to the removal of the trees and recommend that if permission is being contemplated that a tree bond be provided to ensure the protection of trees and vegetation and that details of the proposed new trees on the site be agreed with the planning authority.

10.7. **Water Services**

Water and Wastewater Networks

10.7.1. The proposed development would be connected to the existing public water mains and public sewer. Irish Water acknowledged the applicant has been issued a Statement of Design Acceptance for the development. In order to facilitate a connection to the public watermain new connection main comprising c. 20m of new 150mm ID pipe to be laid to connect the existing 6" AC. Bulk meter required on the connection main and c. 80m of new 200mm ID pipe main to replace the existing 7"

AC. The applicants Infrastructure Design Report notes that there is an existing 325mm foul drainage pipe is running through the proposed site and discharging into the 675mm foul drainage pipe to the north of the Old Navan Road. It is proposed to retain the existing infrastructure on site and discharge flows to the existing 675mm sewer to the north of the subject site. Irish Water have confirmed that a new connection to the existing network is feasible without upgrade.

Surface Water

- 10.7.2. There are 2 no existing surface water pipes (1050mm dia & 375mm dia) traversing the site from south to north within the western side of the site, discharging to the River Tolka towards the north. The report states that these pipes appear to form part of discharge for the adjacent N3 and are identified in Figure 2 of the Infrastructure Design Report. This infrastructure would not be impacted by the proposed development and would be retained in their current position.
- 10.7.3. The planning authority's second recommended reason for refusal considered that the proposed development would be premature pending the determination by Fingal County Council of a road layout for the area. It would appear that this concern relates to the current review of the N3 M50 to Clonee Scheme. The Transportation Planning Sections report notes that the initial drainage review of the N3 M50 to Clonee Scheme identified the area as a potential location for attenuation for drainage of the future scheme, which is currently under review. The exact layout has not been determined and Phase 3 design works have not yet commencement. It is unclear from the wording of the report if the subject site has been specifically identified as a potential for an outfall location or if it is the general vicinity of the site. It is noted that TII have raised no objection in principle to the proposed development. The proposed development retains the 2 no. existing outfall locations for the N3 and it is noted that permission was previously granted on this site for residential development (Reg. Ref. F06A/1879). It is my view that having regard to the lack of specific detail regarding the potential location for an outfall to serve the N3 and the lack of a timeframe for such works that it would be unreasonable to refuse planning permission on this basis and that details of the location of a potential outfall, if required, to serve the N3 could be agreed prior to commencement of development. If permission is being contemplated it is recommended that a condition be attached in this regard.

- 10.7.4. The applicants Infrastructure Design Report notes that there is an existing underground surface water storage tank located in the south-eastern corner of the proposed site boundary along with an associated outfall pipe to the Tolka River. This currently accommodates runoff from the adjacent Canterbury Gate residential scheme to the east. The tank was designed to accommodate runoff from a larger catchment. However, the balance of the development was never constructed. An existing attenuation tank would be removed due to a lack of information available regarding location and installation details.
- 10.7.5. The catchment area for the site is divided into 2 no. separate areas. Surface water run-off from the eastern portion of the site would be directed to a new attenuation system under the communal open space area between Block A and the surface car park. Surface water run-off from the western part of the site would be directed to the proposed pipe network and discharged to the underground storage tank located between Blocks C and D. The PA raised concerns regarding the position of this underground attenuation tank, as it is located in an area at risk of flood water inundation and associated petrol interceptor for this catchment is also located off site on the opposite side of the Old Navan Road. It is considered that this issue could be addressed by way of condition to relocate the attenuation tank away from the potential flood zone. If permission is being contemplated it is recommended that a condition be attached in this regard.
- 10.7.6. Surface water runoff from the development would be managed using a combination of SuDS features and traditional drainage, such as gullies and pipes. SuDS features include permeable paving, intensive and extensive green roofs, swale, filter drains and bio-retention areas which will reduce pollutant concentration in run-off and provide a more ecologically friendly drainage system. Attenuated surface water runoff would be discharged to the existing surface water outfall pipe on site.
- 10.7.7. The surface water network, attenuation storage and site levels are designed to accommodate a 1% AEP (Annual Exceedance Probability) storm event and includes climate change provision of 10%. Floor levels of the development are set a minimum of 0.5m above the 1% AEP storm event flood level. A site specific Flood Risk Assessment was submitted, and it is noted that the site is not considered to be at risk from pluvial flooding.

10.7.8. In conclusion, I am satisfied that there are no infrastructural aspects to the proposed development that present any conflicts and that the concerns raised by the planning authority could be addressed by way of condition.

10.8. ***Flood Risk***

10.8.1. The subject site is located 35m south of the Tolka River. A Site-Specific Flood Risk Assessment (FRA) was submitted with the application.

10.8.2. The Strategic Flood Risk Assessment (SFRA) carried out as part of the Fingal County Development Plan 2017-2023 indicates that the majority of the subject site is located within Flood Zone B with a small portion in Flood Zone A. The OPW maps for the Tolka River are currently under review and unavailable. In the absence of available data the applicant carried out a detailed hydraulic model of the River Tolka and its tributaries. The applicants model indicates reduced flooding within the site, with the majority of the site located in Flood Zone C. A small linear portion of the sites northern boundary is indicated as being located in Flood Zones A and B. The planning authority's Water Service Department notes the discrepancies between the models and considers that the applicant's updated model is acceptable mainly due to more accurate topographic information for the site and the surrounding area in addition to updated hydraulic calculations. The revised flood maps are provided in appendix E of the FRA.

10.8.3. The proposed works include lowering the levels within the site to facilitate a vehicular access from the Old Navan Road. This results in further risk of flooding at a portion of the sites northern boundary. The applicants revised flood risk maps for the proposed development, with the revised site levels, indicate a significant inundation of water at the proposed vehicular access and along the Old Navan Road during both the 1% and 0.1% AEP flood event. Figure No. M02161-01_FIG_FL60 of Appendix E of the Flood Risk Assessment indicates flood water with a depth of 0.42m at the sites entrance and a depth of c. 0.67m immediately adjacent to the site on the Old Navan Road during the 1% AEP. This is compared to Figure No. M02161-01_FIG_FL70 of Appendix E of the Flood Risk Assessment which indicates flood water with a depth of between 0.41m and 1.68m within the site including within the surface level car parking area and a depth of c. 1.92m immediately adjacent to the site on the Old Navan Road during the 0.1% AEP. It is noted that the residential blocks and the lower ground floor level car

parking, bicycle storage and ancillary uses are located outside of the Flood Zone and the finished floor levels are set at 60m OMD (a minimum of 0.5m above the 1% AEP storm event flood level). Therefore, these elements of the development are not at risk of flooding.

- 10.8.4. The planning authority's Water Services Department note that this area of the site is a natural flood plain for the River Tolka and it is required to continue to operate as such. It is considered that the proposed scenario would have a negative impact on the future residential amenities of the scheme and that future residents would request mitigation measures to prevent the site from flooding which could potentially result in additional flooding downstream. It is considered by the Water Services Department that the scheme would benefit from inclusion of a more natural flood plain that does not interfere with essential movements and amenity of residents and that the vehicular access be relocated away from the flood plain. The planning authority's third recommended reason for refusal related to an unacceptable flood risk.
- 10.8.5. The Planning System and Flood Risk Management Guidelines, 2009 outlines in Table 3.1 the 'vulnerability of different types of development'. The proposed development is residential in nature and, therefore, classified as 'Highly Vulnerable Development'. A creche is not identified as a use, however, a school is identified as a highly vulnerable development, therefore, it is my view that a creche would also be considered a highly vulnerable development. It is noted that these elements of the development are located in Flood Zone C and, therefore, a Justification Test is not required. The applicant considered the access road and car parking as 'local transport infrastructure' which is a less vulnerable use and, therefore, did not consider it necessary to carry out a Justification Test for the development. However, I agree with the planning authority's view that the internal access road and car parking are intrinsically linked to the residential element of the development and, therefore, should be classified as highly vulnerable. In my opinion as a portion of the site, which includes the main vehicular access to the site is considered to be located in Flood Zone A or B, with flood waters of c. 1.68m indicated a Justification Test is required in accordance with the guidelines.
- 10.8.6. The applicant has not submitted a Justification Test, however, having regard to the information available within the FRA and within the documentation submitted as part

of the application I am satisfied that the development can be assessed against each of the criteria set out in Box 5.1 of the guidelines. It is considered appropriate to address each of the criteria.

1. 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 subject to 3 no. zoning objectives, in this regard RS – Residential, OS Open Space and GE General Employment. There is no development proposed on the OS or GE zoned lands. Residential development is generally permissible on lands zoned RS. The SEA carried out as part of the Development Plan notes the Planning System and Flood Risk Management Guidelines, 2009. The proposed application is considered to be in accordance with criteria 1.

2. The proposal has been subject to an appropriate flood risk assessment that demonstrates:

(i) The development proposed will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk;

As noted above the site is located within a natural flood plain of the River Tolka. The detailed hydraulic modelling indicates that the lowering of levels within the subject site would increase the volume of the existing floodplain, therefore, decreasing the risk of flooding elsewhere.

While it is noted that the proposed scheme does not increase the flood risk elsewhere, I agree with the concerns raised by the Water Services Department of the planning authority that future occupants would request mitigation measures be provided within the site to prevent flooding, which without appropriate compensatory storage has the potential to result in flooding downstream.

Notwithstanding this, as proposed the development would not increase the flood risk elsewhere, therefore, it is considered to be in accordance with criteria 2(i).

- (ii) The development proposal includes measures to minimise flood risk to people, property, the economy and the environment as far as reasonably possible;***

Section 5.5 of the FRA includes proposed mitigation measures these include locating the development in the appropriate Flood Zone, ensuring the finished floor levels of the residential elements is above the flood level, and the preparation of a Flood Management Plan (FMP). The FMP states that residents would be encouraged to remain within the buildings which are located outside of the flood zone during a flood event. There is pedestrian access from the existing entrance at Canterbury Gate, however, there is no emergency access provided through the site. It is my opinion that this is not an appropriate response during a flood event and represents a risk to people and public health.

The proposed layout allows for the surface car parking area to flood during the 0.1% AEP flood event. It is my opinion that the proposed development does not include appropriate measures to minimise the risk to property / vehicles and potential damage to the internal road network from flood water, as far as reasonably possible. It is also noted that while lower ground floor level car parking and bicycle parking spaces would not be located within an area at risk of flooding, they would be inaccessible during a flood event.

Therefore, it is considered that the proposed application is not in accordance with criteria 2(ii).

- (iii) 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; and***

Section 5.3 of the FRA details the proposed Flood Management Plan (FMP). This notes that access to and egress from the development would be partly restricted during a flood event. It is noted that there is a secondary access to the site via the existing Canterbury Gate Development which would allow for pedestrian access to the

site. However, the main vehicular access to the development, which is located in Flood Zone A and B, provides access to 97 no. car parking spaces and is indicated to have flood waters of c. 1.68m in depth. Therefore, it is considered that there is no vehicular access during a flood event to the majority of the site. As this provides the main access to the development it is also unclear how it would be possible to restrict access to this area during periods when flooding is predicated, as outlined in the FMP.

As noted above it is my view that the vehicular access, internal access road and surface car parking area are considered essential elements of the development and, in my opinion, the current application has not included measures to ensure that risk to this portion of the development can be managed to an acceptable level. As outlined above it is also unclear how emergency services would access the site during a flood event.

It is noted that the planning authority are not satisfied that the mitigation measures proposed would satisfactorily manage flood risk to an acceptable level and not unacceptably compromise residential amenity. I agree with these concerns.

It is my opinion that the proposed application is not in accordance with criteria 2(iii).

(iv) 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.

The proposed development is located on zoned and adequately serviced land and is contiguous to existing residential developments in the Mulhuddart. It is my opinion that the proposed development contributes to the wider objective of consolidating the urban environment and incorporates high quality urban design which would support and enhance the development of the area. However, in my opinion the location of the main access to the site in a flood zone, which would experience a high volume of water during a flood event is not compatible with good urban design and the recreation of vibrant and active streetscapes. Therefore, it is my opinion that the proposed application is not considered to be in accordance with criteria 2(iv).

- 10.8.7. The planning authority's recommended third reason for refusal considered that taking into account the nature of the proposed development which is a highly sensitive use as defined in the 'Planning System and Flood Risk Management Guidelines', the proposed development would not satisfy the justification test in the Guidelines and consequently the proposed development would. I agree with the planning authority's opinion that the proposed development does not satisfy the Justification Test in particular my concerns relate to the location of the vehicular access in Flood Zone A and B, the lack of access to the lower ground floor car parking, bicycle parking area and ancillary uses during a flood event, the potential damage to vehicles at surface level during a flood event and the lack of an emergency access route through the site. Therefore, it is my view that the proposed development would not comply with Objective SW02 of the development plan which requires that there be no new development within floodplains other than development which satisfies the Justification Test and Objective SW07 which requires that a site-specific Flood Risk Assessment to an appropriate level of detail, addressing all potential sources of flood risk be provided.
- 10.8.8. Notwithstanding this, it is my opinion that amendments to the development could provide an appropriate design solution. These alternatives include relocating the main vehicular access away from the floodplain, and / or providing compensatory storage / natural floodplain within the site and / or providing an emergency route within the scheme. In the interest of clarity each of these potential amendments are addressed below. It is also acknowledged that this development is a Build to Rent scheme, which would be managed and controlled by a single entity which would ensure that all mitigation measures outlined in the Flood Management Plan would be fully implemented during a flood event.
- 10.8.9. *Relocating the Vehicular Access:* It is acknowledged that there is potential to relocate the main vehicular access on the Old Navan Road away from the flood zone. However, due to the alignment of the Old Navan Road I have concerns that the relocation of the entrance could further reduce the already limited sightlines from the development which has the potential to result in a traffic hazard. It is also unclear if relocating the main vehicular access to an alternative location along the Old Navan Road would increase the flood risk at this alternative location, as the level of the site may have to

be lowered at this alternative access which could increase the flood risk. Therefore, it is my opinion that without further details regarding potential sightlines and the implications for flood risk it is not appropriate to relocate the vehicular access by way of condition.

10.8.10. It is also considered that the main vehicular access to the site could be provided via the existing access to the site from the Canterbury Gate development with access to the lower ground floor level provided via Block A. However, it is considered that this would require a significant redesign of Block A and may require retaining features due to the level differences within the site and the location of the creche at the ground floor level. In the absence of a detailed assessment it is also unclear if the significant intensification of the existing vehicular access would have any negative impacts on the existing residents of Canterbury Gate or on the Old Navan Road. Therefore, without further details it is my opinion that it is not appropriate to address this concern by way of condition.

10.8.11. *Compensatory Storage / Natural Flood Plain:* To address the potential risk of flooding it is also considered that compensatory storage / natural flood plain could be provided within the site as noted in the report of the Water Services Department. It is my opinion that this could be addressed by the omission of Block D and the lowering of levels within the western portion of the site, which would allow for a natural flood plain and compensatory storage. However, without detailed modelling of the impacts of these amendments the potential impact on flood risk is unclear. It is also noted that this would require the relocation of the proposed residential amenity facilities and services, currently proposed in Block D, to Blocks A, B or C. It is my opinion that this would result in a significant alteration to the scheme and, without detailed modelling to fully assess the impact of a potential amendments, it is not considered appropriate to address this issue by way of condition.

10.8.12. *Emergency Access Route:* As there is an existing secondary access to the site via the existing Canterbury Gate Development, it is my view that there is potential to provide an emergency route along the site's northern boundary which would allow for direct access to Blocks A, B and C. This could be accommodated by increasing the width of the proposed walking / cycling route to the north of the residential blocks to a minimum of 3m and ensuring it was construction to accommodate emergency vehicles.

Pedestrian access to Block D could be provided via the pedestrian / cycle route at the site's southern boundary. It is my opinion that there is sufficient space within the scheme to accommodate this alternative route and that it would provide adequate emergency access during a flood event to the majority of units within the scheme. However, it is noted that no direct vehicular access would be provided to the 9 no. residential units in Block D.

10.8.13. In the absence of detailed flood risk modelling the implications for flood risk due to the amendments outlined above are unclear. It is also considered that the amendments may require a significant redesign of the scheme, therefore, in this instance without the detailed modelling it is not considered appropriate to address these concerns by way of condition. In conclusion, it is my opinion that the mitigation measures provided in the Flood Risk Assessment are not sufficient to manage flood risk to an acceptable level and would be a risk to people and property and prejudicial to public health. The proposed development would, therefore, be contrary to Planning System and Flood Risk Management Guidelines' and Objective SW02 and Objective SW07 of the Fingal County Development Plan 2017 – 2023. It is recommended that permission be refused on this basis.

10.9. ***Transportation***

10.9.1. The subject site is located on the southern side of the Old Navan Road, c. 500m west of Mulhuddart village. There is a continuous public footpath on the northern side of the Old Navan Road with a partial footpath on the southern side from the village towards the Canterbury Gate development to the east of the subject site. The portion of the Old Navan Road immediately adjacent to the subject site has a speed limit of 60kph with a 50kph section approaching Mulhuddart Village. There are no dedicated cycle facilities in the vicinity of the site.

10.9.2. Figure 2.7 of the applicant's TTA outlines available public transport options in the vicinity of the site. In this regard it is noted that the 38, 38a and 38b stop at Damastown Road, c. 500m (7 min walk) north west of the subject site. These buses have a frequency of 20min in the peak periods. The 220 and the 238 stop at Old Navan Road, c. 900m (11 min walk) south east of the subject site. The 220 has a frequency of 90min and the 238 has a frequency of 60min. The Express Bus service route 870 stops on

the N3 c. 650m (8 min walk) west of the subject site. It operates 5 no. services per day. The site is also located c. 3.7km (46min walk / 15 min cycle) from Clonsilla Train Station.

- 10.9.3. The applicants TTA notes proposed future transport infrastructure within the vicinity of the site includes Bus Connects and the Tolka Valley Park Greenway. Under the proposed Bus Connect scheme the site would be served by Local Route L63 and the Peak-time Route P63 with a 15min frequency, both stops are located within 500m of the subject site at Damastown Road. The frequency timetables for all Bus Connect routes state that the expected number of trips per hour are subject to adjustment in line with future passenger numbers. In addition, the Tolka Greenway which would provide a dedicated cycle route within Tolka Valley Park, north of the subject site.
- 10.9.4. It is noted that permission was refused (Reg. Ref. FW20A/0043) in 2021 for the realignment of a 450 m long section of the Old Navan Road (R121) between Canterbury Gate Apartment and M3 Mulhuddart Service Station, Navan Road, Dublin 15. The overall development comprised the realigning of the existing road to provide a 6.5m road and all associated footpaths, verges, cycle tracks, street lighting, signage, road markings, pedestrian crossing points, landscaping, boundary treatments, drainage works, piped and other services, and other ancillary works. The 3 no. reasons for refusal related to (1) material contravention of Objective DMS171 to ensure that no development takes place within 10-15m of any river, stream or watercourse, (2) flood risk and (3) consent of landowners.
- 10.9.5. Third parties raised concerns that the realigned Old Navan Road was an essential prerequisite of the development and in the absence of the realigned road there is a potential for a traffic hazard due to increased vehicular and cyclist trips and an inadequate segregation of road users. It is proposed that 2 no. accesses would serve the site. In this regard the existing access to Canterbury Gate would provide access to 7 no. surface level car parking. This existing access has sightlines of c. 49m in both directions. It is proposed to provide an additional access further west along the Old Navan Road. The submitted Road Layout drawing also indicates that this new access has sightlines of 49m in both directions. However, it would appear from the drawing submitted that greater sightlines may be achievable. The proposed and existing access are located in a 60km/h zone. DMURS recommends sightlines of 59m in

60km/h zones. It is noted that DMURS recommended 45m for a 50km/h zone. A Road Safety Audit was submitted with the application, which raised no concerns regarding a potential traffic hazard. It is acknowledged that the proposed sightlines fall below the DMURS standard, however, having regard to the urban environment and the nature of the development which includes the provision of a footpath, ramps and pedestrian crossings along the Old Navan Road, it is my opinion that the proposed sightlines are acceptable in this instance and would not result in a traffic hazard. Therefore, it is my view that this scheme is not reliant on the realignment of the public road. It is also noted that the previous application to upgrade the road was submitted by the applicant and there are currently no proposals by Fingal County Council to realign the Old Navan Road. In addition, no concerns were raised by the planning authority regarding a potential traffic hazard.

- 10.9.6. The Roads Layout indicates that the existing carriage of the Old Navan Road is c. 7m in width with a c. 1.5m wide footpath on the northern side. The proposed development includes a new, 3m wide, shared pedestrian and cycle track along the site's northern boundary with the Old Navan Road. The works also include the upgrading of existing footpaths to provide a shared cycle / footpath including the provision of new pedestrian crossing on Old Navan Road to link the proposed development to the Tolka Valley Park, existing bus stops at Damastown Road and services and facilitate within Mulhuddart Village. The works to the public road have a site area of 0.4ha and a letter of consent has been provided by Fingal County Council. It is noted that the Transportation Planning Section of the planning authority consider that the shared surface should be increased to 4m in width and provided on both sides of the road. While the provision of increased cycle and pedestrian infrastructure is supported, I have no objection to the proposed 3m wide shared surface and in my view, it would not cause confusion to road users and would significantly improve the pedestrian and cycle environment in the immediate vicinity of the site. It is also noted that the 1.5m width of the cycle lane is in accordance with the best practice standards as set out in the NTA's National Cycle Manual.
- 10.9.7. It is also noted that there is a discrepancy in the drawings submitted and the development description. The drawings indicate 2 no. signalised crossings from the site to the northern side of the Old Navan Road. A signalised crossing is shown

immediately north of Block A and is indicated as a future potential link to the Tolka Valley Park and a second signalised crossing is shown to the west of the site. It is recommended that if permission is being contemplated that a condition be attached that the final details of the proposed pedestrian crossings be agreed with the planning authority.

- 10.9.8. The planning authority's second recommended reason for refusal considered that the proposed development would be premature pending the determination by Fingal County Council of a road layout for the area. The concerns of the planning authority appear to relate to a potential conflict between the proposed development and the upgrade of the N3 as the proposed development is likely to conflict with the outfall locations and not due to any safety concerns or issues relating to the recent refusal of planning permission for the realignment of the Old Navan Road.
- 10.9.9. Concerns were also raised by third parties that a development of this scale is premature in advance of the forthcoming upgrade to the N3. In May 2021 Fingal County Council engaged in public consultation regarding the emerging preferred option to develop a multi-modal transport scheme along a section of the N3 between the M50 and Clonee. From the information available on the Fingal County Council Website it would appear that the proposed works would not impact on the subject site. It is also noted that the submission from TII raise no objection to the proposed development. It is my opinion that the proposed development is not reliant on the upgrade works to the N3 and subject to an appropriate drainage condition, would not impede the proposed upgrade works.

Access / Internal Layout

- 10.9.10. As noted above the existing access to Canterbury Gate would be utilised to provide access to 7 no. surface level car parking spaces. The planning authority considered that it would be preferable to amend the set down area to avoid reversing manoeuvres. I have no objection to the proposed layout and consider that sufficient circulation space has been provided to allow for safe and efficient reversing movements and that there is no potential conflict. It is also my opinion that these car parking spaces would have a dual use and their replacement with a one-way turning area / drop off is not considered necessary or appropriate in this instance.

10.9.11. There is currently unrestricted car parking located on the site of the proposed surface level car parking, with 2 no. vehicles parked in this area during my site visit on the 27th January 2022. The planning authority also note that these existing spaces are currently used by residents of the existing Canterbury Gate. It is noted that the layout of the original planning permission for the overall sited included surface car parking at this location. However, this area is not currently laid out as a car park with delineated spaces and parking appears to be overspill / visitor spaces associated with Canterbury Gate. It is noted that this development is also within the ownership of the applicant. Having regard to the limited number of vehicles utilising this space I have no objection to the dual use of the surface level car parking for creche related activities and visitor parking for both the existing and proposed developments within the ownership of the applicant and consider that this could be controlled by the management company. It is also noted that no concerns were raised by third parties regarding the loss of these unrestricted spaces.

10.9.12. The planning authority also raised concerns regarding the gradients on access ramps and clearance heights and the gradient of basement ramps and top of the ramp at surface level. It is my opinion that this issue could be addressed by way of condition that final details of the gradient of the ramps be agreed with the planning authority.

Road Capacity

10.9.13. The applicant's Traffic and Transport Assessment analysed the impact of the proposed development on the capacity of 2 no. junctions (1) the Old Navan Road/ Damastown Close / Industrial Estate Access and (2) Old Navan Road / Site Access. The assessment indicates that the proposed development would not cause excessive delays or queuing and junctions work within capacity for the design year (2037). Having regard to the information submitted which is evidence based and robust, it is my view, that the vehicular trips generated by the proposed development would have an insignificant impact on the capacity of the surrounding road network. It is noted that the planning authority raised some concerns regarding the length of the traffic counts and the that the Old Navan Road / Damastown Road junction required further assessment. However, it was considered that any impact of the development on the surrounding road network would not be a significant negative impact. No concerns

were raised by third parties of TII regarding the impact of the proposed development on the capacity of the surrounding road network.

Car and Cycle Parking

- 10.9.14. Table 12.8 of the development plan sets out car parking standards. The subject site is considered to be located in Zone 2 which requires 1 no. car parking space per 1-bed apartment and 1.5 no. spaces per 2-bed apartment plus 1 no. visitor space per 5 no. apartments. Therefore, there is a requirement for 262 no. car parking spaces to serve the residential units. It is proposed to provide 103 no. car parking spaces. The majority of the spaces (87 no.) would be provided at lower ground floor level with 16 no. surface level spaces.
- 10.9.15. Concerns are raised by third parties that the proposed level of car parking is insufficient to serve the proposed development as due to the poorly served nature of the site future residents would be required to drive. The planning authority also consider that the provision of 0.5 no. spaces per unit is low and there are concerns that the under provision of visitor car parking would result in haphazard on street car parking.
- 10.9.16. Section 12.10 of the development plan states that the principal objective of the application of car parking standards is to ensure that, in assessing development proposals, consideration is given to the accommodation of vehicles attracted to the site within the context of existing Government policy aimed at promoting modal shift to more sustainable forms of transport. The Apartments Guidelines (2020) also state that in intermediate urban locations, close to public transport or close to town centres or employment centres a reduction of overall car parking standards must be considered, and an appropriate standard applied. The planning authority noted standards set out in the Apartment Guidelines, however, it is considered that the proposed reduction in car parking has not been justified.
- 10.9.17. The site is located in close proximity to large centres of employment and educational centres in this regard it is c. 600m south of Damastown Industrial Park, c. 1.6km south west of TU Dublin Blanchardstown, 1.7m north west of Blanchardstown Shopping Centre, c. 2.5km south west of Blanchardstown Corporate Park and c. 3km north west of Connolly Hospital Blanchardstown. It is also located c. 500m from a 15min frequency bus service. It is my opinion that the subject site is situated at an

intermediate location and, therefore, a reduction in car parking standards is permissible in accordance with the Apartment Guidelines

- 10.9.18. While the concerns of the third parties and the planning authority are noted it is my view that having regard to the site's urban location and its proximity a range of services and amenities and the sites proximity to public transport, I am satisfied that sufficient car parking has been provided in this instance and complies with the provisions of the development plan and the Apartments Guidelines and would not result in overspill onto the surrounding road network
- 10.9.19. With regard to the creche use it is proposed to provide 7 no. surface level car parking spaces at the sites eastern boundary that would accommodate 2 no. staff car parking spaces, 3 no. set down spaces, 1 no. taxi waiting space and 1 no. mobility impaired space. It is my opinion that the proposed creche would most likely serve the proposed development, Canterbury Gate and the residential estate 'Mulhuddart Wood' to the east of the site and, therefore, would not generate a significant number of vehicular trips. In addition, having regard to the urban location which is well served by public transport the proposed provision of 2 no. staff car parking spaces is considered appropriate.
- 10.9.20. Table 12.9 of the development plan sets out bicycle parking standards which provide a guide on the number of required parking spaces acceptable for new developments. In this regard, 1 no. space per apartment plus 1 no. visitor space per 5 no. units. There is also a requirement of 0.5 no spaces per classroom in a childcare facility. Therefore, there is a requirement for 228 no. bicycle parking spaces to serve the residential element of the scheme.
- 10.9.21. It is proposed to provide 410 no. bicycle parking spaces and 7 no. cargo bicycle spaces at lower ground floor level for the residential use and 8 no. ground floor level spaces to serve the creche. While the quantum of cycle parking is welcomed, I have some concerns regarding the quality of the lower ground floor spaces. The drawings submitted indicated a c. 0.15m in width provided between each bicycle storage space. It is my view that insufficient space has been provided to allow for the efficient and effective use of the cycle parking storage areas. If permission is being contemplated it is recommended that a condition be attached that the final details of the cycle parking

storage areas be submitted to and agreed in writing with the planning authority. It is noted that this may result in a reduction in the overall number of number of bicycle parking spaces.

- 10.9.22. The development also includes 8 no. surface level spaces at the sites eastern boundary to provide cycle parking for the creche and visitors. It is recommended that if permission is being contemplated that additional surface level cycle parking be provided at the site's western boundary, adjacent to the public open space and play area.

Connectivity / Permeability

- 10.9.23. The proposed scheme is linked to the Canterbury Gate development and the existing wooden fence between sites would be removed as part of the development. The removal of this boundary would allow for direct access to the proposed walking loop around the development and towards the area of public open space. This connection is welcomed.

- 10.9.24. As noted above the proposed development also includes a signalised crossing at the Old Navan Road which would allow for potential future access to the parkland. Third parties have raised concerns that the development could not be connected to Tolka Valley Park as this section of the park is located in the rivers flood plain and a bridge would be required. The applicant planning report notes that they have engaged with the Parks Department of Fingal County Council who raised no objection to a future potential link to Tolka Valley Park. While it is acknowledged that this link it unlikely to occur in the short term, I welcome the future links to the parkland and consider the location of the signalised crossing to be appropriate in this instance.

10.10. ***Ecology***

- 10.10.1. Concerns were raised by third parties that the proposed development would have a negative effect on wildlife. An Ecological Impact Statement was submitted with the application which notes that the site is located within an urban area and is highly modified in nature. The vegetation on the site is considered to be of low local value for biodiversity with a number of species of plant and animal which are common and widespread.

10.10.2. *Habitat*: The site is composed of artificial surfaces, in particular BL3 with rubble, concrete and other surfaces of hard standing and includes an artificial pond / former basement structure. To the north there is a treeline – WL2 composed of tall Beech *Fagus sylvatica* and Sycamore *Acer pseudoplatanus*. To the south there is a recently planted hedgerow. These linear habitats are assessed as ‘lower significance’ due to the recent age of the hedgerow, high component of non-native species and lack of ecological connectivity with wider countryside species. There are no alien invasive plant species or plants which are rare or protected. There are no examples of habitats listed on Annex I of the Habitats Directive or for which SACs/SPAs are typically designated. There are no water courses on the land or habitats which could be considered wetlands. Habitats on the development site are of low local value to biodiversity.

10.10.3. *Mammals*: No direct evidence of mammal activity was recorded. The site was surveyed for Badger activity during both October 2019 and June 2021. No setts were found and there is no evidence that Badgers are using the lands. Otter is present along the River Tolka, however, there is no suitable habitat on the site and the public road and raised embankment with road-facing wall are insurmountable barriers for Otters. There is no suitable habitat for Pine Marten or Red Squirrel. There was no evidence that deer are using the site and they are not likely to be present. Irish Stoat, Hedgehog, Pygmy Shrew and Irish Hare are considered widespread and non-protected mammals which are likely to be present include Wood Mouse, House Mouse, and Brown Rat. Due to the characteristics of the site and the nature of the species it is my opinion that mammals are not likely to be at risk and no further assessment is required.

Birds: Bird Surveys were carried out in June and October 2019. Species noted included Magpie and Moorhen (nesting in vegetation on the artificial pond). During the October 2019 survey (outside the nesting season) Hooded Crow was also noted. The surveys found that all recorded species are common and widespread which are listed by Birdwatch Ireland as being of ‘low conservation concern’. The EclA notes that the habitats on the site are not suitable for wetland / wintering birds. Some birds' nests were also present on the site. The submission from the DAU also notes that the loss of nesting habitat due to the removal of the trees should in the long term be compensated for to a considerable extent by the proposed planting of 130 no. trees

as part of the landscaping of the new development, however, if clearance of vegetation of the site is carried out during the bird breeding season it could result in the direct destruction of bird nest eggs and nestlings. Having regard to the above it is recommended that if permission is being contemplated that a condition be attached to that the clearance of vegetation should only be carried out outside of the bird breeding season.

10.10.4. *Bats*: Dedicated bat survey were carried out on the 12th and 26th of August 2020, and on the 24th of June 2021. A lack of optimal foraging habitat on the site was also noted during the site surveys. Soprano and Common pipistrelles were noted to forage along the road under street lighting, and Leisler's Bats were recorded commuting over the site and potentially foraging on the site. The surveys found no evidence of bat roosting within the site. However, roost potential was noted for some trees. The EclA set out mitigation measures including that trees and site clearance follow NRA guidelines for the treatment of bats. Tree-felling works will take place between late August to late October / early November. Since some potential roost habitat may be lost with the removal of trees on the site bat boxes are to be installed. Any additional lighting will be minimised following guidelines regarding light spill. Additional planting or landscaping should use native species and night-scented plants which may facilitate insect production and prey availability for bats in the local area. Mitigation measures are considered sufficient to ensure that potential impacts to bats caused by the proposed development are minimised. The submission from the DAU emphasises the importance of preserving a dark zone along the River Tolka and recommends that a condition be attached to any grant of permission that the external lighting scheme be reviewed to ensure its design is in accordance with best practice guidelines for bat conservation.

10.10.5. *Amphibians*: Wetland habitat for spawning Common Frog and Smooth Newt is available in the artificial pond. The EclA notes that for health and safety reasons the pond was not surveyed for these species. Common Lizard is considered common and widespread. The EclA notes that as amphibians may also be using the pond, and spawning can start in February, the ponds should not be drained between February and August. The submission from the DAU notes that the occurrence of frogs were noted in the bat survey report. Therefore, it is possible that frogs could be utilising the

flooded structure and it is recommended that a condition be attached to any grant of permission that the site be surveyed for frog spawn and tadpoles by an ecologist prior to commencement of development. As the removal of the artificial pond could potentially constitute interference with the breeding site of animal species protected under the Wildlife Acts 1976 to 2018, namely smooth newt and frog, such works would require a licence from the National Parks and Wildlife Service (NPWS) to carry out them out. Therefore it is recommended that if permission is being contemplated that a condition be attached that a survey be carried out of the artificial pond prior to any construction works / earthworks on site.

10.10.6. It is noted that no concerns were raised by the planning authority regarding the impact of the development on the ecology of the site. It is my view that sufficient information has been submitted to fully assess the impact of the development and it is considered that the proposed development would not have a significant negative impact on the biodiversity of the site.

10.11. **Part V**

10.11.1. It is proposed to enter into a long-term lease of 18 no. apartments with the local authority. This equates to c. 10% of the overall units in the scheme. The Planning Report notes the applicant has engaged in discussions with the Housing Department of Fingal County Council in respect to Part V and they agree in principle with the Part V proposal put forward. A letter from Fingal County Council's Housing Department is attached with the application. It is noted that the planning authority raise no concerns regarding Part V obligations.

10.11.2. Notwithstanding this the Affordable Housing Act, 2021 requires that land purchased on or after the 1st of August 2021 or prior to September 2015 must have a 20% Part V requirement. In this regard at least half of the Part V provision must be used for social housing. The remainder can be used for affordable housing, which can be affordable purchase, cost rental or both. It is unclear from the documentation submitted when the land was purchased. However, I am satisfied that if permission is being contemplated it would be appropriate to attach a condition to any grant of permission that the final details of the Part V provision be agreed with the planning authority

10.12. **Material Contravention**

10.12.1. The applicant considers that the proposed development does not materially contravene the Fingal County Development Plan 2017-2023 and, therefore, no Material Contravention Statement was included with this application. As outlined above, I am satisfied that the proposed development does not materially contravene the Fingal County Development Plan 2017-2023.

10.13. ***Chief Executives Recommendation***

As noted above the planning authority recommended that permission be refused for 3 no. reasons. In the interest of clarity, the reasons for refusal are addressed below.

Residential Amenity – Overlooking

The planning authority's first recommended reason for refusal considered that having regard to the distance between opposing apartment blocks in the proposed development and the pattern of fenestration, the proposed development would give rise to unacceptable overlooking between opposing residential units which would adversely impact on the residential amenities of future occupants, would contravene materially objective DMS28.

While it is acknowledged that the proposed separation distances between Blocks A and B has the potential to result in undue overlooking it is my opinion that subject to the conditions to amend and relocate some windows on the western elevation of Block A and the eastern elevation of Block B that the design and layout proposed achieves a balance between protecting residential amenities of future residents from undue overlooking and achieving a high quality design, with attractive and well connected spaces. It is considered that the design and layout of the scheme results in a high quality development that is visually interesting and at a scale and height that is appropriate and reflective of this urban site and would support the consolidation of the urban environment.

With regard to a potential material contravention it is noted that Objective DMS28 it is acknowledged that the minimum separation distance of 22m have not been provided between the blocks. However, the objective allows for flexibility where the design ensures privacy for future residents. It is my opinion that subject to the recommended conditions regarding alterations to the windows on the western elevation of Block A

and the eastern elevation of Block B that the proposed development would ensure privacy and, therefore, would not be a material contravention of Objective DMS28.

Transportation

The planning authority's second reason for refusal considered that the proposed development would be premature pending the determination by Fingal County Council of a road layout for the area. It would appear that this concern relates to the current review of the N3 M50 to Clonee Scheme. The Transportation Planning Sections report notes that the initial drainage review of the N3 M50 to Clonee Scheme identified the area as a potential location for attenuation for drainage of the future scheme, which is currently under review. The exact layout has not been determined and Phase 3 design works have not yet commenced. It is unclear from the wording of the report if the subject site has been specifically identified as a potential location for an outfall for the N3 or if it is the general vicinity of the site. It is noted that TII have raised no objection in principle to the proposed development.

It is noted that the proposed development retains the 2 no. existing outfall locations for the N3. It is my view that having regard to the lack of specific detail regarding the potential location for an outfall to serve the N3 and the lack of a timeframe for such works to the N3 – M50 to Clonee Road Improvement Scheme that it would be unreasonable to refuse planning permission on this basis and that details of the location of a potential outfall, if required, to serve the proposed scheme could be agreed prior to commencement of development. It is also noted that permission was previously refused on this site for a residential development (F06A/1879).

Flood Risk

The planning authority's third recommended reason for refusal considered that having regard to the nature of the proposed development which is a highly sensitive use as defined in the 'Planning System and Flood Risk Management Guidelines', the proposed development would not satisfy the justification test in said Guidelines and consequently the proposed development would, if permitted, be contrary to the guidelines issued to planning authorities under Section 28 of the Planning and Development Act 2000, as amended, and to Objectives SW02 and SW07 of the Fingal County Development Plan 2017 – 2023. Based on the information submitted, the

planning authority is not satisfied that the mitigation measures proposed would satisfactorily manage flood risk to an acceptable level and not unacceptably compromise residential amenity. I agree with the assessment of the planning authority and recommend that permission be refused on this basis.

11.0 **Environmental Impact Assessment**

11.1. The applicant has addressed the issue of Environmental Impact Assessment (EIA) in Section 9 of the Planning Report and Statement of Consistency submitted with the application, and I have had regard to same in this screening assessment. The information provided is in accordance with Schedule 7 and 7A of the Planning and Development Regulations 2001. Section 9.2 - Environmental Assessment, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

11.2. 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.

11.3. It is proposed to construct a 189 no. residential units on a site with a stated area of c. 1.4ha. The site is located in the urban area (other parts of a built up area). The site is, therefore, below the applicable threshold of 10ha. There are limited excavation works proposed to level the site at Blocks B, C and D. Having regard to the relatively limited size and the location of the development, and by reference to any of the classes outlined above, a mandatory EIA is not required. I would note 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. 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. An Appropriate Assessment Screening Report and Natura Impact

Statement were submitted with the application which note that the proposed development individually or in combination with other plans and projects would not adversely affect the integrity of the European Sites can be excluded and that associated environmental impacts on these sites, by reason of loss of protected habitats and species, can, therefore, be ruled out.

11.4. 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. Section 9.2 of the Planning Report and Statement of Consistency directly addresses the criteria set out in Schedule 7 and 7A. It is my view that sufficient information has been provided within the report to determine whether the development would or would not be likely to have a significant effect on the environment.

11.5. Section 299B (1)(b)(ii)(II)(B) states that the Board shall satisfy itself that the applicant has provided any other relevant information on the characteristics of the proposed development and its likely significant effects on the environment. 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 with regard to 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 and all other submissions. I have also considered all information which accompanied the application including inter alia:

- Statement of Consistency and Planning Report
- Architectural Design Statement
- Screening Report for Appropriate Assessment
- Natura Impact Statement
- Ecological Impact Assessment
- Bat Survey Report

- Infrastructure Design Report
- Flood Risk Assessment
- Energy Report
- Soil Classification Report
- Noise Impact Assessment
- Air Quality Assessment
- Building Life Cycle Report
- Operational Waste Management Plan
- Outline Construction and Environmental Management Plan
- Construction and Demolition Waste Management Plan

11.6. Noting the requirements of Section 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 would note that the following assessments / reports have been taken into account: -

- A Natura Impact Statement, Appropriate Assessment Screening Report and Ecological Impact Assessment which had regard to the Habitats Directive (92/43/EEC), the Birds Directive (2009/147/EC) and to the Water Framework Directive (WFD) (Directive 2000/60/EC).
- The Site-Specific Flood Risk Assessment (FRA) which had regard to the Floods Directive (Directive 2007/60/EC) Risk Assessment and the Fingal County Development Plan 2017-2023 which undertook a Strategic Flood Risk Assessment (FRA).
- A Construction and Demolition Waste Management Plan has been submitted which was undertaken in accordance with the Waste Management Act, 1996 and associated regulations, Litter Act 1997 and the Eastern - Midlands Region (EMR) Waste Management Plan 2015-2021.
- The Strategic Environmental Assessment (SEA) for the Fingal County Development Plan 2017 – 2023

- The Natura Impact Report which provides information in support of an Appropriate Assessment of the Fingal County Development Plan 2017-2023.

11.7. Under the relevant themed headings, Section 9.2 of the applicant report considered the implications and interactions between these assessments and the proposed development, and the report states that the development would not be likely to have significant effects on the environment. I am satisfied that all relevant assessments have been identified for the purpose of EIA Screening.

11.8. I have completed an EIA screening determination as set out in Appendix A of this report. I consider that the location of the proposed development and the environmental sensitivity of the geographical area would not justify a conclusion that it would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency, or reversibility. In these circumstances, the application of the criteria in Schedule 7 and 7A, to the proposed sub-threshold development, demonstrates that it would not be likely to have significant effects on the environment and that an environmental impact assessment is not required before a grant of permission is considered. This conclusion is consistent with the information provided in the applicant's report. It is noted that third parties and the planning authority raised no concerns regarding EIA or the cumulative impact of residential development in the wider area

11.9. A Screening Determination should be issued confirming that there is no requirement for an EIAR based on the above considerations.

12.0 **Appropriate Assessment**

12.1. ***Introduction***

12.1.1. The applicant has prepared an AA Screening Report and a Natura Impact Statement (NIS) as part of the application. The AA screening report concluded that potential impacts on four identified European sites may arise as a result of the proposed development, during the construction phase, on this basis an NIS has been prepared. 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.

12.2. **Compliance with Article 6(3) of the Habitats Directive**

12.2.1. 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).

12.2.2. The applicant has submitted a Screening Report for Appropriate Assessment and a Natura Impact Assessment. The Screening Report was prepared by Openfield Ecological Services. The Report provides a description of the proposed development, identifies and provides a brief description of European Sites within a possible zone of influence of the development and an assessment of the potential impacts arising from the development. The AA screening report concludes that *'given the potential for pollution during construction, significant effects to the North Dublin Bay SAC South Dublin Bay and River Tolka Estuary SPA, or the North Bull Island SPA cannot be ruled out... On this basis a separate Natura Impact Statement has been prepared'*

12.2.3. 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.

12.3. **Stage 1 AA Screening**

12.3.1. 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.

12.4. ***Brief Description of the Development***

12.4.1. The applicant provides a description of the project in Section 3 of the Screening Report. The development is also summarised in Section 3 of my report. In summary,

12.4.2. The proposed development comprises the construction of 189 no. Build to Rent apartments and a 270 sqm creche in 4 no. Blocks (A-D) ranging in height from 5 storeys - 10 storeys over lower ground floor car park on a 1.4ha site c. 500m west of Mulhuddart Village. The surrounding area is suburban in nature. The site is serviced by public water supply and foul drainage networks. Foul effluent will drain to the existing 675mm diameter public sewer on Old Navan Road to the north of the site. Surface water from the development will outfall to 2 no. existing 1,050mm diameter and 375 diameter pipes traversing the site from south to north within the western side of the site and discharging to the Tolka River to the north of the site. The development site is located in a heavily urbanised environment close to noise and artificial lighting. The site is overgrown, with dense areas of scrub and remnants of the foundations of an unfinished apartment scheme. No flora or fauna species for which Natura 2000 sites have been designated were recorded on the application site.

12.5. ***Submissions and Observations***

12.5.1. The submissions and observations from the Local Authority, Prescribed Bodies, and third parties are summarised in sections 8, 9 and 10 above. The submission received from the DAU raises no objective in principle to the development, however, it recommends that 4 no. conditions be attached to and grant of permission. In this regard (1) ensure that the clearance of vegetation should only be carried out outside of the bird breeding season; (2) that the final lighting scheme be reviewed to ensure its design is in accordance with best practice guidelines for bat conservation; (3) that the site be surveyed for frog spawn and tadpoles by an ecologist prior to commencement of development; and that a Construction Environmental Management

Plan be submitted to the planning authority and incorporate all the measures set out in the NIS to avoid any pollution of surface water run-off.

12.6. **Zone of Influence**

12.6.1. The proposed development is not located within or immediately adjacent to any European Site. A summary of European Sites is presented in Section 2.2 of the AA Screening Report. The following 6 no. European sites are located within the zone of influence of the site and separation distances are listed below.

<i>European Site</i>	<i>Site Code</i>	<i>Distance</i>
South Dublin Bay SAC	000210	13km
North Dublin Bay SAC	000206	14.5km
Rye Water Valley / Carton SAC	001398	7.2km
North Bull Island SPA	004006	16km
South Dublin Bay and River Tolka Estuary SPA	004024	13km
Poulaphouca Reservoir SPA	004063	25km

12.6.2. The proposed development has no potential source pathway receptor connections to any other European Sites.

12.6.3. The qualifying interests and a brief description of each the designated sites outlined above are provided in Section 2.2 of the applicants Appropriate Assessment Screening report. The conservation objectives for the designated sites is either to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA or to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC or SPA has been selected.

12.6.4. The designated area of sites within the inner section of Dublin Bay, namely South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA are proximate to the outfall location of the Ringsend WWTP and the River Tolka, and could, therefore, reasonably be considered to be

within the downstream receiving environment of the proposed development and on this basis these sites are subject to a more detailed Screening Assessment.

12.6.5. I am satisfied that the potential for impacts on all other Natura 2000 Sites can be excluded at the preliminary stage due to the separation distances between the European sites and the proposed development site, the nature and scale of the proposed development, the absence of relevant qualifying interests in the vicinity of the works, the absence of ecological and hydrological pathways and to the conservation objectives of the designated sites.

12.7. **Screening Assessment**

12.7.1. The Conservation Objectives and Qualifying Interests of sites in South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA are as follows:

South Dublin Bay SAC (000210) - c. 13km from the subject site.
Conservation Objective - 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.
Qualifying Interests/Species of Conservation Interest: Mudflats and sandflats not covered by seawater at low tide [1140] / Annual vegetation of drift lines [1210] / Salicornia and other annuals colonising mud and sand [1310] / Embryonic shifting dunes [2110]

South Dublin Bay and River Tolka Estuary SPA (004024) - c.13 km from the subject site.
Conservation Objective – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.
Qualifying Interests/Species of Conservation Interest: Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] / Oystercatcher (<i>Haematopus ostralegus</i>) [A130] / Ringed Plover (<i>Charadrius hiaticula</i>) [A137] / Grey Plover (<i>Pluvialis squatarola</i>) [A141] / Knot (<i>Calidris canutus</i>) [A143] / Sanderling (<i>Calidris alba</i>)

[A144] / Dunlin (*Calidris alpina*) [A149] / Bar-tailed Godwit (*Limosa lapponica*) [A157] / Redshank (*Tringa totanus*) [A162] / Black-headed Gull (*Chroicocephalus ridibundus*) [A179] / Roseate Tern (*Sterna dougallii*) [A192] / Common Tern (*Sterna hirundo*) [A193] / Arctic Tern (*Sterna paradisaea*) [A194] / Wetland and Waterbirds [A999]

North Dublin Bay SAC (000206) – c. 14.5km from the subject site

Conservation Objective - 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.

Qualifying Interests/Species of Conservation Interest: Mudflats and sandflats not covered by seawater at low tide [1140] / Annual vegetation of drift lines [1210] / *Salicornia* and other annuals colonising mud and sand [1310] / Atlantic salt meadows (*Glauco-Puccinellietalia maritimi*) [1330] / Mediterranean salt meadows (*Juncetalia maritimi*) [1410] / Embryonic shifting dunes [2110] / Shifting dunes along the shoreline with *Ammophila arenaria* [2120] / Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] / Humid dune slacks [2190] / *Petalophyllum ralfsii* (Petalwort) [1395].

North Bull Island SPA (004006) - c. 16km from the subject site.

Conservation Objective – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA

Qualifying Interests/Species of Conservation Interest: Qualifying Interests/Species of Conservation Interest: Light-bellied Brent Goose (*Branta bernicla hrota*) [A046] / Shelduck (*Tadorna tadorna*) [A048] / Teal (*Anas crecca*) [A052] / Pintail (*Anas acuta*) [A054] / Shoveler (*Anas clypeata*) [A056] /

Oystercatcher (*Haematopus ostralegus*) [A130] / Golden Plover (*Pluvialis apricaria*) [A140] / Grey Plover (*Pluvialis squatarola*) [A141] / Knot (*Calidris canutus*) [A143] / Sanderling (*Calidris alba*) [A144] / Dunlin (*Calidris alpina*) [A149] / Black-tailed Godwit (*Limosa limosa*) [A156] / Bar-tailed Godwit (*Limosa lapponica*) [A157] / Curlew (*Numenius arquata*) [A160] / Redshank (*Tringa totanus*) [A162] / Turnstone (*Arenaria interpres*) [A169] / Black-headed Gull (*Chroicocephalus ridibundus*) [A179] / Wetland and Waterbirds [A999]

12.8. **Consideration of Impacts**

- It is considered that there is nothing unique or particularly challenging about the proposed urban development, either at construction or operational phase.
- Surface water from the proposed development would discharge to the public network. The habitats and species of Natura 2000 sites in Dublin Bay are between 13km and 16km downstream of the site and water quality is not a target for the maintenance of any of the QI's within either SAC in Dublin Bay. The surface water pathway could create the potential for an interrupted and distant hydrological connection between the proposed development and European sites in the inner section of Dublin Bay via the Tolka River. During the construction phase, standard pollution control measures would be put in place. These measures 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 am satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites in Dublin Bay from surface water run off 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 in Dublin Bay (dilution factor).
- The scheme includes attenuation measures which would have a positive impact on drainage from the subject site. SUDS are standard measures which are

included in all projects and are not included to reduce or avoid any effect on a designated site. The inclusion of SUDS is considered to be in accordance with the Greater Dublin Strategic Drainage Study (GDSDS) and are not mitigation measures in the context of Appropriate Assessment.

- The foul discharge from the proposed development would drain, via the public combined sewer, to the Ringsend WWTP for treatment and ultimately discharge to Dublin Bay. There is potential for an interrupted and distant hydrological connection between the subject site and the designated sites in Dublin Bay due to the wastewater pathway.
- It is noted that Ringsend WWTP is currently working at or beyond its design capacity. The subject site is identified for development through the land use policies of the Fingal County Development Plan 2017-2023. This statutory plan was adopted in 2017 and was subject to AA by the planning authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I also note the development is for a relatively small residential development providing for 189 no. units, on serviced lands in an urban area. As such the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water. Furthermore, I note upgrade works have commenced on the Ringsend Wastewater Treatment works extension permitted under ABP – PL.29N.YA0010 and the facility is subject to EPA licencing (D0034-01) and associated Appropriate Assessment Screening. It is my view that the foul discharge from the site would be insignificant in the context of the overall licenced discharge at Ringsend WWTP, and thus its impact on the overall discharge would be negligible. It is also noted that the planning authority and Irish Water raised no concerns in relation to the proposed development.
- The site is located in an urban area and has not been identified as an ex-situ site for qualifying interests of a designated site and I am satisfied that the potential for impacts on wintering birds, due to increased human activity, can be excluded due to the separation distances between the European sites and the proposed development site, the absence of relevant qualifying interests in the vicinity of the works and the absence of ecological or hydrological pathway.

- It is evident from the information before the Board that on the basis of the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening report that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on the South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), or any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

12.8.1. I note the applicant submitted a Natura Impact Statement. In deciding to prepare and submit a NIS the applicant states that the precautionary principle was being applied. I am of the opinion that the application of the precautionary principle in this instance represents an over-abundance of precaution and is unwarranted.

12.9. **AA Screening Conclusion**

12.9.1. In reaching my screening assessment conclusion, no account was taken of measures that could in any way be considered to be mitigation measures intended to avoid or reduce potentially harmful effects of the project on any European Site. In this project, no measures have been especially designed to protect any European Site and even if they had been, which they have not, European Sites located downstream are so far removed from the subject lands and when combined with the interplay of a dilution affect such potential impacts would be insignificant. I am satisfied that no mitigation measures have been included in the development proposal specifically because of any potential impact to a Natura 2000 site.

12.9.2. 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 North Dublin Bay SAC (000206), South Dublin Bay SAC (000210), North Bull Island SPA (004006) and South Dublin Bay and River Tolka Estuary SPA

(004024) 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 Recommendation

Having regard to the above assessment, I recommend that permission is REFUSED for the development as proposed for the reasons and considerations set out below.

14.0 Recommended Order

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 27th day of October 2021 by Hughes Planning and Development Consultants, on behalf of MNE Capital Limited

Proposed Development: The construction of 189 no. Build to Rent apartments and a 270 sqm creche. The apartments comprise 63 no. 1-bed apartments and 126 no. 2-bed apartments in 4 no. Blocks (A-D) ranging in height from 5 storeys - 10 storeys over a single lower ground floor car park. The creche is located at the ground floor level in Block A. The development includes communal amenity spaces, comprising a residential amenity area, 3 no. common rooms, a parcel drop box, laundry rooms, a concierge and fitness suite with changing facilities.

The scheme includes public and communal open space comprising landscaped areas and play areas, 410 no. long stay bicycle parking spaces and 7 no. cargo bicycle parking spaces at lower ground floor level and 8 no. visitor bicycle space at surface level, 103 no. car parking spaces, 96 no. car parking spaces to serve the apartments and 7 no. spaces to serve the creche. A new vehicular and pedestrian access from the Old Navan Road is proposed to serve the lower ground floor level car parking spaces and 8 no. surface level spaces. It is also proposed to utilise an existing access from the Old Navan Road which serves the Canterbury Gate development to provide access to 7 no. surface level car parking at the site's eastern boundary.

The works also include the provision of a new pedestrian crossing on Old Navan Road linking the proposed development with the Tolka Valley Park, road and streetscape

upgrade works along Old Navan Road, Damastown Close, and Damastown Road, to facilitate the provision of a shared footpath / cycle lane and pedestrian crossings, and all associated site, landscaping and infrastructural works, including tree planting, boundary treatments, street lighting, internal roadways, footpaths and shared surfaces, ESB substations, foul and surface water drainage, and potable water supply necessary to facilitate the development

Decision:

Refuse permission for the above proposed development based on the reasons and considerations 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.

15.0 **Reasons and Considerations**

The Board Considers that

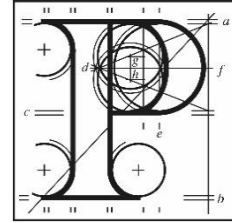
1. Objective SW02 and Objective SW07 of the Fingal County Development Plan 2017 - 2023 require that there be no new development within floodplains other than development which satisfies the justification test and that a site-specific Flood Risk Assessment to an appropriate level of detail, addressing all potential sources of flood risk be provided. The vehicular access, internal road network and surface level car parking spaces are considered to be an intrinsic element of the residential development and are, therefore, considered as a highly vulnerable use. These uses are located within Flood Zone A and B, which are at risk of pluvial flooding from the River Tolka. The nature of the proposed development is considered a highly vulnerable use as defined in the 'Planning System and Flood Risk Management Guidelines'. A

justification test as set out in the Guidelines was not carried out by the applicant and it is considered that proposed development does not satisfy the criteria of the justification test as the mitigation measures provided in the Flood Risk Assessment are not sufficient to manage flood risk to an acceptable level and would be a risk to people and property and prejudicial to public health. The proposed development would, therefore, be contrary to Planning System and Flood Risk Management Guidelines' and Objective SW02 and Objective SW07 of the Fingal County Development Plan 2017 – 2023. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Elaine Power

Senior Planning Inspector

16th February 2022



An
Bord
Pleanála

Appendix 1:

EIA - Screening Determination for Strategic Housing Development Applications

A. CASE DETAILS		
An Bord Pleanála Case Reference		ABP-311287-21
Development Summary		Construction of 189 no. build to rent apartments and a creche in 4 no. blocks.
	Yes / No / N/A	
1. Has an AA screening report or NIS been submitted?	Yes	A Stage 1 AA Screening Report and a NIS were submitted with the application
2. Is an 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?	No	No
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	<p>SEA undertaken in respect of the Fingal County Development Plan 2017-2023 and the results of the Strategic Environmental Assessment of the plan.</p> <p>An Appropriate Assessment Screening Report, NIS and Ecological Impact Assessment which had regard to the Habitats Directive (92/43/EEC), the Birds Directive (2009/147/EC) and to the Water Framework Directive (WFD) (Directive 2000/60/EC).</p> <p>The Site-Specific Flood Risk Assessment (FRA) which had regard to the Floods Directive (Directive 2007/60/EC) Risk Assessment and the Fingal County Development Plan 2017-2023 which undertook a Strategic Flood Risk Assessment (FRA).</p>

	<p>A Construction and Demolition Waste Management Plan and a Construction Environmental Management Plan were submitted which was undertaken in accordance with the Waste Management Act, 1996 and associated regulations, Litter Act 1997 and the Eastern - Midlands Region (EMR) Waste Management Plan 2015-2021.</p>
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B. EXAMINATION	Yes/ No/ Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant) (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.	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)			

<p>1.1 Is the project significantly different in character or scale to the existing surrounding or environment?</p>	<p>No</p>	<p>The development comprises the construction of residential units and a creche on lands zoned for residential development, on which a creche is permissible. The nature and scale of the proposed development is not regarded as being significantly at odds with the surrounding pattern of development.</p>	<p>No</p>
<p>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</p>	<p>Yes</p>	<p>The proposed development is located within the urban area. It is intended to level sections of the site by a maximum of c.3m. It is considered that this issue is minor in nature.</p>	<p>No</p>
<p>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?</p>	<p>Yes</p>	<p>Construction materials will be typical of such urban development. Redevelopment of this urban site will not result in any significant loss of natural resources or local biodiversity.</p>	<p>No</p>
<p>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?</p>	<p>Yes</p>	<p>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 local and temporary in nature and implementation of a Construction Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	<p>No</p>

<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 Management Plan will satisfactorily mitigate potential impacts.</p> <p>Operational waste will be managed via a Waste Management Plan, 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.</p> <p>Operation of a Construction Management Plan will satisfactorily mitigate emissions from spillages during construction. The operational development will connect to mains services. Surface water drainage will be separate to foul services. No significant emissions during operation are anticipated.</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 Management Plan.</p> <p>Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.</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 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.</p> <p>The small portion of the site is considered to be at risk of localised flooding.</p> <p>There are no Seveso / COMAH sites in the vicinity of this location.</p>	<p>No</p>

<p>1.10 Will the project affect the social environment (population, employment)</p>	<p>Yes</p>	<p>Redevelopment of this site as proposed will result in a change of use and an increased population at this location. This is not regarded as significant given the urban location of the site and surrounding pattern of land uses.</p>	<p>No</p>
<p>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p>No</p>	<p>This is a stand-alone development, comprising renewal of a site and is not part of a wider large scale change. Other developments in the wider area are not considered to give rise to significant cumulative effects.</p>	<p>No</p>
<p>2. Location of proposed development</p>			
<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ul style="list-style-type: none"> 1. European site (SAC/ SPA/ pSAC/ pSPA) 2. NHA/ pNHA 3. Designated Nature Reserve 4. Designated refuge for flora or fauna 	<p>No</p>	<p>No European sites located on the site. An AA Screening Assessment accompanied the application which concluded the development would not be likely to give rise to significant effects on any European Sites.</p> <p>This site does not host any species of conservation interest.</p>	<p>No</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>			
<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>	<p>No</p>	<p>No such species use the site and no impacts on such species are anticipated.</p>	<p>No</p>
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>No</p>	<p>No such features arise in this urban location</p>	<p>No</p>
<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>	<p>No</p>	<p>No such features arise in this urban location.</p>	<p>No</p>

<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>	<p>No</p>	<p>The River Tolka is located c. 35m north of the subject site. The lowering of levels within the site would increase the floodplain of the Tolka River. This results in a portion of the site being at increased risk of flooding.</p> <p>The development will implement SUDS measures including attenuation of surface water, to control run-off.</p>	<p>No</p>
<p>2.6 Is the location susceptible to subsidence, landslides or erosion?</p>	<p>No</p>	<p>No risks are identified in this regard.</p>	<p>No</p>
<p>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?</p>	<p>No</p>	<p>The site is served by a local urban road network. There are sustainable transport options available to future residents in terms of bus. 103 no. car parking spaces are proposed on the site. No significant contribution to such congestion is anticipated.</p>	<p>No</p>
<p>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?</p>	<p>Yes</p>	<p>No. The development would not be likely to generate additional demands on educational facilities in the area.</p>	<p>No</p>

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. Some cumulative traffic impacts may arise during construction. This would be subject to a construction traffic management plan.	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	No

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

D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- the nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(i) and 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- the location of the site on lands subject to 3 no. zoning objectives. The majority of the site is zoned RS Residential Area with the associated land use objective to *'provide for new residential communities subject to the provisions of the necessary social and physical infrastructure'*, a small portion of land at the sites eastern boundary is zoned OS Open Space with the associated land use objective to *'preserve and provide for open space and recreational amenities'* and a small portion of land at the sites western boundary is zoned GE General Employment with the associated land use objective to *'provide opportunities for general enterprise and employment'* in the Fingal County Development Plan 2017-2023. The development plan was subject to a strategic environmental assessment in accordance with the SEA Directive (2001/42/EEC).
- The location of the site within the existing built up urban area, which is served by public infrastructure, and the existing pattern of development in the vicinity.
- 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),

- 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)
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- 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 Operational Waste Management Plan, Construction and Demolition Waste Management Plan, Construction Environmental Management Plan, Specific Flood Risk Assessment, Appropriate Assessment Screening, NIS and Ecological Impact Assessment.

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: Elaine Power

Date: 16th February 2021