



An
Bord
Pleanála

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

Inspector's Report ABP-313133-22

Strategic Housing Development

Demolition of existing structures on site, construction of 180 no. apartments and associated site works.

Location

Site at Bascadden Road and Former Bailey Court Hotel, Main St, Howth, Co. Dublin.
(www.bascaddenshd2022.ie)

Planning Authority

Fingal County Council

Applicant

Bascadden GP3 Limited

Prescribed Bodies

1. Irish Water
2. Transport Infrastructure Ireland
3. National Transport Authority
4. Minister for Culture, Heritage and the Gaeltacht

5. The Heritage Council
6. An Taisce
7. An Comhairle Ealaíoin
8. Fáilte Ireland
9. Childcare Committee

Observer(s)

1. Albert and Ruth Harding
2. Andrew J Smith
3. Anna Clifford
4. Audrey Byrne
5. Balcadden Road SAA Residents Association
6. Blanaid Ring
7. Brendan and Siobhan Clifford
8. Bryan F Lynch
9. Christian Morris
10. Cian O'Callaghan
11. Ciara Ni Laoi
12. Claire Kilroy and Alan Downey
13. Corinne Gallagher
14. Damian and Bernadine Jennings
15. David Healy
16. Denise Mitchell
17. Des Gilroy
18. Eamon Reid and Mary Sheehan
19. Eimear Magner
20. Evora Park Residents Association
(Michael Galvin)
21. Fiona Bell

22. Grainne and Kevin Mallon
23. Hillwatch - Jacqueline Feeley
24. Howth Peninsula Heritage Society
25. Howth_Sutton Community Council
26. Jack Kilmaine
27. John Beckett
28. John Conway and The Louth
Environmental Group (BKC
Solicitors)
29. Joseph and Breda Buckley
30. Juergen Skwirbat and Daire Ni
Laoi
31. Lee Hogan Kerrigan
32. Maria Doyle
33. Marie Ó Laoi
34. Martin Kennedy
35. Mary Clarke
36. Mary K O'Neill
37. Mary Rickard
38. Melaine and Patrick McCaughey
39. Michael and Florence Clarke
40. Nathalie Hourihan
41. Norbert Reilly
42. Patrick and Helen Hobbs
43. Patrick Brazel
44. Paul and Mairead Byrne
45. Paula Connolly
46. Peter and Helena Courtney
47. Sally O'Donovan and Family
48. Sharon Hogan

- 49. Sheila Sanders
- 50. Steven Clifford
- 51. Suzanne May
- 52. Sylvian and Helen Borel
- 53. Tara Mullen and Alan Kelly
- 54. Terry Duffy
- 55. Thomas Broughan
- 56. Tom O'Sullivan
- 57. William Morgan

Date of Site Inspection

28th October & 1st November 2022

Inspector

Rachel Gleave O'Connor

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1.0 Introduction

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

2.0 Site Location and Description

- 2.1. The site is in Howth and has a stated area of 1.55 hectares. It is to the west of the Balscadden Road, east of Main Street/Abbey Street and south of the Martello Tower and its associated mound (Motte). The Martello Tower is a protected structure (RPS: 570) and the Tower and Motte are a recorded monuments (RMP Ref. DU16-00201 Castle Motte and DU16-002-02 Martello Tower). The frontage onto Main Street is part of the designated town centre for the Howth Village. Balscadden Road runs parallel and close to coast.
- 2.2. The application site is comprised of the former Baily Court Hotel and its associated structures, open scrub area and the former sports hall Edros building. Steep vegetated slopes occupy the bounds of the site to the south/east/west. It is bound by Balscadden Road to the east. To the south of the site is the Asgard Park residential estate. The Martello Tower is elevated above the northern area of subject site. A pathway runs to the base of the Tower Motte within the north boundary of the site and facilitates access to the Balscadden Road, as well as to the pedestrian access (outside of the site) to the Martello Tower. A ridge is located along the western side with the rear gardens of the houses fronting onto Abbey Street, generally located at a lower ground level than the subject site. An existing vehicular access exists from Balscadden Road with adjoining car park and palisade fencing, bollards restrict access to this parking area.
- 2.3. The site changes considerably in level. The northern area of the site is at a lower level falling from the Martello Tower mound having been quarried historically and now accommodating the derelict Edros building and accompanying grounds. The lands to the south rise significantly with an embankment adjoining the Balscadden Road. The land rises by c. 15 metres from north to south. While the site addresses Main Street, part of it is to the rear of properties along Abbey Street which is further

north of Main Street. The Balcadden Road is one way to traffic travelling away from the Harbour. Balcadden Bay is located to the east of Balcadden Road.

3.0 Proposed Strategic Housing Development

3.1. The proposed development is for 180no. apartment units on a 1.43ha site as follows:

- Demolition of existing structures on site including the disused sports building (c.604sqm) on the Balcadden Road portion of the site and the Former Bailey Court Hotel Buildings on Main Street (c.2051sqm) and the construction of a residential development set out in 4no. residential blocks, ranging in height from 2 to 5 storeys to accommodate 180no. apartments and duplexes with associated residential tenant amenity, 1no. retail unit and 2no. café/retail units.
- The site will accommodate a total of 139no. car parking spaces and 410no. bicycle spaces.
- Landscaping will include a new linear plaza which will create a new pedestrian link between Main Street and Balcadden Road to include the creation of an additional 2no. new public plazas and also maintains and upgrades the pedestrian link from Abbey Street to Balcadden Road below the Martello Tower.
- The 4no. residential buildings range in height from 2 storeys to 5 storeys, accommodating 180no. apartments comprising 4no. studios, 62no. 1 bed units, 89no. 2 bed units and 25no. 3 bed units as follows:
 - Block A is a 3 storey building, including balconies, accommodating 2no. units;
 - Block B is a 2 to 5 storey building, including setbacks, balconies, and external roof terraces at 3rd to 4th floors accommodating 126no. units;
 - Block C is a 3 to 5 storey building, including setbacks and balconies, accommodating 43no. units;
 - Block D is a 3 storey building, including balconies, accommodating 9 no. residential units;

- Residential Tenant Amenity Space is provided in Blocks B and C, totalling c.427.1sqm and Communal External Amenity Space is provided throughout the scheme including at roof level on Block B, totalling c.4,108sqm.
- Non-residential uses comprise of retail unit of c.106.4sqm in Block A at ground level, café/retail unit of c.142.7sqm in Block C at ground and first floor, café/retail unit of c.187.7sqm in Block D at ground level resulting in a total of c.436.8sqm of non-residential other uses.
- The development will include a single level basement under Block B, accessed from Main Street only, containing 139 car spaces, including 7 accessible spaces, plant, storage areas, waste storage areas and other associated facilities. A total of 410 cycle parking spaces are provided for at both basement and ground level, comprising 319 resident spaces and 91 visitor spaces.
- The scheme provides for a new linear plaza which will create a new pedestrian and cycle link between Main Street and Balscadden Road to include the creation of an additional 2no. new public plazas and also maintains and upgrades the existing pedestrian link from Abbey Street to Balscadden Road below the Martello Tower.
- All other ancillary site development works to facilitate construction and the provision of the basement car park, site services, piped infrastructure, a sub station, public lighting, plant, signage, bin stores, bike stores, boundary treatments and hard and soft landscaping.
- It is proposed to reduce the ground levels on the site from c.34.5m OD to c.19.97m OD locally under Block C. A single storey basement is proposed under Block B with the existing ground level reduced from c.20m OD to c.17.1m OD. occurring at formation level.

3.2. Table 3.1: Key Figures

Site Area in hectares (ha)	1.43ha
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No. of units	180
Non-residential uses	<p>Retail unit of c.106.4sqm in ground floor Block A;</p> <p>Café/retail unit of c.142.7sqm in ground and first floor Block C;</p> <p>Café/retail unit of c.187.7sqm in ground floor Block D;</p> <p>Total of c.436.8sqm of non-residential other uses.</p>
Density (units per hectare – uph)	c.126uph
Height	2 to 5 storeys
Dual Aspect	c.50.6%
Open Space	<p>c.1,470sqm of public open space (10.2%)</p> <p>c.4,108sqm communal amenity space</p>
Part V	18no. units (10%)
Vehicular Access	Main Street and limited access Balcadden Road
Car Parking	139no. spaces (inclusive of 7 accessible spaces)
Bicycle Parking	410no. spaces (formed of 319 resident and 91 visitor spaces)
Creche	None proposed.

Housing Type	Studio	1 bed	2 bed	3 bed	Total
Total	4	62	89	25	180

%	2.2%	34.4%	49.4%	13.9%	100%
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4.0 Planning History

- 4.1. There have been several planning applications relating to separate parts of the site, including permission to replace the hotel with 7 apartments granted under Reg. Ref. F13A/0110, PL06F. 242959 and another to replace the sports hall with 23 residential units granted under Reg. Ref. 14A/0108. Under Reg. Ref. F07A/1349, PL06F. 227972 the board refused permission for 64 houses in September 2008 after the council had decided to grant permission in material contravention of its development plan at the time under which that part of the site was zoned open space and high amenity.
- 4.2. In June 2016 the board refused permission under Reg. Ref. 15A/0545, PL06F. 246183 for 9 houses in the southern part of the site on Balscadden Road for a reason which stated that the proposed development would, by reason of its design, height and scale, contravenes specific Objective 528 of the Fingal County Development Plan 2011-2017 and would be visually incongruous at this prominent and highly sensitive location in Howth near the Martello Tower and village centre within the Howth Special Amenity Area buffer zone and adjacent to the Architectural Conservation Area for the historic core of Howth.
- 4.3. There were two previous SHD permissions quashed on the site, and I note third party and Planning Authority references to the same. However, as these decisions were quashed, they are not taken into account as part of this assessment (ref.301722-18 and ref.305828-19).
- 4.4. Applications of Note on Surrounding Sites
- 4.5. ABP-306102-19: SHD application for 512 apartments on a site c1km to the west of the current site on the other side of Howth Village. This is referred to as the Techrete site. GRANTED April 2020.
- 4.6. ABP-310413-21: SHD application opposite the Techrete site (referenced above) for 162no. apartments and associated site works. Referred to as the Deer Park site. GRANTED September 2021.

5.0 Section 5 Pre Application Consultation

- 5.1. A pre-application consultation with the applicants and the planning authority took place via video call with An Bord Pleanála on 4th November 2021 in respect of a proposed development of 181no. units.
- 5.2. Copies of the record of the meeting and the Inspector's report are on this file. In the Notice of Pre-Application Consultation Opinion dated 7th December 2021 (ABP Ref. 311179-21) the Board stated that it was of the opinion that the documentation submitted with the consultation request under section 5(5) of the Act required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála.
- 5.3. It was noted that further consideration/amendment of documentation as it related to:
 1. Architectural Heritage Impact Assessment.
- 5.4. Specific information was also requested in relation to the following:
 1. Landscaping Plan;
 2. Construction Management Plan;
 3. Sunlight/Daylight/Overshadowing analysis;
 4. 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 submitted an EIAR.

6.0 Relevant Planning Policy

6.1. National Policy

- 6.1.1. Having considered the nature of the proposal, the receiving environment, the documentation on file, including submission from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:
 - Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009) (the 'Sustainable Residential Development Guidelines').
 - Design Manual for Urban Roads and Streets (DMURS) (2019).

- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2018) (the 'Apartment Guidelines').
- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the 'Building Height Guidelines').
- Architectural Heritage Protection- Guidelines for Planning Authorities (2011).
- Childcare Facilities – Guidelines for Planning Authorities (2001).

Other relevant policy guidance:

- Project Ireland 2040, National Planning Framework.
- Housing for All.
- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.

6.2. Regional Policy

- 6.2.1. The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and ten year National Development Plan (NDP) - and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region.
- 6.2.2. RPO 3.2 - Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin City and suburbs and a target of at least 30% for other urban areas.
- 6.2.3. RPO – 4.1 – Settlement Hierarchy – Local Authorities to determine the hierarchy of settlements in accordance with the hierarchy, guiding principles and typology of settlements in the RSES.
- 6.2.4. RPO 4.2 – Infrastructure – Infrastructure investment and priorities shall be aligned with the spatial planning strategy of the RSES.
- 6.2.5. RPO 4.3 -Consolidation and Re-Intensification- seeks to support the consolidation and re-intensification of infill / brownfield sites to provide high density and people

intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.

- 6.2.6. RPO 4.3 – Dublin City and Suburbs, Consolidation and Re-intensification- Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.
- 6.2.7. The site lies within the Dublin Metropolitan Area (DMA) – The aim of the Dublin Metropolitan Area Strategic Plan is to deliver strategic development areas identified in the Dublin Metropolitan Area Strategic Plan (MASP) to ensure a steady supply of serviced development lands to support Dublin's sustainable growth.
- 6.2.8. Key Principles of the Metropolitan Area Strategic Plan include compact sustainable growth and accelerated housing delivery, integrated Transport and Land Use and alignment of Growth with enabling infrastructure.
- 6.2.9. Section 9.2 Diverse and Inclusive Region, notes that changing household formation trends will require a range of housing typologies including student housing, smaller units, shared living schemes and flexible designs that are adaptive for people's full life cycle to meet their housing needs today and into the future.

6.3. Local Policy

- 6.3.1. The Fingal County Development Plan 2017-2023 applies. The core strategy and settlement strategy in section 2 of the plan identifies Howth as a 'Consolidation Area within a Gateway'. The core strategy is based on target populations for Dublin and Fingal set by the regional planning guidelines in force when the plan was made. The targets are that the population of the Dublin region in 2022 would be 1,464,000 while that of Fingal would be 309,285. This would require a housing stock of 142,144 in Fingal compared to the 105,392 that existed in 2015. Allowing for headroom in accordance with the method stipulated in guidelines from the minister, the current development plan zones enough land, 1,737ha, for the development of 49,541 homes in the county. 16ha of this land is in Howth including the current site. The strategy envisages that this 16ha could accommodate 498 homes. Table 2.8 is updated in adopted Variation no.2 of the plan 'Alignment of the Fingal Development

Plan with the National Planning Framework and the Regional Spatial and Economic Strategy', indicating that there is 14 hectares of zoned land remaining in Howth, with capacity to deliver 436 residential units.

- 6.3.2. General objectives regarding the settlement strategy are set out in the plan including SS01 to " Consolidate the vast majority of the County's future growth into the strong and dynamic urban centres of the Metropolitan Area while directing development in the hinterland to towns and villages, as advocated by national and regional planning guidance" and SS15 to " Strengthen and consolidate existing urban areas adjoining Dublin City through infill and appropriate brownfield redevelopment in order to maximise the efficient use of existing infrastructure and services".
- 6.3.3. Chapter 4 of the plan refers to urban Fingal. It includes a section about Howth. It lays out a strategy to develop village in a manner that will protect its character, and strengthen and promote the provision and range of facilities with future development will be strictly related to the indicated use zones including the infilling of existing developed areas rather than further extension of these areas.
- 6.3.4. Objective HOWTH 1 is to "Ensure that development respects the special historic and architectural character of the area".
- 6.3.5. There are two land use zoning objectives relating to the site as follows:
- Objective RS – Residential – part of the southern area of the site is zoned residential, the objective of which is to provide for residential development and protect and improve residential amenity.
 - Objective TC – Town and District Centre – the majority of the site is zoned TC, the objective of which is to protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities.
- 6.3.6. There is a specific objective that applies to this site, No 115 which requires that any development – "Ensure the layout, scale, height and design respects the high amenity status of the surrounding area, the Martello Tower and the village character". The Martello Tower is a protected structure (RPS: 570) and the Tower and Motte are a recorded monuments (RMP Ref. DU16-00201 Castle Motte and DU16-002-02 Martello Tower). There is a map based objective 'to preserve views'

along the northern boundary of the site and along the Balscadden Road – Map 10. Part of the site, principally along western boundary of the site facing Main Street and Abbey Street and along the northern boundary of the site addressing the Motte/Martello Tower, is within the boundary of the Howth Village Architectural Conservation Area. The Howth SAAO buffer zone covers part of the site with the western boundary of the SAAO along Balscadden Road and the lands to the north and east of the road including the Motte site within the SAAO.

- 6.3.7. The development plan also contains the other general objectives and policies of relevance (not an exhaustive list):
- 6.3.8. Other objectives of the plan are PM33 “Enhance and develop the fabric of existing and developing rural and urban centres in accordance with the principles of good urban design, including the promotion of high quality well-designed visually attractive main entries into our towns and villages” ED85 “Ensure that settlements and locations within the Metropolitan Area pursue development policies of consolidation, and maximise their economic strengths and competitive advantages such as tourism and marine sectoral activities in Malahide and Howth, while the lands within the southern part of the County maximise their economic potential through the strong functional linkages to the M50”,
- 6.3.9. Objective NH09 – maintenance of favourable conservation status for the habitats and species in Fingal to which the Habitats Directive applies. Objective NH27 is to protect existing woodlands, trees and hedgerows, Objectives NH33, NH34 and NH36 – concerning the preservation of unique landscape character and ensuring new development does not impinge of the character integrity and distinctiveness of highly sensitive areas, Objective NH40 – to protect views and prospects. Objectives NH51 and NH52 related to the protection of High Amenity areas from inappropriate development and retention of important features or characteristics. Objective DMS57, DMS57A and DMS57B – minimum of 10% of site area to be designated as public open space. Objective GI34 – integration of archaeological and architectural heritage into new developments. Objective GI36 – ensure green infrastructure responds and reflects landscape character including historic landscape character.

- 6.3.10. Objectives CH20, CH21, CH25 and CH46 refer to the protection of protected structures and their setting, curtilage, and designed landscapes in any development proposal.
- 6.3.11. Objective DMS30 Ensure all new residential units comply with the recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.209, 2011) and B.S. 8206 Lighting Buildings, Part 2 2008: Code of Practice for Daylighting or other updated relevant documents.
- 6.3.12. Objective PM42 in Variation no.2: Implement the policies and objectives of the Minister in respect of Urban Development and Building Heights Guidelines (December 2018) and Sustainable Urban Housing: Design Standards for New Apartments (March 2018) issued under section 28 of the Planning and Development Act, as amended. Objective PM43 regard to 'Sustainable Urban Housing: Design Standards for New Apartments' (2007) (or any update or revision of these standards) when assessing apartment developments.
- 6.3.13. Objective PM64 Protect, preserve and ensure the effective management of trees and groups of trees.
- 6.3.14. The Howth Urban Strategy (2008) applies to Howth Village and the subject site. It is not a statutory document, however, provides guidance for development based on analysis of the urban form of the village.
- 6.3.15. Designated Sites:
- 6.3.16. The application site is immediately adjacent to the Special Area of Conservation (SAC) at Howth Head, sitecode 000202, along the Bascadden Road. The rest of the SAC lies on the far side of the houses across the road from the site. The Howth Head Coast SPA sitecode 004113 also lies c.0.5km to the east of the site. The Special Protection Area SPA at Ireland's Eye sitecode 004117 lies c.0.9km to the north.

7.0 Statement of Consistency

- 7.1. The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of National Planning Framework, Section 28 Guidelines, the Development

Plan and Local Area Plan and I have had regard to same. A Material Contravention Statement also accompanies the application with respect to the Fingal County Development Plan 2017-2023:

- i. Chapter 2 of the Development Plan, as varied by Variation no.2 sets out the Core Strategy and Settlement Strategy for County Fingal. Table 2.2 sets out the Remaining Capacity Residential Units for Howth as 498no. units. Permitted developments in Howth (the Techrete site [aka the Claremount SHD] formed of 512no. units and the Deer Park site formed of 162no. units) have exceeded this remaining capacity. As such, the proposed development would exceed the remaining residential unit capacity outlined in the Development Plan for Howth.
- ii. Section 12.10 of the Development Plan identifies parking standards for residential development. The proposed development provides for 139 no. residents' car parking spaces at a ratio of 0.77 spaces per apartment. The 0.77 spaces per unit is below the Development Plan requirement of 1 space per unit.

8.0 Third Party Submissions

8.1. 57 no. responses were received from third parties in relation to the application and the main matters raised are summarised below:

8.2. General, nature, principal of the development

- The number of planned homes for the area exceeds the Core Strategy numbers.
- The SHD observation process is contrary to the Aarhus Convention as there should not be financial implications on the general public.
- SHD process is undemocratic and does not allow for public consultation.
- Reference to current constitutional challenge to the SHD process.
- Howth does not need any more homes.
- The proposal will not contribute to reducing homelessness which is the purpose of SHD legislation, it is for profit only.

8.3. Transportation

- No direct public transport links to locations where most future occupiers would work, such as the Airport.
- Insufficient car parking proposed. Will exacerbate existing on street parking problems. Parking standards being applied more relevant to city areas. Characteristics of the area and population mean greater car use.
- Traffic congestion at Sutton Cross already a problem.
- Construction traffic cannot be accommodated at Sutton Cross. No parking for construction works will exacerbate on street parking matters.
- Poor public transport connectivity. The dart service is about to be downgraded to a shuttle service or spur line connecting to Howth Junction.
- The submitted Traffic Survey fails to include Nashville Road / Thormanby junction, which is a dangerous and busy junction.
- Cumulative impact upon traffic congestion. Traffic survey does not include Santa Sabina and Deer Park sites.
- Bicycle parking is at basement level, in contravention of Fingal standards that they should be at ground level with segregated access. Doesn't conform with standards in the National Cycle Manual 'Bicycle Parking Facilities'.
- No consideration of where beach users will park, parking should be provided as part of the development.
- The timetable for construction traffic will be longer than proposed due to the location having a steep hill, the traffic congestion in the area, breaks/holidays of workers, closure times of dumps, washing vehicles and timetable for installing retaining structures. There are planned road closures into Baldoyle through which trucks carrying excavated material to be dumped are likely to travel at level crossings as a consequence of DART+ works.
- Concern regarding truck movements during construction and cyclists in the area.

- Access into and out of the proposed car parking spaces is limited due to narrow access route and location of structural columns. The layout is substandard.
- Site boundary extends over parking spaces in front of the hotel which have been used as public parking.
- Traffic surveys undertaken during the covid-19 pandemic.
- Normal weekend traffic in October is not comparable with traffic during summer months as Howth is a major tourist destination.
- Traffic survey based on incorrect assumptions, school pick up times are earlier than stated.
- Congestion will block emergency services, delay ambulances in health emergencies.
- Car parking should be removed or substantially reduced to be consistent with policy.
- Road damage during construction.

8.4. Residential Amenity

- Construction impact over several years.
- Overlooking / lack of privacy.
- Overshadowing.
- Damage to property.
- Damage to health.
- Pollution during construction.
- Noise.
- The proposed development does not document the visual impact on Abbey Street.
- 4 storey block over basement immediately to the rear of properties on Abbey Street, takes no account of the residential amenities and privacy of these

existing dwellings. Properties will be dominated and overlooked, resulting from excessive height.

- Overlooking of bathing spots. Query how access to Balscadden Beach for swimmers will be protected during construction / safety of the route.
- Conditions required to mitigate the road safety and air pollution impacts that trucks be Euro VI compliant and meet Direct Vision Standard.
- Construction works will devastate local business and tourist traffic.

8.5. Design and Density

- Overdevelopment given the small and constrained nature of the village.
- Overbearance through proximity to site boundaries.
- Mainly 4-5 storeys and too high.
- Design is out of character with the current houses and shops in the historic village. Existing structures should not be demolished.
- Proposal will overwhelm the core of Howth Village and rural Balscadden Road.
- Incongruous and insensitive to the surrounding area.
- Application is on the false pretence that Howth is part of the Dublin Metropolitan Area, when it is a village located on a peninsula.
- The Sustainable Residential Development Guidelines recommends minimum densities of 50dph, never envisaged density of 126dph in ACA. Density too high.
- Two 5 storey blocks either side of the pedestrian connection only 16.5m apart, do not meet the Apartment Standards which require minimum 22m separation increasing over 3 storeys.
- Site is in a highly sensitive landscape area. The excavation and proposed development will cause loss of landscape elements that contribute to local distinctiveness, introduce incongruous landscape elements and cause unacceptable visual harm contrary to objective NH36 and NH60.

- Honest, clear photomontages have not been provided. Pictures are not included in the Architectural Report, not pictures in the EIAR analysing viewpoints.
- Block B is too contemporary and should not exceed height of the original building. Design in general is too contemporary, materials too modern and more appropriate for cityscapes.
- Plazas are appropriate for built up areas, promise is that the development will not impose on the unbuilt up character of the historic village.
- Too much hard paving.
- Scots pine proposed to screen the tower, why is screening needed if the development is acceptable.
- Contravenes local objective 115 and objective CH21.
- Detrimental effect on the Howth Special Amenity Area Order objective 1.1 and Objective Howth 4 of the Development Plan.
- Inconsistency in drawings compared to photomontages (continuous footpath on Main St. compared to entrance road to car park).
- Urban Design Manual as referenced in the Development Plan, criteria for good design, are not complied with. Introduce scale of development that is alien to the area.
- Inadequate views referenced in the application. i.e. village views from the Church of the assumption, from Tucket Lane and from St. Lawrence's Road, as Abbey Street drops down to the Harbour front. From Balglass Road over village rooftops.

8.6. Heritage

- Contrary to Objective DMS157 of the Development Plan which seeks to ensure that new development or alteration of a building within or adjoining an ACA positively enhances the character of the area.
- Adverse impact on Tower Hill and Martello Tower.
- Ben Eadair (16 Balcadden Road) is a Protected Structure.

- Inappropriate scale and bulk for the historic village ACA.
- Negative impact on archaeology.
- Asgard Park and Martello Tower reside on sand dunes that will be destabilized by the works.
- The old hotel building and the coach-house ensemble should be integrated into the proposal and not destroyed. Demolition of the former Baily court (Royal Hotel) and coach house ensemble is in conflict with Policy CH33 and Section 3.10.3 of the national Architectural Heritage Protection Guidelines. Reference to LPA decision at 60 Main Street ref.PF/2085/21 in support to this position. As well as ref.F21/0425.
- Contravenes Objective 115 of the development plan, as well as objectives Howth 1, PM45, CH32 and CH37. Particularly in relation to demolition of existing structures on the site, which is also unsustainable.
- Protected views under the Development Plan from the Martello Tower hill in all directions, including looking south towards the church and over slated roofs.
- Any development should be more respectful of the tower a national monument and be set back as far south in the site as possible and show restraint with height.
- Contravenes the site specific objective. Will obstruct views from the Martello Tower southwards and southwestwards over the core of Howth. Impinge on views of Tower Hill from many areas of Howth, detract from historical background of the Martello Tower.
- Block B would appear monolithic with almost entirely unrelieved facades stretching across the site from east to west parallel and adjacent to Tower Hill, overpowering this ancient archaeological site.

8.7. Excavations and Land Slippage

- Removal of a huge amount of material from the site is unprecedented and threatens the stability of nearby homes and other structures.

- History of landslips and collapses in the area. Garden at Strand Villa fell into the sea, risk of slippages upon surrounding occupiers as a result of the development, contrary to objective DMS174. Slippage to the rear of no. 15 Balcadden Road. Slippage at St. Mary's Cemetery wall in 2012 when drainage water permeated the soil strata and embankment along the frontage.
- Ben Eadiar 100m away from the site, suffered serious collapse due to water run off destabilizing the cliff and garden 22 years ago. Threat of destabilisation due to water run off on the road is not addressed in applicant's submission.
- Landfalls occurring at Tower Hill, as recently as last month. Reference to an Engineering Report commissioned by Fingal Co. Co. after a serious landfall in 2003. Fingal has not implemented recommended measures. Serious accident waiting to happen.
- Discrepancy in the reports in relation to excavation, the Traffic report says 63,619 cubic metres of soil and the EIR report says 78,000 cubic metres to be removed. The Construction Traffic Management Plan states 67,000 cubic metres. The Outline Construction and Demolition Management Plan section 6.2.1 notes 67,000 cubic metres before bulking factor applied, at 25% and amounting to 83,750 cubic metres.
- Drawing no.P002 'site clearance and demolition works' depicts excavation depths by colours, a large area of 'salmon pink' is to be 'cut' by 10-12m not 2.5m to 5m as shown.
- The basement area will have an 850mm structural slab, and block C will have a structural slab depth of 500mm, allowing for preparation works, insulation, screeds and floor finishes, the excavations will be greater, basements level will be approx. 16.6m OD and block C approx. 19.4m OD.
- Not known is the additional excavation to basement formation level has been calculated in the figures provided.
- Inadequate assessment of impact of excavation upon the tower.

- Sheet piles would stabilise slopes if the subsoil is not rock, and no testing done. Sheet piles would retain water and could liquefy the slope in times of heavy rain, creating a mudslide.

8.8. Ecology and Water

- Airborne particles from the excavations will have an adverse effect on local fauna and flora, rain will wash dust from the adjoining banks down to the sea.
- No mention of Sandmartins that nest and breed annually in the soft cliff face of Tower Hill in the submitted report on breeding birds. Previously noted in the first Inspectors report on the former SHD proposal that the Department noted that staff had noted sand martins nesting in the embankment in the vicinity of the development and these are not mentioned in the EclA. They are an Amber listed species. The submitted survey does not cover the bird breeding period.
- The submitted bat survey does not mention 'sonic sampling'.
- A groundwater level of 12m OD is used in the analysis even though ground water was recorded in Borehole BH03 at 14.91m OD. Concern the proposed development will impinge on and alter the existing underground water flow routes.
- Note conclusion of the Arup engineering report to Fingal in 2003 which states in relation to the land slips in the region of Balscadden Road that "in order to design the measures needed to ensure long term stability of the slope, it will be necessary to carry out a more detailed investigation and to monitor ground water fluctuations." Should subterranean changes occur to groundwater, slippage on Balscadden Road could occur without warning where the Tower Hill stands almost sheer 20m high.
- Due to Howth's designation as SAAO, ACA, SAC and Natura 2000 status, consent is required from the Minister for Housing, Local Government and Heritage for the construction activities proposed.

8.9. Infrastructure

- Howth already experiences water supply problems, particularly during summer months. Cumulative impact of developments overloading the system.

- Oversubscribed primary school, lack of shops, lack of parking, no community centre, no sports facilities and only one gym.
- Cumulative impact of developments upon the area.
- Add to existing pressure on power, water, waste, drainage, flood risk, schools and transport.

8.10. Mix

- Does not meet housing need in the area which is for owner occupied housing.
- Build-to-Rent schemes do not contribute to the creation of long term communities. Howth is over subscribed for BTR schemes.
- The greater portion of the site is zoned TC – town centre, yet only 3% of the proposed development is for commercial/retail use. It ignores the development strategy for Howth set out in the Development Plan.
- Family housing is needed.
- No proof of demand for apartment housing, the area is inundated with recent consent for apartment development. Even if not specified as BTR, these developments are design to be sold to a fund which will offer them for rent.
- Lack of social housing.
- Need two storey housing. Own door housing.

8.11. Environmental Impact Assessment (EIA) and Appropriate Assessment (AA)

- The EIAR (EIA Report) is inadequate and deficient and does not permit an assessment of the potential environmental impacts of the proposed development.
- Notwithstanding that the development is sub-threshold, it is submitted that due to the nature of the development (including height) and locus of the proposed development adjacent to a protected habitat, it should have been subjected to full EIA.
- The Screening for EIA presented by the Developer, including ecological report, is inadequate and deficient and does not permit an assessment of the

potential environmental impacts of the proposed development. Incomplete description of the development including the construction phase.

- The EIAR, provides insufficient information in relation to bird and bat flight lines/collision risks. There is insufficient information to assess the impact on risk to human health arising in respect of the proposed development. Impermissible for matters that impact human health such as noise / dust to be left over to the contractor. Approach is contrary to the requirements of the EIA Directive with respect to public participation.
- The application does not comply with the requirements of the planning and development act 2000, the planning and development regulations 2001 or the EIA Directive. Information is insufficient and contrary to the requirements of the EIA Directive. Criteria considered in the EIA screening does not comply with requirements under the act and regulations.
- The EIAR has failed to provide a comprehensive cumulative assessment of the project in the EIAR.
- Insufficient information in relation to the impact of the proposed development on bird and bat flight lines/collision risks for purposes of EIA screening, AA screening and height guidelines (specific assessments).
- The population and human health chapter of the EIA Screening is inadequate as fails to assess the impact of increased population on services including schools, childcare and medical care.
- EIA Screening does not adequately consider impact on biodiversity and human health in both construction and operation stage.
- AA Screening contains lacunae and is not based on appropriate scientific expertise.
- AA Screening does not provide sufficient reasons or findings as required. No clear methodology or analysis offered.
- AA Screening flawed as insufficient surveys to assess risk of bird collision/flight risks. Fails to identify all potential risks to protected species in this regard, including birds, foxes and bats. Does not consider all aspects of

the proposed development, such as construction compounds and haul roads and coastal erosion.

- AA Screening flawed as doesn't consider all aspects of proposed development arising during construction. Insufficient site specific surveys.
- AA Screening has no regard / inadequate regard to cumulative effects.
- AA Screening has regard to mitigation measures.
- Mitigation suggested in the NIS would be of little benefit in preventing damage to European sites.

8.12. Material Contravention

- Material contraventions of the Development Plan.
- This development is not of strategic importance.
- This development does not comply with the existing pattern of development in the area.
- The development is not located on a high speed transport hub.
- Material contraventions in respect of visual impact on Howth as a traditional, touristic village; its contribution to the 100% dominance of BTR; uncertainty of being another ghost development; prevention of use of site for own door housing; requirement to remove moraine and unknown repercussions; requirement to remove 78 cubic metres of rock, sand and soil; the effect on the village and roadways of 11,000 truck movements; the potential detrimental effect on the health of local population; the potential damage to the environment caused by construction works and transportation.
- Material contravention of objective NH15 of the Development Plan.
- Material contravention cannot be granted where justification relies on the building height and apartment guidelines as these are ultra vires and not authorised by section 28(1C) of the planning and development act. The guidelines are also contrary to the SEA Directive. The proposed development is contrary to SPPRs in the height guidelines which are mandatory.
- Material contravention of density.

- Material contravention of housing mix.
- Material contravention of public open space.
- Material contravention of height and visual impact.
- Material contravention of car parking.
- Material contravention of childcare.
- Material contravention with respect to Architectural Conservation Area.
- Material contravention due to non-compliance with LAP/Masterplan/Urban Design Framework (policy objectives SS02a & PM17).
- If the Board purports to justify non-compliance with objectives of the LAP, Development Plan, Masterplan and/or Urban Design Framework, this will amount to an unlawful breach of the requirements of the SEA Directive.

8.13. Other

- Application and documents do not comply with requirements of the Planning and Development Regulations.
- Adverse impact on health and the environment from high levels of Airbourne Particulate Matter (PM) created by the excavation and transportation of such a large quantity of sand, soil and rock. Exposure of children, schools and people at risk (with asthma and other conditions) to dust. WHO describe air quality as the world's single environmental health risk.
- Large number of truck movements creates serious health problem, since diesel trucks produce a special class of particulates.
- Negative effect on tourism, Howth is the second largest tourist attraction in Dublin after the Guinness Store House.
- Documentation has not been sent to Fáilte Ireland.
- Site boundary extends over parking and public areas in front of the hotel, differing to previous applications, and where separate applications in the past indicate separate ownership F04A/1071 & F04A/1879. Applicants must show proof of title for this area.

- If permission is granted, the developer must make a significant contribution to the community for the provision of alternative local recreation facilities to compensate for the loss of the Edros site.
- Hotel is needed, not housing.
- Fingal has zoned two and half more lands for residential than required to meet population growth projection.
- Current right of way runs from opposite the Abbey Tavern across Tower Hill to Balcadden road. Proposal ignores planning regulation 286(1) the application has not identified correctly the right of way which is being consumed into the proposed development. Proposed new access route could be closed by a management company, if permission is granted a formal right-of-way legal agreement should be used to safeguard access.
- No effort by the applicant to engage with residents.
- Risk of increased flooding at times of heavy rainfall, adversely affecting the glacial moraine on Tower Hill.
- World Climate Emergency – proposals, the demolition and excavation proposed, truck movements etc. not compatible with this.
- Does not comply with BRE guidelines.

8.14. Enclosures: Letter from Fingal County Council referring to landslides at the sandhill behind the King Sitric with report from Arup Engineers; Extracts from application documents; Photos of the areas surrounding the site; Extract from arb.ca.gov explaining Particulate Matter; letter from MTW Consultants Limited Consulting Civil and Structural Engineers (with matters raised included in the summary points above);

9.0 Planning Authority Submission

9.1. The Council's report summarises observer comments as per section 8(5)(a)(i). The planning and technical analysis in accordance with the requirements of section 8(5)(a)(ii) and 8(5)(b)(i) may be summarised as follows:

9.2. Material Contravention

- 9.3. The Planning Authority supports the principle of a deviation in density and height from the surrounding area at this location, however some aspects of the design require further consideration including layout.
- 9.4. Impact on Martello Tower
- 9.5. The Planning Authority remains of the opinion that proposed Block B in its current form will give rise to a negative impact upon the Martello Tower.
- 9.6. The height of the proposed block, together with the limited separation distance between the northern building line of Block B and the base of the mound, and the treatment of the boundary between the two sites, will give rise to significant negative visual impacts upon the protected structure.
- 9.7. The mitigation effect of the lower 3 storey height is negated, as the proposed block is predominantly 4 storey in scale with 5 storey projection to the southern side. Demonstrated in verified views from the grounds of the Martello Tower (View 9 and 9a) and from Howth Yacht Club (View 19) and St. Lawrence Road (View 13) which outline how legible and dominant it is even within an existing built environment/urban roofscape.
- 9.8. The inclusion of framed canopies to the roof terraces impacts how the scale of the block is read and increases the extent of 4 and 5 storeys. Views 9 and 9a show how close, stark and open the north elevation of Block B is when seen from the Martello Tower with the public able to look directly into apartment interiors and balconies. Block B in its current form would be overly visually dominant upon the Martello Tower, which is a protected structure, and should be amended to reduce the impact it would cause.
- 9.9. Impact on Howth Historic Core ACA
- 9.10. The Planning Authority concur with the findings of the Architectural Heritage Impact Assessment in relation to the significance of the Bailey Court building proposed for demolition.
- 9.11. No concerns raised regarding the design of Block D, the Bailey Court replacement.
- 9.12. Concern raised regarding the design of Block A and the lack of continuous elevation, isometric of clear verified views of it. Concern regarding the deep and relatively blank gable onto Main Street with its sharp cut corner.

9.13. Material Finishes

9.14. The Planning Authority suggest that a natural slate be used for the roof slope of Block A and D which is in keeping with the historic character of Howth and adheres more to the colour palette of the historic slate. The materials for the enclosing box dormers/bay windows should complement the colour of the roof covering. In general, the proposed finishes may need to be re-thought for such an exposed location.

9.15. Unit Typologies and Mix

9.16. Overall accommodation mix is acceptable.

9.17. Residential Amenity

9.18. The Board should satisfy themselves with respect to daylight, sunlight, overshadowing analysis.

9.19. In relation to winter gardens to Block D, while they may offer some form of amenity, they cannot be considered as private amenity space. The Board should satisfy themselves with respect to the provision of adequate areas of private amenity space to all units.

9.20. Significant issues of overlooking, overshadowing and overbearance of the private amenity spaces serving the existing dwellings on Abbey Street and Main Street, as a result of the proximity of Block B. The Board should satisfy themselves that the proposals will not negatively impact on exiting residents.

9.21. Green Infrastructure

9.22. Open Space – There is a shortfall of 6,667.5sqm of open space, the applicant should be requested to make up for this shortfall by way of financial construction.

9.23. Tree Survey – Tree line along the northern boundary is within the applicant's ownership but outside the red line, impacts may arise medium-long term as a result of the proximity to works.

9.24. Landscape Plan – Considered to be acceptable.

9.25. Movement and Transport

9.26. Car Parking and related issues – Proposed development generates a parking demand of 281 spaces, and a minimum practical parking provision of 201 space according to DP standards. The applicant has indicated that 139 spaces are included

with no visitor bays. For non-residential, demand for 18 spaces (DP Standards), proposed to provide 5 spaces.

- 9.27. The applicant should be requested by condition to submit access arrangements for cyclists and bicycle parking in the basement from Ground level for the agreement of the Planning Authority.
- 9.28. No concern raised regarding cycle storage.
- 9.29. All residential parking spaces should include EV charging points / ducting to facilitate retro fitting.
- 9.30. Footpath – Balscadden Road – A 2m footpath should be provided along the eastern side of Balscadden Road. Details of the pedestrian crossings for both Balscadden Road and Main Street should be agreed with the Operations Department.
- 9.31. Traffic and Transport Assessment – Sutton Cross experiences capacity issues from the background traffic alone. The proposed development has a minor impact on the local road network. The applicant proposes to adjust the timings and phases of traffic lights at Sutton Cross to improve traffic flow as a mitigation measures. This should be undertaken in conjunction with the Operations Department.
- 9.32. Road Safety Audit – should be undertaken.
- 9.33. Swept Path Analysis – Acceptable as submitted.
- 9.34. Archaeology
- 9.35. Omissions and errors in Chapter 11 of the EIAR with regard to Archaeological Assessment. No reference to the archaeological assessment, test excavation and archaeological excavation undertaken with in the proposed development site. Contradiction between Chapter 11 and the Non-Technical Summary.
- 9.36. Baseline archaeology has not been properly assessed, therefore the potential impact and mitigation measures proposed in the EIAR Chp 11 are moot. Recommend a robust condition to protect and preserve any potential archaeological features and to address the concerns raised by the Community Archaeologist.
- 9.37. Infrastructure and Services
- 9.38. Flooding – The Board should satisfy themselves with respect to the information submitted related to Flood Risk.

- 9.39. Surface Water – Design is generally acceptable.
- 9.40. Water Supply – Reference to Irish Waters confirmation of acceptance.
- 9.41. Foul Water Connection – Reference to Irish Waters confirmation of acceptance subject to the applicant funding extension of the existing network. Note that the proposed development encroaches on the existing Howth pump station overflow tunnel, which Irish Water have previously agreed to works over, however no specific approval indicated for the current proposal. The applicant should liaise with Irish Water.
- 9.42. Appropriate Assessment and EIAR
- 9.43. The Board are the competent authority with regard this assessment.
- 9.44. Biodiversity
- 9.45. As the site is partly located within Howth Special Amenity Area Order it is appropriate that a levy be sought to fund the Howth SAAO's Operational Plan.
- 9.46. NIS identifies potential direct impact upon Dry Heath Habitat at Howth Head SAC. The most recent status assessment of this habitat concluded that the dry heath habitat is in an unfavourable-bad condition. The heathland status study report recommends that it is more appropriate for the overall objective to be changed to 'restore the favourable condition'. The implication is that active management is required to address the factors contributing to the unfavourable conservation condition rather than maintain the status quo. The Board may wish to consider if additional recreational pressure can be facilitated, given that the damage caused by trampling is one of the reasons for the unfavourable status of the Dry habitat within Howth Head SAC.
- 9.47. The NIS states that implementation of the Howth Special Area Amenity Order (SAAO) operational plan 2021-2025 by the SAAO committee and Fingal County Council will serve as a mitigation measure to protect the Howth Head SAC. The Board may wish to consider whether it is appropriate to include mitigation measures in the NIS for the proposed development that are to be undertaken by a third party. The applicant is not in a position to guarantee that these mitigation measures will be implemented and by extension avoid impacting on the Howth Head SAC.

9.48. The Board may wish to consider whether the planned actions from the Howth SAAO Operational Plan can be considered sufficient mitigation measures. No testing of mats suggested, not known whether they will be effective in restoring Dry Heath habitat lost due to trampling. In the absence of details and certainty of benefits of the actions listed, it is not clear if implementation of the SAAO Operational Plan can be considered as a mitigation measure.

9.49. Taking in Charge

9.50. Finishes should comply with the Council's standards or exclude areas from being taken in charge.

9.51. Construction Management

9.52. Accept route 2 is the most suitable for haulage. Recommend restrictions are applied on haulage activity during school drop-off and collection times by condition. Updated Construction Management Plan will be required for agreement with the Planning Authority by condition.

9.53. Ground Works and Stability

9.54. Proposed Block B is located close to the mound upon which the Martello Tower is located. There have been a number of major soil slippages in Howth in the recent past and the potential impact of the proposed development on the stability of the adjoining protected mound has been raised with past proposals on these lands. The findings and recommendations of the engineer and geotechnical experts in relation to the construction sequence and monitoring is considered to be acceptable. However, the onus is on the Board to satisfy themselves that assessments undertaken are adequate.

9.55. Part V

9.56. No concerns raised, request condition.

9.57. Conclusion

9.58. It is considered that the proposed development which is located within the development boundary of Howth and currently derelict will provide for an appropriate standard of residential development and is considered to be acceptable, subject to a number of amendments as set out in recommended conditions.

9.59. Statement in Accordance with Section 8(5)(b)(ii)

- 9.60. Having regard to the location of the site on lands zoned 'TC' in the Fingal Development Plan 2017-2023 which seeks to 'Protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities', to the nature, scale and design of the residential development proposed, to the pattern of existing and permitted development in the area and to the provisions of the Development Plan, the relevant Section 28 Guidelines, with specific reference to the Urban Design Guidelines, DMURS, Quality Housing for Sustainable Communities, Design Standards for New Apartments (2015) [sic] and the Sustainable Residential Development in Urban Areas Guidelines, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect existing character and aid in the development of new character to the area and would be acceptable in terms of traffic safety and pedestrian permeability. The proposed development would therefore be in accordance with the Fingal Development Plan and objectives and the proper planning and sustainable development of the area.
- 9.61. [Inspector notes that while the Chief Executive report does not use the specific language that they recommend permission be granted, it is concluded that the development is acceptable and in accordance with planning policy, subject to amendments which are set out in recommended conditions].
- 9.62. 39no. conditions recommended, conditions of note include conditions no.4 requiring a revised western elevation treatment for Block A; no.5 amendment to Block B to omit the 5th floor, the 4th floor to be located along the southern side of the block only, the proposed framed canopies to be omitted and the stairwells to be positioned away from the northern section of the building; no.6 increase the separation distance between Block B and the mound and revised planting scheme; no.7 monitoring of the Mound and Martello Tower for movement during construction works; no.8 material finishes to be amended; no.11 Chp 11 of the EIAR to be rewritten; no.12 financial contribution for shortfall of public open space under section 48; no.13 financial contribution towards the Howth Special Amenity Order; no.39 standard financial contribution.

9.63. Enclosures: Appendix A Summary of Submission; Appendix B Consultee Reports; Appendix C Planning Context.

9.64. **Departmental Reports**

9.65. Water Services Department

- As noted in Chief Executive report, works encroach on the Howth pumping station, required that the applicant liaise with Irish Water regarding the same.
- SUDS proposals are acceptable.
- No comments with respect to Flood Risk, submitted FRA noted.
- Note Irish Water comments with respect to the proposal, which is feasible.

9.66. Conservation Officer

- Comments are noted in the Chief Executive report as summarised above.

9.67. Parks and Green Infrastructure

- Recommendations within the submitted Tree Report should be implemented.
- Shortfall in public open space should be made up via financial contribution.
- Recommendations in relation to landscaping conditions.
- Financial contribution to Howth SAAO recommended.
- Ecologist should be engaged by the developer for the duration of the project.
- Details of management company should be secured by condition.

9.68. Transportation Planning Section

- Concern with regard to the levels of parking proposed, given that deficiency in parking may impact negatively on the surrounding road network. There is no capacity for overspill parking associated with the proposed development with the exception of the harbour car park. The harbour car park does not facilitate passive surveillance of residential parking by residents. It is third party parking controlled by the Department of the Marine. May become pay and display in future. The DART service is not classified as a high-quality public transport service as the frequency of trains is not high enough, in part due to the fact that the service is currently divided between Howth and Malahide.

- With respect to visitor bicycle parking, the standards tend to lead large numbers of visitor parking being underused. A reduction in visitor bicycle parking provision would be prudent in this regard, alternatively visitor parking can be provided on a phased basis dictated by demand, determined from an annual survey.
- Ducting and servicing for EV charging points should be provided to all spaces.
- Provision of an upgraded footpath along the easter side of Balscadden Road should be provided at the applicants expensive, with a minimum width of 2m.
- Comments regarding construction management routes, traffic assessment, swept path analysis, basement car park, road safety audit and taking in charge noted in Chief Executive report as summarised above.
- The stability of public roads and footpaths should be addressed by a suitably qualified engineer with an appropriate level of professional indemnity as part of the application. Proof of indemnity should be provided prior to construction.
- Conditions recommended with respect to footpath provision on Balscadden Road and access arrangements for cyclists to the basement parking area.

9.69. Community Archaeologist

- Chapter 11 Archaeology and Cultural Heritage contains a number of errors and omissions.
- The relevant Department is Department of Housing, Local Government and Heritage and not DoCHG as referenced throughout.
- There is no reference in the chapter to the archaeological investigations of the lands associated with, or adjacent to, the proposed development.
- No reference to the archaeological assessment, test excavation and archaeological excavation undertaken within the proposed development site, their outcomes and the implications for impact and mitigation.
- The statement on p.391 regarding there being no ringforts and 1 enclosure located within 2km of the site, demonstrates a lack of archaeological understanding and expertise. The Zone of Archaeological Potential that extends into the proposed development site relates to a motte (DU016-

002001-) and Martello Tower (DU016-002002-) and there are at least 25 other recorded monuments of various typologies within a 2km radius of the proposed development site.

- Welcome that the potential impact of the earthworks and ground movements on the Martello Tower associated [sic] have been assessed by Byrne Looby as part of the Geotechnical Report. It is imperative that the vibration monitoring regime will be established along this boundary to ensure the proposed works does not cause slippages.
- As the baseline archaeology has not been properly assessed the potential impact and mitigation measures proposed within Chapter 11 are moot. Particular issue is taken with the statement at section 11.6.2 p.447. Which contradict the conclusions of the report on the archaeological excavations with the proposed development site (Kyle 2020) and the statement at section 4.9 p.23 in the Non-Technical Summary EIAR. Query who will recognise archaeological remains in order to cease works and bring the 'expert archaeologist' to site.
- Recommend the archaeological section of Chapter 11 is rewritten with the input of archaeological expertise and appropriate competencies so that an accurate baseline of the archaeological conditions and impact assessment is carried out, up which appropriate mitigation measures should be based.
- Cognisance should also be taken of the recommendation in Kyle's excavation report 'The monitoring of topsoil stripping on site, particularly in the southern, relatively undisturbed and non-truncated portion of the site, is recommended as a further mitigatory measure to ensure the continued preservation by record of the site's archaeological resource, especially as the archaeological monitoring of the removal of the site's remaining topsoil is likely to add further interpretation, discussion and analysis to the results of this excavation.' (2020, 22).

9.70. Biodiversity Officer

- Comments noted in the Chief Executive report as summarised above.

9.71. Environment Section (Waste Enforcement & Regulation)

- Recommend condition concerning confirmation of waste streams and construction details.

9.72. Housing Department

- Note contact made with the Housing Department by the Developer with respect to Part V.

9.73. Economic, Enterprise, Tourism & Cultural Development

- Request that the developer provide a piece of public art or sculpture or architectural features, to be designed in consultation with the Council, to be secured by condition.

9.74. **Elected Members**

9.75. A summary of the views of members at the area committee meeting on 12th April 2022 are set in the submitted Chief Executive Report and copied below:

- Controversial site which raises numerous concerns for the surrounding residents;
- Scale of excavation is worrying;
- The improvement in scale and context with the Martello tower is welcomed;
- One single issue outstanding – context of the effect on the Martello Tower – more insight could be provided;
- The way the proposal related to Main Street, showing car park located between the health centre but no vehicular access – query in relation to what is the circumstances if a drawing conflicts with a photomontage.
- Look and feel within an ACA – building does not sit well – too modern;
- Query if there are additional units on a reduced site area.

10.0 **Prescribed Bodies**

10.1. Department of Housing, Local Government and Heritage

- Archaeology: On the basis of the information submitted and the proposed archaeological mitigation, recommend planning condition pertaining to

Archaeological Monitoring of all ground disturbance and topsoil removal at construction stages.

- **Nature Conservation:** With the full implementation of the mitigation measures proposed in the NIS and the Environmental Impact Assessment Report (EIAR) supporting this application to avoid pollution of runoff from the development site, this Department accepts that no detrimental effects are likely to result on the section of the SAC downslope of the development from this source. Likewise, though this Department has worries over the erosive effects of overall higher footfall in the Howth Head SAC because of increased human usage, it accepts that the increase in population in its vicinity which will result from the proposed development is unlikely to significantly affect erosion in the SAC, or to lead to disturbance of sea bird colonies in the SPA. All the bird species recorded from the site were relatively common species though several are red listed in Ireland because their populations are declining. No sand martins were recorded during the July surveys. The losses of the small numbers nesting on this site, though regrettable, cannot be considered significant, but clearance of vegetation from the site could lead to the direct destruction of nests, eggs and nestlings. Other protected animal species such as hedgehogs and lizards which may also be present on the site might possibly also suffer direct mortalities by such clearance work if mitigation measures are not employed during it. Bat activity surveys of the site recorded located no bat roosts, but four species of bats were identified foraging over the site, common and soprano pipistrelles, Leisler's bat and long eared bat. The long-eared bat is considered sensitive to light. Because of the presence of this bat fauna, in order to minimise the impact of the development of the site and maintain usage of it by bats, the proposed lighting scheme is to be designed to be bat friendly. It is in addition proposed to install bat boxes in the new development.
- **Conditions:** Recommend conditions in relation to the implementation of measures in the EIAR and NIS; clearance of vegetation between Sep and Feb; and lighting sensitive to bats.

10.2. Transport Infrastructure Ireland (TII)

- Confirm no observations to make.

10.3. Irish Water

- Water connection feasible without upgrade.
- Wastewater connection feasible subject to the provision of approximately 100m network extension from the site to the existing 300m sewer in Abbey St, required to facilitate the proposed connection. These extension works are not currently on Irish Water investment plans therefore, the applicant will be required to fund these local upgrades.
- A Statement of Design Acceptance was issued by Irish Water on 14th February 2022.
- Conditions recommended with respect to connection agreement and no permission to build over assets and works / separation distances in compliance with Irish Waters Standards Codes and Practices.

11.0 **Assessment**

11.1. I will address the main planning issues arising from the proposed development under the following headings-

- Principle of Development
- Density
- Built Heritage
- Height, Scale, Mass and Design
- Neighbouring Residential Amenity
- Proposed Residential Standards
- Traffic and Transport
- Material Contravention
- Planning Authority's Recommendation
- Other Issues

11.2. **Principle of Development**

11.2.1. Land Use

11.2.2. National policy as expressed within Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness and the National Planning Framework (NPF) – Ireland 2040 supports the delivery of new housing on appropriate sites.

11.2.3. There are two land use zoning objectives relating to the site as follows:

- Objective TC – Town and District Centre – the majority of the site is zoned TC, the objective of which is to protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities.
- Objective RS – Residential – part of the southern area of the site is zoned residential, the objective of which is to provide for residential development and protect and improve residential amenity.

11.2.4. Residential is a permitted in principle use in both of the aforementioned zonings. The proposed development also includes café/retail uses, and these are permitted in principle uses in the TC zoned area of the site where they appear in proposed Blocks A and D. Café/retail (c.147sqm) is also proposed to the ground and first floor of proposed Block C in an area zoned RS. Here, café and retail (local) are neither ‘permitted in principle’ or ‘not permitted’, and the zoning matrix includes a note at the end of the table that explains that uses which are neither ‘permitted in principle’ or ‘not permitted’ will be assessed in terms of their contribution towards the achievement of the zoning objective and vision and their compliance and consistency with the policies and objectives of the Development Plan. I am satisfied that a café and local retail provision in this part of the site would be compatible with the zoning objective to protect and improve residential amenity given the location of the site in Howth Village, and that there are no conflicts with this aspect of the proposal with reference to planning policies under the Development Plan.

11.2.5. I note third party concern regarding the proportion of non-residential uses proposed, and that this should be increased, however there is no requirement under the Development Plan for a particular quantum of commercial/retail use on the site, and the largely set-back position of the site limits its contribution to the ‘high street’ for the designated town centre area. The provision of a new route through the site linking Abbey Street to Balcadden Road would however encourage footfall through the site

to the benefit of the town centre area/village and the proposed non residential uses will contribute to activating this route.

11.2.6. I note third party concern regarding the loss of the 'Edros' site, a former sports facility on the site, and that a consequential contribution to community use should be made. This facility is vacant and derelict and clearly has not been in use for an extended period. Therefore, no current community use is lost as a result of the proposed development. There is no requirement for replacement of this former sports facility on the site and the Planning Authority have not requested any such use or contribution in relation to the same. As such, I am satisfied that no provision or contribution is required as part of this application.

11.2.7. Overall, I am satisfied that the proposed development conforms with the applicable land use zonings for the site.

11.2.8. Population Growth

11.2.9. I note third party objections relating to the number of units proposed on the site and the overall residential capacity identified in the Development Plan for Howth.

11.2.10. The Fingal County Development Plan 2017-2023 includes on page 38, table 2.8 the total residential capacity provided for under the plan. This identifies a land supply of 16 hectares in Howth, with a potential residential unit capacity of 498. Table 2.8 is then updated in adopted Variation no.2 of the plan 'Alignment of the Fingal Development Plan with the National Planning Framework and the Regional Spatial and Economic Strategy', indicating that there is 14 hectares of zoned land remaining in Howth, with capacity to deliver 436 residential units. There is a permitted SHD scheme 'Claremont' on the former Techrete site located c.1km to the west of the current site on the other side of Howth Village. This site has approval (and is currently under construction) for 512 units. In addition, planning permission has been granted for 162 units opposite the Techrete site at Deer Park. These two approved developments amount to 674 units, which is in excess of the 436 units identified in variation no.2. Therefore, the residential unit capacity for Howth under the Development Plan is already exceeded and is proposed to be further exceeded in consideration of this current planning application. The applicant has submitted a material contravention statement with respect to this matter, which I consider further in section 11.9 of this report below.

11.2.11. National policy as expressed within Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness and the National Planning Framework (NPF) – Ireland 2040 supports the delivery of new housing on appropriate sites. I note that the assessments in relation to the aforementioned approved SHD applications at Techrete and Deer Park, recognised the exceedance of the residential capacity figure under the Development Plan, but considered this to be in keeping with NPF and section 28 guidelines on building height and density. The Board determined to accept those Inspectors recommendations to approve those previous applications. In my opinion, the same approach is applicable to the current application.

11.2.12. I note that national and regional planning policy encourage the consolidation of housing growth in appropriate urban centres well served by public transport and employment opportunities. In recognition of a current lack of housing supply, the focus is on the compact growth of appropriate locations, instead of continued urban sprawl that encourages inefficient use of land and unsustainable living. Therefore, an overly constrained approach to housing capacity in suitable locations would be contrary to that overarching approach. The application site is in an existing residential settlement area, on lands zoned town centre and residential, where residential use is permitted in principle and on a site proximate to bus and rail infrastructure. The latter of which is considered to be a high frequency, high capacity public transport service with reference to the National Transport Authority’s (NTA) ‘Transport Strategy for the Greater Dublin Area’. As a result, I see no reason to reject the application in principle, on the basis of the exceedance in residential capacity. In my opinion, a qualitative assessment is required first in relation to the suitability of the proposed density for the site and whether such an exceedance is justified with reference to the national and regional planning policy approach. I undertake this further in sections 11.3 and 11.9 below. I also note that the Planning Authority indicate that they support the principle of a deviation in density to the surrounding area, subject to further consideration of design and layout.

11.2.13. Build-to-Rent

11.2.14. I note a number of third party objections to the application based upon in principle concern with a Build-to-Rent (BTR) tenure. The proposed development is not specified to be BTR in the application, no dispensations are sought with respect to policy

application in this regard, and therefore my assessment of this application is not on the basis of a BTR tenure.

11.2.15. Land Ownership and Right-of-Way

11.2.16. I note third party concern regarding the extent and demonstration of land ownership associated with the application. Concern is also raised regarding the existing pedestrian path to the north of the site and the base of the Martello Tower mound. I address the proposed landscaping in this area in further detail in section 11.7 of my report below, while here I address land ownership specifically.

11.2.17. I am satisfied that the applicant has met the obligations concerning demonstration of consent of landowners for lands within the redline boundary extent. In any case, the granting of planning permission does not supersede landownership entitlement and would not entitle the developer to undertake works outside of their ownership without legal consent of relevant landowners. In this regard I note provision in section 10 subsection 6 of the Planning and Development (Housing) and Residential Tenancies Act 2016 as quoted above, confirming that the grant of consent for SHD does not entitle a development to be carried out. For the purposes of my assessment of the current application and based upon the information submitted, I am satisfied that I can continue with my assessment.

11.2.18. SHD Process

11.2.19. In relation to third parties representations regarding the SHD process, I can confirm that the SHD process is defined under a legislative framework and forms the legitimate process for the determination of this application.

11.3. **Density**

11.3.1. I note third party objections in relation to the high density proposed and that the proposal would be inappropriate for the village character of the area.

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

'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (Apartment Guidelines) and Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (Sustainable Residential Development Guidelines) all support increases in density, at appropriate locations, in order to ensure the efficient use of zoned and serviced land.

- 11.3.3. Having regard to the Sustainable Residential Development in Urban Areas Planning Guidelines and Circular NRUP 02/2021, the subject site can be considered an Inner suburban / infill site. These are defined as lands within suburban areas of towns or cities, proximate to existing or due to be improved transport corridors. Infill residential development should strike a balance between the reasonable protection of amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. In such locations, the guidelines would encourage minimum densities of not less than 50 units per hectare.
- 11.3.4. The proposed development has a density of c.126 units per hectare. The subject site is situated approximately 10 mins walk to Howth rail station, with access to DART services. The site is also within the zoned town/district centre areas for Howth with access to the range of commercial, social and amenity infrastructure there, as well as being a short walking distance to the employment location designated at Howth Harbour. The site is therefore categorised as a 'Central and/or Accessible Urban Location' under the Apartment Guidelines. These include areas within walking distance of employment locations and/or walking distance (up to 10mins) of high-capacity public transport such as DART services. These locations are stated to be generally suitable for small to large scale and higher density development, that may wholly comprise apartments.
- 11.3.5. I note Circular NRUP 02/2021 advising of residential density guidance for towns and villages, intended to clarify the application of Sustainable Residential Development Guidelines, with a graduated and responsive, tailored approach to the assessment of residential densities, as defined in the Apartment Guidelines. In terms of defining Howth in the context of settlement hierarchies and suitable densities, Howth is designated 'Dublin City and Suburbs Consolidation Area' under variation no.2 of the Development Plan and is not considered to be a 'village' in the context of the guidance.

11.3.6. I note the Fingal County Development Plan identified residential capacity for Howth, which would equate to a density of 31 units per hectare across zoned available land in Howth which would therefore be contrary to the guidelines. I have described above in section 11.2 why I do not consider this restrictive residential capacity to be a barrier to considering the application, and that a qualitative assessment is required to determine the acceptability of the proposed form of development on the site, including the proposed scale and height of buildings. As described above, restricting the efficient development of zoned, serviced lands, in central / accessible locations, would be contrary to the overarching national planning policy approach to compact growth in my view.

11.3.7. Therefore, in my view, the proposed density is within the acceptable density ranges for the subject site, as described in the national guidelines set out above. However, a qualitative assessment is still required of the acceptability of the form of the development with particular consideration of potential impact upon amenity, and I set this out in further detail in sections 11.5, 11.6 and 11.7 below. I also note paragraph 5.6 of the Sustainable Residential Development Guidelines, which identifies the desirability of preserving protected buildings and their settings. I consider in detail below the impact of the proposed development upon the historic environment in section 11.4 below. Overall, given the accessible characteristics of the site, I am satisfied that there is nothing to preclude the proposed density level on the site with reference to the above national guidelines, which promote a qualitative assessment, as set out in this report.

11.4. Built Heritage

11.4.1. There is a specific objective that applies to this site, No.115 which requires that any development – “Ensure the layout, scale, height and design respects the high amenity status of the surrounding area, the Martello Tower and the village character”. The Martello Tower is a protected structure (RPS: 570) and the Tower and Motte are recorded monuments (RMP Ref. DU16-00201 Castle Motte and DU16-002-02 Martello Tower). There is a map based objective ‘to preserve views’ along the northern boundary of the site and along the Balcadden Road – Map 10. Part of the site, principally along western boundary of the site facing Main Street and Abbey Street and along the northern boundary of the site addressing the Motte/Martello Tower, is within the boundary of the Howth Village Architectural

Conservation Area. The Howth SAAO buffer zone covers part of the site with the western boundary of the SAAO along Balscadden Road and the lands to the north and east of the road including the Motte site within the SAAO. Objective Howth 1 under the Development Plan also asks that the special historic and architectural character of the area be respected by development proposals. I consider general planning policy objectives under the development plan relating to special landscape character and protected views as part of my consideration of design in section 11.5 below, while in this section of my report I specifically consider heritage impact. I also address heritage impact as part of archaeology, cultural heritage, and landscape and visual impact, in associated sections of my EIA in section 13 of this report below which should be read in conjunction with this section of my report.

- 11.4.2. I consider there to be a number of matters requiring consideration in relation to potential impact upon built heritage arising from the proposed development. Specifically, the Martello Tower Protected Structure, structures on the subject site itself, and the Architectural Conservation Area (ACA).
- 11.4.3. Firstly, in relation to the proximity of the proposed development to the Martello Tower Protected Structure, I note local planning policy Objectives CH20, CH21 and CH22 of the Fingal Development Plan 2017-2023 relating to the sensitive / sympathetic design approach and protection of integrity to Protected Structures and their settings / features of significance. I also note The Architectural Heritage Protection Guidelines for Planning Authorities and particularly Chapter 13 of those guidelines as they relate to development within the attendant grounds of a Protected Structure. Page 192 of that guidance notes that:
- “The attendant grounds of a structure are lands outside the curtilage of the structure, but which are associated with the structure and are intrinsic to its function, setting and/or appreciation. In many cases, the attendant grounds will incorporate a designed landscape deliberately laid out to complement the design of the building or to assist in its function.”*
- 11.4.4. The Martello Tower is included in the Record of Monuments and Places under reference DU016-00202 and the National Inventory of Architectural Heritage (NIAH) (ref.11359033) assigns it a ‘National’ rating. It was built in 1804-05 to protect the landing place at the harbour from potential attack.

- 11.4.5. The application includes an Architectural Heritage Impact Assessment. This concludes that the proposed development will not have an adverse effect on the character and setting of the Martello Tower. A Landscape and Visual Impact Assessment is also included as part of the EIAR, which I specifically address in my EIA in section 13 below, however I also reference views discussed in that report as part of my assessment here to assist in determining potential visual impact upon the tower and its setting.
- 11.4.6. Proposed block B is the closest element of the proposed development to the tower, separated by approximately 50m. Proposed block B is 3 storeys to the north of the site closest to the site boundary proximate to the tower. Block B then increases to 4 storeys along its east and west extents, with a set back of between 22m and 27m (approx.) to the north. A fifth storey to proposed block B is also included towards its southern extent, with a set back of over 150m to the north.
- 11.4.7. The Chief Executive report recommends that the height of proposed block B be reduced to improve its relationship with the Martello Tower and ensure that the tower remain a distinctive feature in the skyline of Howth. Increased separation to the mound for the tower is also recommended.
- 11.4.8. I note that the Martello Tower is situated on the top of a slope, in an elevated position relative to the subject site. As such, the proposed development will be visible in a lower position than the tower in views of the two together. The set back of the fourth and fifth storeys from the boundary closest to the tower is also generous in my view, and this graduation in height successfully preserves the dominance of the tower in views of it from the north looking south towards the site. In my opinion, the submitted verified view no.9 demonstrates the low level of intrusion of block B into views from the tower slope. I concur with the submitted Architectural Heritage impact Assessment that the proposed development would be viewed as part of a number of buildings already seen in this view. In this sense, the overall impact is consistent with the current setting of the tower, being in an elevated position on a mound, with numerous buildings situated in the surrounding area. Therefore, I do not agree with the Planning Authority that reduced height or increased separation is required with respect to block B.

11.4.9. I note that the submitted Chief Executive report also recommends the removal of the proposed framed canopies and stairwells to the roof terrace at the northern end of block B. In my opinion, the proposed framed canopy and stairwell do appear in stark contrast to the rest of the design of block B and are overly visible as a result. The framed canopy is not structural form for the development and the access could be facilitated in a more sensitive position relative to the tower in my view. As such, I concur with the Planning Authority recommendation in this regard and have included a related condition for the removal/relocation of these elements, should the Board agree with this approach.

11.4.10. In relation to other Protected Structures proximate to the site, there are a number of Protected Structures within the boundaries of the ACA. The closest Protected Structures in the ACA to the subject site are situated on Main Street/Abbey Street and would be most proximate to the aspect of the proposed development fronting onto this end of the site, namely proposed block D. Proposed blocks A, B and C would be visible in a setback position to Main Street/Abbey Street. Proposed block D replaces the former Bailey Court Hotel building which is currently in a poor state and does not positively contribute to the ACA (assessed in further detail below). The proposed scale at this end of the site would not intrude into the setting of proximate Protected Structures in the ACA in my view, and I am satisfied that the setback position of the remaining blocks ensures that no Protected Structures in the Howth historic core area would be impacted by the proposal.

11.4.11. Secondly, in relation to structures on the subject site itself, the application includes the demolition of existing structures on the site, none of which are of note from a heritage perspective, except for the former Bailey Court Hotel dating from circa 1800 according to the NIAH. I note third party objections to the demolition of this structure. The submitted Architectural Heritage Impact Assessment includes a map of Dublin dated 1816 that includes the first reference to an 'Inn' on the Bailey Court Hotel site. The 'Royal Hotel' was subsequently recorded on the site circa 1821 and went on to change names a number of times over the first two centuries. The Architectural Heritage Impact Assessment suggests that the Hotel was probably constructed closer to 1818 when the harbour was completed, and mail ships begin to operate routes. During the twentieth century the hotel was enlarged on a number of

occasions. The hotel changed name to the Baily Court Hotel in more recent times and closed for business in 2007.

11.4.12. The Baily Court Hotel is not included in the Record of Protected Structures for Fingal, however it was included in the NIAH (2005) and assigned a 'Regional' rating for Architectural and Artistic interest. The Architectural Heritage Impact Assessment describes internal surveys of the building which found there to be little left of the original internal features of the hotel and extensive water penetration with resultant damage. The building is currently extensively damaged and too dangerous to allow examination beyond a limited area. The historic stable yard is situated to the rear of the main building and is formed of the shells of buildings without roofs. Photos are included within the document to illustrate the condition of the building. Planning permission was granted a number of years ago in 2013 for the demolition of the hotel and construction of 7 apartments (ref. F13A/0110, PL06F. 242959). The Architectural Heritage Impact Assessment concludes that the building is in a poor condition and this current state detracts from the architectural conservation area, as such its removal would represent a benefit to the architectural conservation area.

11.4.13. The poor condition of the existing Bailey Court Hotel structure was evident from my site visit and is supported by evidence submitted by the applicant in the Heritage Impact Assessment. The building is not protected, and whilst included on the NIAH in a survey undertaken in 2005, its condition has evidently worsened further since that time. I also note that planning permission has previously been granted for its demolition which indicates the lack of current historic value of the structure. Little historic fabric remains and in the absence of any specific protection, I see no reason to resist the removal of what is now a derelict structure. I concur with the findings in the submitted heritage assessment concerning the current state of the Hotel detracting from the ACA. It is however also important to consider the replacement of the structure, as demolition alone would not necessarily positively contribute to the ACA, and I give consideration to the proposed design and potential impact upon the ACA in my assessment below.

11.4.14. In relation to demolition works in the ACA, the Howth Historic Core ACA Statement of Character (2006) identifies that: 'Demolition will normally only be permitted where the structure makes no material contribution to the character or appearance of the area. There will be a presumption in favour of retaining structures that make a

positive contribution to the character of the area.’ (Page 23). The Architectural Heritage Guidelines also set out relevant considerations for proposed demolition works in an ACA, which I have had regard to in my consideration of the application and specifically the proposed demolition of the former Bailey Court Hotel. As outlined above, I am satisfied that the current poor condition of the Hotel detracts from the character of the ACA and therefore in principle, removal of the structure can be considered acceptable. I am also satisfied that re-use of the building would not be practical (in considerations of objective CH33 and CH37 of the Development Plan) and therefore cannot be insisted upon, particularly as the building is not specifically protected. As such, I am satisfied that the removal of this building in the ACA is acceptable.

11.4.15. In relation to other potential impacts upon the ACA, the ACA Statement of Character identifies the landmark buildings for the area as the Church of the Assumption, St. Mary’s Abbey, the Martello Tower and the Garda Station. Key views are also noted, specifically at Howth Terrace, Church Street, Thormanby Road, Main Street Upper and from the Martello Tower, which it notes should be preserved and any works within the ACA should not adversely impact or block these views (page 24). I note objectives DMS157 and DMS158 in the Development Plan which require new development to be sensitive to the ACA. I consider the guidance under Table 12.11 of the Development Plan as part of my assessment of potential impact upon the ACA arising from the proposed development, and particularly in my assessment of views, in this sense this section of my report should be read in conjunction with the landscape and visual impact section of my EIA in section 13 below.

11.4.16. I have already addressed views from the Martello Tower as part of my assessment above. Of further relevance is submitted view no.12 in the application, showing the entrance to the pedestrian path to the tower from Abbey Street. This demonstrates that there is no intrusion into the view of the tower from this access as a result of the proposed development. Views at points 7, 8 and 10 also demonstrate the visibility of the proposed development in the setting of the tower (noting that views along Balcadden Road are protected under the Development Plan), and in my opinion illustrate that this impact would not be overwhelming or harmful to the visual prominence of the tower.

11.4.17. In relation to the remaining ACA area, the greatest potential for impact from the proposed development is on Main Street. Views are provided in the submitted application to illustrate this visual impact, namely views 1, 1a, 1b, 2, 2a, 2b and 3. View no.4 is also provided from Thormanby Road. Proposed blocks A and D are most visible onto Main Street in these views. In my opinion, these views demonstrate that the low-rise scale of the development closest to Main Street, at 3 storeys, and with the incorporation of pitched roof forms which reflects the established context, ensures a sensitive addition to the streetscape here. While the proposed apartment blocks B and C are of a greater scale at maximum 5 storey, set-backs are incorporated to graduate this scale to ensure sensitivity to the existing lower rise setting surrounding the site. These blocks have flat roofs, but this is reflective of the housing typology and contemporary design; as these blocks are set into the site away from the street frontage, they are viewed as backdrop forms to the main village area.

11.4.18. Views no.11 and 13 illustrates the impact of the proposed development in the backdrop to the ACA. The proposed development will be visible, but this visibility is not harmful in my opinion. While the top storeys of the blocks are visible above some existing buildings in the ACA, this visibility is not monolithic and does not overbear existing buildings in the ACA as a result of the lower site level to the subject site relative to surrounding lands with a graduation in scale to a maximum of 5 storeys only.

11.4.19. I note third party concern in relation to the contemporary design of the proposed development compared to existing buildings in the ACA. In this sense, I note that the Architectural Heritage guidelines state that 'New buildings do not need to directly imitate earlier styles, but should be designed with respect for their context...' (page 22). As described above, I am satisfied that the proposed development incorporates design forms that demonstrate respect for the established context, particularly the pitched roofs to proposed blocks A and D visible from Main Street and the graduation in scale across the site. A pastiche approach would not be appropriate in my view, and the proposed development reflects a design of its time, whilst providing gestures to the established built character of the area, as such the proposal conforms with objective PM45 of the Development Plan in my view concerning contemporary development respecting the character and architectural heritage of an area.

11.4.20. I am satisfied that these views illustrate the greatest visual impact that would be experienced in the ACA as a result of the proposed development and no other views are required to inform my assessment. I am also satisfied that the proposed development is not reliant upon screening from trees to render the development to be acceptable, and my assessment of viewpoints is cognisant of reduced foliage to trees in winter.

11.4.21. Overall, in my opinion the proposed development would be successfully absorbed into the area from a heritage perspective.

11.5. Height, Scale, Mass and Design

11.5.1. Concerns are raised by third parties in relation to the height and design of the proposed development, particularly in relation to the 4 and 5 storey blocks proposed.

11.5.2. My assessment of the impact upon surrounding residential amenity including daylight and sunlight, as well as the quality of proposed accommodation, is undertaken in sections 11.5 and 11.6 below. This section of my report appraises the acceptability of the proposed height and design in relation to relevant planning policy and in light of concerns raised.

11.5.3. I note that part of the site is located within Howth SAAO buffer zone and bounds the SAAO area itself. The Howth SAAO was confirmed in 2000 and is in recognition of the exceptional character of the area of Howth. The Order protects special qualities of the area and aims to preserve and enhance the character and special features of Howth. The Order also designates 35 sites and areas of special natural, historical, architectural, archaeological and geological interest. The Development Plan also describes landscape character types for the Fingal area, with Howth designated 'coastal' having exceptional landscape value. A number of Objectives are described in the Development Plan relating to the preservation and protection of landscape character that are relevant to this zoning of the site, including Objectives NH33, NH34, NH35, NH36, NH37, NH38 and NH39. These local planning policies have informed my assessment of the proposed development design (including height, scale and mass considerations) alongside National planning policy as described below.

11.5.4. The 'Urban Development and Building Heights Guidelines for Planning Authorities' (the Building Height Guidelines) provides clear criteria to be applied when assessing

applications for increased height. The guidelines describe the need to move away from blanket height restrictions and that within appropriate locations, increased height will be acceptable even where established heights in the area are lower in comparison. In this regard, SPPRs and the Development Management Criteria under section 3.2 of these section 28 guidelines have informed my assessment of the application. This is alongside consideration of other relevant national and local planning policy standards. Including national policy in Project Ireland 2040 National Planning Framework, and particularly objective 13 concerning performance criteria for building height, and objective 35 concerning increased residential density in settlements. I am also cognisant of guidance under the Urban Design Manual, which has also informed my assessment. Much of the criteria under the manual is reflected in the criteria described under the Building Height Guidelines, which I have used to organise my assessment.

- 11.5.5. SPP1 of the Building Height Guidelines, states that it is Government policy to support increased building height and density in locations with good public transport accessibility. Section 3 of the guidelines confirm this, stating that in the assessment of individual planning applications, it is Government policy that building heights must be generally increased in appropriate urban locations, and that there is a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility. Development management criteria are then described to inform this assessment in section 3.2. This criteria allows consideration of landscape character, and I have considered the historical and environmental context of the site (as referenced through my summary of local planning policy above) as part of my assessment below, including the Howth Special Amenity Area and related objectives under the Development Plan.
- 11.5.6. The first criteria under section 3.2 of the Building Height Guidelines relates to the accessibility of the site by public transport. I have addressed my report above the accessibility of the site, including the proximity to Howth rail station which provides access to high capacity, frequent services. This is evidenced in the National Transport Authority's (NTA) 'Transport Strategy for the Greater Dublin Area' which includes Howth, and notes that *"Heavy rail (DART and Commuter Rail) provides the core high capacity infrastructure and services that are central to the Greater Dublin Area's public transport system."* Figure 3.1 'Dublin Frequent Transport Services Map'

of the strategy also includes the commuter service that serves Howth. Therefore, I am satisfied that the site characteristics accord with the criteria under section 3.2 and SPPR 1 concerning links to public transport, as it is located a short walk to the Howth rail station which provides access to high capacity, frequent services.

11.5.7. The second criterion relates to the character of the area in which the development is located. This section of my report should be read in conjunction with my assessment of heritage impact in section 11.4 above and my EIA including landscape and visual impact assessment in section 13 below.

11.5.8. In undertaking my assessment under this criterion, I am cognisant of the special landscape character objectives pertaining to the subject site as described above. The immediate built character surrounding the site is characterised largely by 2 and 3 storey buildings, with a number of single storey structures also apparent, notably the Library and clinic immediately adjacent to the site on Main Street. Abbey Street and Main Street elevate from a northerly to southerly direction and the topography of the area on and around the site varies considerably. The Martello Tower and the Church sit on elevated positions, and form key landmarks. There is a strong presence of historical buildings, particularly 19th century structures, however more modern additions are also evident throughout the area.

11.5.9. The proposed development is formed of buildings between 3 and 5 storeys in height. Due to the change in levels across the site, heights vary across individual blocks, but an indication of scale is provided in my assessment here with AOD height references taken as stated on submitted drawings. As the site fronts Main Street, block D is 2 and 3 storeys (max height c.13m or +33.1m AOD) in height, providing, in my opinion, a successful transition from the existing single storey library and 2 storey residential properties further to the south. The block incorporates a pitched roof which is reflective of existing building vernacular and also adds its absorption into the streetscape.

11.5.10. Block A is set behind existing buildings on Main Street and is 3 storeys (max height c.13m or +33.3m AOD). It also incorporates a pitched roof and would be successful absorbed into views from the street in my opinion, as a result of its constrained scale, set back position and sympathetic design.

11.5.11. Blocks B and C are set into the site and are visible to the rear of properties on Abbey Street and Main Street, and from Balscadden Road. Block B is 3, 4 and 5 storeys (max height c.16m or +36.3m AOD). The height of block B is c.10m, rising to c.13m (as +33.3m AOD) where it is closer to the Martello Tower to the north of the site and the rear of properties on Abbey Street. Block C is 2 storey (c.6m or +30m AOD), 3 storey (c.9m or +33.3m AOD), 4 storey (c.12m or +33.3m and +36.3m AOD) and 5 storey (c.17m or +36.3m AOD).

11.5.12. The 5th storey elements to Blocks B and C are set into the middle and southern end of the site at a lower level than adjacent lands to the south. Therefore, the proposed development remains lower than the ridge heights to 2 storeys properties in Asgard Park to the south (being c.+44m AOD), as well as being lower than the Martello Tower to the north (the tower is +36.36m AOD). Block B is also 3 storeys with a setback 4th storey to the rear of properties on Abbey Street, transitioning scale at this edge of the site towards the existing residential properties to the west. To the east, levels drop down towards the coast, and the proposed development will be visible on a higher topography than existing properties on Balscadden Road, as illustrated in submitted views at points 6, 7 and 21. However, the 5th storey height is proposed on the edge of the new route through the subject site and provides a visual marker for this new pedestrian and cyclist street linking Balscadden Road and Abbey Street. Block B also presents a 4 storey frontage onto Balscadden Road towards the north east end of the site, set back between 15m and 19m from the road edge. In my opinion, the submitted views demonstrate the proposed development would successfully integrate increased scale within the site, particularly as a result of the generous set back from Balscadden Road, while also providing an important marker to the proposed new route through the site and contributing to visual interest in views through the area. I am satisfied that the incorporation of increased scale at 4 and 5 storeys on the site, ensures that an appropriate density of development for this residentially zoned site can be achieved, while making a positive contribution towards placemaking, and reflecting an appropriate evolution of the streetscape setting.

11.5.13. In terms of an assessment of the contribution of the proposed development to the urban neighbourhood (a 3.2 criterion), I have described in detail in my assessment above and in section 11.4 how the proposed development will be viewed in the wider streetscape. I am satisfied that the proposed development incorporates varied

heights, setbacks, landscaping and a design that would make a positive contribution to the area, particularly where it fronts onto Main Street and Balscadden Road.

11.5.14. In terms of the detailed appearance of the blocks (3.2 criteria including avoidance of uninterrupted walls, and materials), all proposed blocks are well detailed, with use of fenestration and balconies to provide visual interest. The facades are well organised and have a clear bay arrangement across their extent. In my opinion, the proposed development is not monolithic and takes advantage of the topography of the area and graduation of height to successfully transition increased scale into the area.

11.5.15. I note that the Planning Authority request a revised elevation to block A, to incorporate more visual interest, however I do not agree with this approach. I am satisfied that the number of windows on this elevation for the block has been minimised to ensure an acceptable relationship with the adjoining site, and I assess separation in more detail in sections 11.6 and 11.7 of this report below. As such, I have not included this requested amendment in my recommended order below. In terms of materials, I note that the Planning Authority request a revised material palette for block D, specifically requesting the use of natural slate and querying the appropriateness of the overall material palette for the site. The proposed development includes extensive use of white render. This is a material that can require ongoing maintenance and could weather poorly in the coastal location of the site. As such, in my opinion, the use of a robust material, such as brick, would be more appropriate, and a light-coloured brick would adequately replace the proposed render whilst achieving a similar visual impact but with a higher quality finish – in my view. I concur with the Planning Authority that further consideration of the proposed material palette for all blocks is required, and that a natural slate roof should be considered to block D. Materials can be agreed in discussion with the Planning Authority in my opinion, and I have therefore suggested a condition in this regard that the Board can rely upon to require a change to the material finish, should they agree with my assessment in this regard.

11.5.16. In relation to the enhancement of public spaces, key thoroughfares and marine frontage, views are provided to illustrate the visual impact of the development and I have provided an assessment of these above. Of particular relevance are views 15 to 21 which demonstrate the coastal/marine context of the site, and in my view, that the scale proposed appropriately defines the site and proposed spaces, whilst positively

contributing to wider views in the area, and with minimal visibility in distance views, such as from the Harbour.

11.5.17. In terms of contribution to legibility, the proposed development will provide a visual marker adjacent to both the village and the proposed new route between Abbey Street and Balscadden Road. The proposal will also provide increased housing diversity to the area with the provision of apartment units in an area which is currently dominated by self contained houses.

11.5.18. Lastly, the section 3.2 criteria under the Building Height Guidelines refers to considerations on daylight and overshadowing. In relation to Building Research Establishments (BRE) criteria for daylight, sunlight and overshadowing, I discuss this in detail below in sections 11.6 and 11.7 of this report. The submission of specific assessments is also referenced in the guidelines and reports sufficient to assess a development of the scale proposed have been submitted. I note the applicant's documents that have informed my assessment (as described here and in sections below), including (but not limited to) the submitted Architectural Design Statement; EIAR (including – but not limited to, ecological surveys and Landscape and Visual Impact Assessment alongside appended Verified Photomontages); Sunlight, Daylight and Shadow Assessment and Natura Impact Statement.

11.5.19. I am satisfied that the proposed development appropriately incorporates the criteria described in section 3.2 of the Building Height Guidelines which I have had regard to above.

11.5.20. Overall, I am satisfied that the proposed development would not have significant negative visual impacts, would not be overbearing, and conforms with relevant objectives under the Development Plan.

11.5.21. I note third party concern regarding the consistency of submitted drawings with photomontages presented. I am also satisfied that the submitted drawings are accurate for the purposes of my assessment and that any inconsistencies with the submitted photomontages are minor and inconsequential to the conclusions reached here.

11.6. Neighbouring Residential Amenity

11.6.1. Daylight and Sunlight

- 11.6.2. I note third party objections in relation to overshadowing. In this section of my report I address the policy criteria in relation to potential impacts on daylight, sunlight and from overshadowing, upon neighbouring occupiers/sites, in section 11.7 below I address the potential conditions for future occupiers of the development.
- 11.6.3. Criteria under section 3.2 of the Building Height Guidelines include reference to minimising overshadowing and loss of light. The Building Height Guidelines refer to the Building Research Establishments (BRE) 'Site Layout Planning for Daylight and Sunlight – A guide to good practice' and ask that '*appropriate and reasonable regard*' is had to the BRE guidelines. I also note reference to British Standard (BS) 8206-2:2008 'Lighting for buildings - Code of practice for daylighting', which has subsequently been withdrawn and replaced by BS EN 17031:2018 'Daylight in buildings'. These standards have therefore informed my assessment of potential daylight and sunlight impact as a result of the proposed development. However, it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria.
- 11.6.4. Section 5 of the BRE guidance notes that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc. In addition, industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones.
- 11.6.5. The BRE guidelines state that in relation to daylight to existing buildings:
- "Loss of light to existing windows need not be analysed if the distance of each part of the new development from the existing window is three or more times its height above the centre of the existing window. In these cases the loss of light will be small..."* (para. 2.2.4)
- 11.6.6. The guidelines also states that if a proposed development is taller or closer than this, a 25° line can be drawn from 1.6m above ground from adjacent properties, and if the proposed development is below this line, then it is unlikely to have a substantial effect on the diffuse skylight enjoyed by the existing building.
- 11.6.7. In relation to existing properties that could potentially be impacted, the BRE guidelines recommend that a proposed development does not reduce daylight levels to a VSC (vertical sky component) of less than 27%, or where this is the case, not

more than 0.8 times its former value. The guidelines state that if with a new development in place, the VSC to an existing neighbouring property *'is both less than 27% and less than 0.8 times its former value, occupants of the existing building will notice the reduction in the amount of skylight.'* Therefore, the preservation of a minimum VSC of 27% and/or reductions to no more than 0.8 times the former value, illustrate acceptable daylight conditions to existing properties. In relation to sunlight to windows, the BRE guidelines refer to a test of Annual Probable Sunlight Hours (APSH) to windows. This checks main living rooms of dwellings, and conservatories, if they have a window facing within 90° of due south. If with the development in place, the centre of the window can receive more than one quarter APSH, including at least 5% of APSH in the winter months between 21st September and 21st March, then the room should still receive enough sunlight. In relation to overshadowing, BRE guidelines recommend that at least 50% of existing properties rear gardens or other public / communal amenity areas, should receive at least 2 hours of sunlight on the 21st March.

- 11.6.8. The application includes a Sunlight, Daylight and Shadow Assessment report. This describes the results of testing of windows for the following properties: The Library to the south, 1-6 Emo House to 13 Abbey Street to the west, and 6 Balcadden Road to 13 Balcadden road to the east. The report demonstrates that all windows tested either retain a VSC of 27% or greater, or where the VSC is less than 27%, the reduction is not more than 20% from the existing condition, when compared to the proposed condition. As such, all windows tested conform with minimum BRE guideline levels for daylight to existing neighbouring properties.
- 11.6.9. The report clarifies that due to the arrangement of Asgard Apartments to the east and Asgard Park to the south, testing was not required of these properties in light of the methodology described in the BRE guidelines.
- 11.6.10. In relation to sunlight, only windows that face within 90 degrees of due south are assessed in accordance with BRE methodology. Specifically only windows at 1-6 Emo House, 13 Abbey Street, 7, 8, 9 and 13 Balcadden Road facing within 90 degrees due south were tested. The results demonstrate that all tested windows meet BRE guidelines recommended levels, with all except one window receiving 25% APSH (including at least 5% of APSH in the winter months) between the 21st of

September and the 21st of March, and the remaining window experiencing not more than a 20% reduction in the proposed condition.

11.6.11. In relation to overshadowing of amenity spaces, the report demonstrates that all adjacent rear gardens will continue to receive acceptable levels of sunlight in the proposed development condition compared to the existing condition. While there is extensive overshadowing of the tested garden areas in the existing condition, this is stated to be as a result of existing topography. Therefore while 5 of the 6 gardens tested will not achieve 2hrs sunlight over 50% or more of their total area in the proposed condition, the extent of reduction from the existing condition is no greater for 3 of the gardens, and the remaining 2 are not reduced by more than 20% when compared to the existing condition. Therefore, all gardens tested are demonstrated to conform with BRE recommended levels.

11.6.12. I am satisfied that the analysis presented by the applicant supports a conclusion that potential impact upon surrounding occupiers daylight, sunlight and overshadowing will be in accordance with BRE guidelines. In my view, any impact upon adjacent occupiers daylight, sunlight and overshadowing will be within acceptable parameters and there will be no significant negative impact as a result of the proposed development in relation to the same.

11.6.13. Separation Distance and Privacy / Overlooking

11.6.14. Third parties raise concern regarding overlooking and associated adverse privacy impact, particularly in relation to properties and rear gardens on Abbey Street. The Planning Authority also suggest that overlooking and adverse impact upon privacy requires further consideration.

11.6.15. Objective DMS28 of the Fingal Development Plan requires a minimum separation distance of 22m between directly opposing rear first floor windows, with distances to be increased in developments over 3 storeys. All windows within the proposed development conform with this as described in my assessment below.

11.6.16. To the north, proposed block B is situated between approximately 4.8m and 17.2m to the boundary which adjoins lands for the Martello Tower. To the west, proposed block B is situated between approximately 6m and 9m to the boundary and rear gardens for properties in Abbey Street, at its proposed 3 storey height, with this separation increasing to over 15m for the 4 storey element proposed. The block is

over 20m away from the rear face of existing buildings on Abbey Street and no windows are situated directly facing with a separation of less than 22m.

- 11.6.17. Block B is situated immediately adjacent to the western boundary as it adjoins the rear of properties on Main Street. While there are no windows over the lower 2 storeys, there are secondary windows to open plan living areas on the top two storeys in the block at this end. While there are no existing windows in residential properties that would be adversely impacted by the proposed development here, in my opinion, the future development potential of this adjoining land should be preserved, and therefore the secondary windows to open plan living rooms in the top two floors (2nd and 3rd floors) of block B should be obscure glazed where it is situated on the boundary at this end of the site. I have included a condition requiring the same that the Board can rely upon should they agree with this approach.
- 11.6.18. Block A has two elevations situated on the boundary with existing properties on Main Street, while there are no proposed window adjacencies to existing residential properties that would generate privacy concerns, there are proposed windows to a bedroom and open plan living room, both of which are secondary, and with windows with an alternative orientation serving these proposed rooms. Similar to my assessment above, while there is no overlooking that would result in the current condition, in my opinion, the future redevelopment potential of this area should be preserved, and therefore these secondary windows within proposed block A that are situated on the boundary should be obscure glazed, and I have included a condition detailing the same.
- 11.6.19. Block C is situated between 11.9m and 19.9m to the eastern boundary with Balcadden Road with a minimum separation of approximately 21m to existing properties fronting that road. To the south, at its closest, block C is situated approximately 18m to the boundary with the gardens for properties in Asgard Park, and over 50m to the rear of those properties themselves. There would be some incidental overlooking of these rear garden areas by the proposed development, however this would not be intrusive as a result of the extensive separation between block C and the boundary. In my opinion, rear garden areas are open and consequentially these areas are normally incidentally overlooked by adjoining properties, and I am satisfied that given the degree of separation, this impact would be within acceptable parameters. There would also be no adverse impact upon the

privacy of occupiers of these properties in Asgard Park with the separation between windows significantly exceeding minimum standards described in the Development Plan. Block C is also approximately 6m to the south west boundary with no direct window facing relationships and therefore no overlooking results in this area of the site.

11.6.20. Block D is situated on the south west boundary, however there are no windows situated directly on the elevations on this boundary. At first floor, there is a window serving a bathroom and a secondary window labelled as opal laminated glazing to an open plan living area, situated approximately 5m from the existing property here. As the only habitable window in this location is a secondary and obscured, no direct overlooking results. At first and second floor there are windows serving open plan living areas situated a minimum of approximately 5m to the boundary here, however no direct overlooking of existing habitable room windows results and this separation would preserve any future redevelopment potential of the neighbouring site. While incidental overlooking across this boundary would result, given the scale of Block D (3 storey), the small number of windows (4 windows serving two apartments), and the minimum 5m set back, I am satisfied that this impact is not harmful and reflects normal overlooking between boundary areas that results in residential areas.

11.6.21. I note third party concern specifically in relation to the relationship of the proposed development to properties on Abbey Street. I have addressed visual impact specifically in sections 11.4 and 11.5 above. I can confirm that adequate visualisations are provided to inform this assessment, including viewpoints in the EIAR and images in the Architectural Design Statement of the development in the context of Abbey Street, alongside the architectural drawings provided. I am satisfied that properties will not be overlooked or overdominated as a result of the separation as I describe above, which I consider to be adequate, and with suitable transition in scale which I describe in section 11.5 above.

11.6.22. In relation to the overlooking of bathing spots (raised in third party submissions), this concerns the overlooking of public areas, where no particular privacy protection would be relevant.

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

11.6.24. Noise, Air Pollution and General Disturbance

11.6.25. I note third party concern regarding noise and air pollution as well as general disturbance resulting from the proposed development and its consequential increased population in the area. I specifically address potential impact upon human health (including from emissions) and noise impact, as part of my EIA in section 13 below. In relation to general disturbance, the proposed development will result in an increased population and associated footfall with accompanying activity. I do not consider the increased population of the area and associated change in character to be a negative consequence in terms of residential amenity. The site is zoned for residential development and will naturally result in increased population with associated footfall and traffic. The noise associated with this population will be at a standard residential level and not unusual for the area.

11.6.26. Construction Impact

11.6.27. Concern is raised by third parties concerning impact during construction. I address potential impacts during construction under each heading of my EIA in section 13 below which should be read in conjunction with this part of my assessment. I note that the applicant has included an Outline Construction Environmental Management Plan, Outline Construction and Demolition Management Plan and Preliminary Construction Traffic Management Plan with the application submission. I acknowledge that the construction of a development on this site zoned for residential use would result in short-term disturbance to adjacent residents and businesses. However, this will be on a temporary basis and mitigated through measures in the construction management plans. This type of disturbance is an inevitable and typical consequence of any development, and I am satisfied that impact will be within acceptable parameters. All contractors on the site will be required to adhere to mitigation described in a final Construction Environmental Management Plan (CEMP).

11.6.28. I also address potential impact in terms of ground movement in my EIA in section 13. The applicant has provided data to support a conclusion that there is no significant

risk of damage to nearby residential dwellings or the Martello Tower (or any structures) as a result of the proposed development.

11.6.29. In relation to access to Balcadden Beach for swimmers, it is not within the remit of this application to deliver this, as access is via areas outside of the site confines. In relation to adverse impact upon tourism in the area, in my opinion, the scale of this development is not likely to have any impact upon the decision of tourists to visit Howth and construction works are a normal activity to observe in any urban area regardless of its tourism appeal.

11.6.30. With the application of mitigation measures through a detailed CEMP and EIAR, I have no concerns regarding construction impacts (or construction transport impacts) resulting from the proposed development.

11.7. Proposed Residential Standards

11.7.1. In this section of my report, I address the range of applicable standards guiding an appraisal of the quality of proposed accommodation.

11.7.2. Daylight, Sunlight and Overshadowing

11.7.3. I note that the criteria under section 3.2 of the Building Height Guidelines include the performance of the development in relation to daylight in accordance with BRE criteria, with measures to be taken to reduce overshadowing in the development. However, it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria. The Design Standards for New Apartments states that levels of natural light in new apartment developments is an important planning consideration and regard should be had to BRE standards.

11.7.4. A Daylight and Sunlight Report has been submitted with the application and describes the performance of the proposed apartment blocks in the development against BRE guidelines in relation to daylight and sunlight. BRE guidelines describe ADF targets of 2% for kitchens, 1.5% to living rooms and 1% to bedrooms. In the proposed development, where kitchens and dining spaces form part of open plan living areas, the applicant has provided analysis against the 2% ADF target.

11.7.5. The applicant has provided the results of all habitable rooms in the proposed development. The submitted results show that of the 502 rooms tested, there are 497 rooms that achieve the BRE ADF target values, equating to a pass rate of 99%.

- 11.7.6. The rooms that do not achieve BRE ADF target values are situated in block B on its south-westerly face. They all overlook the proposed pedestrian and cycle link from Balcadden Road to Abbey Street which would include landscape planting, and therefore serves as a visual amenity in terms of views from these impacted rooms, and providing some compensation in this regard. I also note that the impacted rooms are all situated within units that have other rooms which meet the ADF target values and that the design of block B serves to align with the proposed new route, creating a frontage onto this space contributing to legibility through the area. Therefore, there are wider site layout implications for consideration of the layout of this block in this regard.
- 11.7.7. The applicant has also provided a sample of test results in blocks B and C against daylight standards set out in IS EN 17037:2018 and BS EN 17037:2018. The results demonstrate that block C fulfils criteria under both these standards, while block B would have 8 rooms that fall below IS EN 17037:2018 standards, it would fulfil all standards set out in BS EN 17037:2018. This reflects a high pass rate and demonstrates that the proposed daylight conditions in the development would be good.
- 11.7.8. In relation to sunlight to windows, the BRE guidelines refer to a test of Annual Probable Sunlight Hours (APSH) to windows. The APSH criteria involves an assessment of the level of sunlight that reaches the main living room window to determine the number of windows with an APSH level greater than 25% on an annual basis or 5% on a winter basis. The submitted assessment does not provide analysis in this regard; however, I note that the Building Height Guidelines do not explicitly refer to sunlight in proposed accommodation. The Building Height Guidelines state in criteria 3.2 that *'The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light'*. Therefore, while daylight and overshadowing are explicitly referenced, there is no specific reference to sunlight, and reference is only to daylight, overshadowing or more generally 'light'.
- 11.7.9. However, objective DMS30 of the Development Plan refers to the application of BRE criteria in general. While there is no analysis provided, I note the orientation of the site with many units in the proposed development facing south, east or west, with associated access to sunlight. I am therefore satisfied that the acceptable levels of

sunlight will be achieved to most living rooms in the proposed development, in recognition of BRE criteria.

11.7.10. In relation to overshadowing, the submitted report demonstrates that all proposed communal amenity areas and public realm will be in excess of the minimum sunlight BRE target of achieving at least 2hrs on the 21st March over 50% of their area.

11.7.11. I also note that section 10 of the applicant's submitted report, describes how the proposed design has sought to maximise daylight, sunlight and minimise overshadowing. Measures include the enlargement of windows, the removal of additional balcony space and the addition of roof lights.

11.7.12. Overall, and with reference to the performance of the proposed development against the minimum levels set out in BRE methodology, I am satisfied that the applicant has demonstrated good daylight, sunlight and overshadowing levels within the proposed development. This is specifically in light of the identification of compensatory measures as required in section 28 guidelines in my assessment above, and of the design measures incorporated by the applicant to maximise daylight as identified in section 10 of their report (and summarised above). In reaching this conclusion I am mindful that the BRE guidelines state in paragraph 1.6 that:

"The advice given here is not mandatory and the guide should not be seen as an instrument of planning policy; its aim is to help rather than constrain the designer."

11.7.13. **And, specifically that:**

*"Although it gives **numerical guidelines**, these **should be interpreted flexibly** since natural lighting is only one of many factors in site layout design."* (My emphasis).

11.7.14. This conclusion should be read alongside my assessment of private amenity space provision below, which may have implications upon daylight levels in the scheme.

11.7.15. Dual Aspect

11.7.16. As described in section 11.3 above, the subject site is situated in a Central and/or Accessible location as defined by the Apartment Guidelines. Under SPPR 4 of those guidelines, developments in such areas, should provide a minimum of 33% dual aspect units. The proposed development has 50.56% dual aspect units and I note that Objective DMS20 of the Development Plan requires the provision of a minimum 50% dual aspect units in apartment schemes.

11.7.17. Internal Space Standards

11.7.18. The minimum apartment floorspace standards are described in the Apartment Guidelines. The proposed development meets or exceeds the minimum floor areas set out in the guidelines, as well as exceeding the minimum internal space standards by at least 10% in the majority of proposed apartments.

11.7.19. Floor to Ceiling Heights

11.7.20. The proposed development conforms with SPPR 5 of the Apartment Guidelines and Objective DMS22 which state that a minimum of 2.7m floor to ceiling height should be provided at ground level to apartment blocks.

11.7.21. Privacy

11.7.22. I note Objective DMS28 in relation to a separation distance of at least 22m between directly opposing rear first floor windows. This requirement is not applicable between apartments which do not have a 'rear'. In the proposed development all directly facing window relationships are in excess of 15m apart, reflecting standard design arrangements experienced in apartment developments. In my view, all separation distances are acceptable, and I have no concerns with respect to the privacy of future occupiers in the scheme.

11.7.23. Number of Apartments to a Core

11.7.24. The proposed development does not exceed 12 apartments per a single core in accordance with SPPR 6 of the Apartment Guidelines. I note Objective DMS23 in the Development Plan that permits up to 8 apartments per a core, however Objective PM42 of Variation 2 of the Development Plan specifically states that in relation to apartment development '*Implement the policies and objectives of the Minister in respect of Urban Development and Building Heights Guidelines (December 2018) and Sustainable Urban Housing: Design Standards for New Apartments (March 2018) issued under section 28 of the Planning and Development Act, as amended*'. As such, I am satisfied that while the proposed development does not conform with this standard for up to 8 apartments per core, no material contravention arises.

11.7.25. Private Amenity Space and Communal / Public Open Space

11.7.26. Appendix 1 of the Apartment Guidelines describe the minimum requirements for private amenity space. The proposed development includes balconies, terraces and

winter gardens that exceed minimum requirements under the guidelines. I note that the Chief Executive report states that *“In relation to winter gardens to Block D, while they may offer some form of amenity, they cannot be considered as private amenity space.”* I also note that the Apartment Guidelines state that winter gardens may be provided in certain circumstances (page 18). The proposed development incorporates winter gardens to 6 of the proposed units in block D. This contributes to an external design appearance and organisation of the façade, which would alter if these winter gardens were to change to a balcony design. The Apartment Guidelines acknowledges that winters gardens can be considered as private amenity space. Given the small number of units incorporating winter gardens, I am satisfied that the private amenity space proposed in the development conforms with the Apartment Guidelines.

11.7.27. The Apartment Guidelines state that ‘Balconies should adjoin and have a functional relationship with the main living areas of the apartment’ (page 18). In the proposed development there are a number of units which do not conform with this layout arrangement, with balconies attached to, and accessible from, a bedroom.

11.7.28. In block B units, G-4, G-6, G-11, G-12, G-27 1-4, 1-6, 1-11, 1-12, 1-27, 2-4, 2-6, 2-11, 2-12 and 4-33; and in block C units, 1-2, 1-4, 1-5, 2-2, 2-4, 2-5, 3-3, 3-4, 4-4 and 4-5, have balconies exclusively attached and accessible to bedroom(s), with no attachment to the living area of these apartments. In my opinion, these units should have balconies attached to, and accessible from the main living area to the unit, in reflection of the Apartment Guidelines. As such, I recommend that a condition be used to require the submission of revised plans demonstrating that balconies to all units adjoin, and have a functioning relationship with, the open plan living areas for the units. For units G-1, G-2, G-3 and G4 in block C, I note that a small secondary balcony is provided off the main living area, while larger balconies are provided off the bedrooms in these units. The submitted Daylight and Sunlight Assessment explains on pages 49 and 52 that this design is intended to improve daylight access to the unit. However, the BRE guidelines specifically note that natural lighting is only one of many factors in site layout design in paragraph 1.6. In my opinion, the daylight to the unit should not be prioritised over the provision of good, functional private amenity space, attached to the main living area for the unit as described in the Apartment Guidelines. I therefore suggest that these units are also revised to ensure

that the balcony accessible from the main living area for the unit meets the minimum standards set out in the Apartment Guidelines, and this can be secured by condition. I recognise that these changes may have a negative impact upon the daylight quality within the units, however the quality of private amenity space provision should not be diminished in priority of daylight, and this flows from the flexibility described under the BRE guidelines in my view. I am also cognisant of the high conformity with BRE target values in the scheme as currently designed, at 99%, and therefore the potential reduction in daylight to a limited number of units would not be significant in my view and the overall performance of daylighting in the scheme would still be acceptable.

11.7.29. There are also a number of apartments that have a balcony attached to both a living area and bedroom, but with access to the balcony appearing from the bedroom only, or with an unclear arrangement as to access, for example units 4-28, 4-29 and 432. In my opinion, these balconies should be accessible from the living area of the unit in light of the guidance set out in the Apartment Guidelines. As such, I have recommended a condition to specify such access, which might easily be achieved through the replacement of a window with the provision of a glazed door from the living area attached to the balcony. The Board can rely upon these conditions should they agree with this approach.

11.7.30. In relation to communal amenity space, a minimum requirement of 1,174sqm is calculated following the Apartment Guidelines standards, and the proposed development includes c.4,108sqm communal amenity space exceeding this minimum requirement. Communal open space is provided in the form of roof terraces, courtyard and perimeter landscaped areas. The arrangement and planting of these areas is described in the applicants Landscape Design Statement and drawings and will ensure good quality exterior spaces in my opinion. Dedicated children's play areas (315sqm) and games lawns (390sqm) are provided adjacent to block B and will ensure that the recreational needs of children across a range of ages is met in conformity with standards under the Apartment Guidelines. I also note all proposed spaces are linked via landscaped routes through the site, as well as via the new link from Balcadden Road to Abbey Street proposed as part of the development. The design of these spaces responds appropriately to Objectives PM60, MP61, PM62 and PM63 under the Development Plan in my opinion.

11.7.31. The proposed development incorporates c.1,470sqm of public open space (10.2%) conforming with Objective DMS57A of the Development Plan. Objective PM52 of the Development Plan requires a minimum public open space provision of 2.5 hectares per 1000 population, while Objective PM53 calls for an equivalent financial contribution to be sought by the Council in lieu of open space provision where open space generated would be so small as not to be viable. Objective DMS57B confirms that while the minimum open space provision required is 10% of the site area, the Council has discretion to accept a financial contribution in lieu of remaining open space requirements under the plan. In this case, the Planning Authority has requested a financial contribution in lieu of the remaining open space requirement (being 6,667.5sqm) and the applicant confirms in the submitted Planning Report that it is proposed to make a payment in lieu of this open space. I have included a condition requiring development contributions in my recommended order below, that the Board can rely upon should they accept my recommendation.

11.7.32. Dwelling Mix

11.7.33. SPPR 1 of the Apartment Guidelines states that up to 50% of a proposed development may comprise 1 bedroom units, with no more than 20-25% being studio units. The proposed development incorporates 2.2% studios and 34.4% 1 bedroom units, conforming with this requirement.

11.7.34. I note third party objection that the proposed housing mix does not meet housing need in the area for owner occupied housing, with objection to BTR type housing. There is no evidence to support this assertion and the proposed development is not submitted as a rental product, and therefore is not assessed as such. I also note third party objection to the mix in relation to provision of family housing, however as described above, the mix of dwellings conforms with planning policy requirements for the same. In relation to social housing, I address Part V housing separately in section 11.11 below.

11.8. Traffic and Transport

11.8.1. I note third party concerns regarding transportation impacts. My EIA considers potential impact upon traffic congestion in section 13 below, as well as potential transport impacts during construction, and that section of my report should be read in conjunction with my assessment here.

11.8.2. Access

11.8.3. Vehicular access to the site is proposed from Main Street via an internal road to the basement car park to block B. This access is limited for vehicles entering and exiting the proposed basement car park to block B, as well as for refuse collection and maintenance work. Pedestrian and cycle access is provided from both Balscadden Road and Abbey Street, and a new route is proposed through the site in this regard. While this proposed through route is not intended for frequent vehicular use, it has been designed to facilitate emergency vehicles and limited servicing requirements. Bollards are proposed to restrict unauthorised vehicle access to the route.

11.8.4. I note that the Planning Authority request a condition that a 2m footpath be provided along the eastern side of Balscadden Road. The Balscadden Road currently has a narrow footpath along its eastern edge and to the opposite side of the road to where the subject site is located. The carriageway for the road is of restricted width, it is steep and it has a restriction on entry to the north. The road carries a limited amount of vehicular traffic, but carries a high level of pedestrian traffic because it leads from the harbour and railway station towards the cliff walks around Howth. In this context the proposal to widen the footpath to 2m could be counterproductive, as a more generous footpath could mislead drivers that they can pass pedestrians at normal urban street speeds. A footpath widened to 2m would also not sufficiently accommodate the large number of pedestrians that use this route and would remain inadequate in this regard. The current state of the road is not particularly unsafe, and its narrow width and presence of pedestrians naturally slows the speed of traffic. In my view, the narrow footpath in its current condition provides an adequate refuge for pedestrians to use while cars pass slowly. I therefore do not concur with the Planning Authority recommendation in this regard.

11.8.5. The Planning Authority also request that a condition be attached in the event that the Board determine to grant consent, for access arrangements for cyclists to the bicycle parking proposed at basement level. I agree with the Planning Authority that these access arrangements are not adequately detailed in the submitted plans, and therefore have included a condition requesting details of the same in my recommended order, which can be relied upon should the Board agree with this approach.

11.8.6. I note third party comments with respect to the current pedestrian path to the north of the site and the base of the Martello Tower hill. During my visit to the site, I noted this path, which is currently publicly accessible, and is included in the redline boundary for the application. The application description includes reference to this footpath and that it will be upgraded as part of the proposed development. As I understand it, it is not proposed to prevent public access to this path. However, in my opinion, greater detail could be provided of the proposals for this footpath and that public access is retained. This can be secured by condition in the event that the Board agree with this approach.

11.8.7. Car Parking

11.8.8. I note third party concern regarding the quantum of car parking proposed. Comments state that too little is provided which may lead to on-street parking, and a respondent also suggests that too much car parking is provided and it should be removed or sustainably reduced. Concern is also raised regarding the car park layout. The Transport Division of the Planning Authority also state that the quantum of car parking is insufficient.

11.8.9. The Development Plan describes car parking standards in Table 12.8. The applicant states that this generates a requirement for 286 spaces (250 residential and 36 visitor). However, the Planning Authority state in their submitted Chief Executive report that the proposed development generates a parking demand of 281 spaces, and a minimum practical parking provision of 201 space according to Development Plan standards.

11.8.10. It is proposed to provide 139 no. car parking spaces, including 7 no. accessible spaces, at a ratio of c.0.77 spaces per apartment. Therefore, it is clear that the proposed development does not conform with the standards as set out in the Development Plan, however I note that these standards are described as a 'guide' to the number of spaces for new development on page 458 of the plan, indicating a degree of flexibility in application.

11.8.11. The Apartment Guidelines states in relation to car parking, that it is default policy in central and/or accessible urban locations (such as where the subject site is situated), for car parking provision to be minimised, substantially reduced or wholly eliminated.

- 11.8.12. The proposed development is located within a 10 minute walk to Howth Railway Station and in the centre of Howth, proximate to the range of services, amenities and facilities that can be found in the designated town centre area.
- 11.8.13. I am satisfied that the proposed car parking provision is reflective of the site characteristics and the national planning policy approach to encouraging a modal shift from private car ownership and use to reliance upon more sustainable modes of transport such as walking, cycling and public transport. I do not think that the total removal or reduction in car parking provision would be necessary on this site outside of the city centre.
- 11.8.14. The applicant has provided a plan entitled 'Basement Swept Path Layout for Large Car', which demonstrates that the basement car park layout is functional, and I am satisfied that this adequately demonstrates usability of the space. The applicant also confirms in the submitted Traffic and Transport Assessment that a minimum of 10% electric vehicle (EV) charging stations will be provided in the car park, and a condition can secure this, along with the ability for future retrofit of all spaces.
- 11.8.15. I note third party request that car parking for beach users be provided as part of the development. There is no objective or policy under the Development Plan that would require such provision and I am satisfied that such provision is not necessary as part of the development. I also note third party comment in relation to the front of the site onto Main Street / Abbey Street, which has been used for public parking. During my visit to the site, I noted informal parking on street in front of the site. The Planning Authority have not suggested that any formal on street car parking is required in the development and I am satisfied that there is no requirement for the development of the site to provide this.
- 11.8.16. Cycle Parking
- 11.8.17. The proposed development incorporates 319 resident and 91 visitor bicycle parking spaces, in areas of each proposed block, in conformity with the Apartment Guidelines. Third party comments query the acceptability of the basement cycle parking. I note that the Planning Authority have requested access arrangements to the basement cycle parking as described above, however no objection is raised in relation to cycle parking being located at basement level. I am satisfied that following

confirmation of access arrangements (secured by condition) the location of cycle parking at basement level is acceptable.

11.8.18. I note that the Transport Division of the Planning Authority state that the quantum of cycle parking proposed is excessive. However, I have described above that the proposed cycle parking responds to national planning policy in the Apartment Guidelines, and I am therefore satisfied that it should not be reduced and that such an approach would not reflect the government intention to encourage a modal shift to more sustainable transport modes.

11.8.19. Public Transport

11.8.20. I note third party concern regarding the public transport provision for the site, that this does not provide extensive links and that the DART service is to be downgraded.

11.8.21. Howth Railway Station is approximately a 10-minute walk from the site, providing access to DART services, with frequent trains from Howth to Greystones via Dublin City Centre. While third parties raise concern regarding future plans for this service, the DART connection will remain and is recognised as a high capacity, frequent service in the National Transport Authority's (NTA) 'Transport Strategy for the Greater Dublin Area'. I note that the Transport Division of the Planning Authority state that the DART service is not frequent, however this appears to be a subjective statement, is not evidenced, and does not flow from the NTA's strategy as referenced in my report.

11.8.22. Dublin Bus route 6 is also proximate to the site and travels via Howth Station and Fairview. Public transport improvements are identified in the applicants Traffic and Transport Assessment and include Bus connects which will improve Dublin Bus frequency serving the site with route H3.

11.8.23. Dublin Bus Routes 6 and H3, have stops located on Main Street (R105) south-west of the site, just outside the proposed site access, with both routes operating from Howth to Abbey Street Lower in Dublin City Centre.

11.8.24. There are also two Bleeper Bike racks in Howth and a GoCar Base located at the Howth Railway Station.

11.8.25. I note third party concerns regarding the capacity and adequacy of the surrounding public transport network to serve the proposed development. As detailed in section

11.3 and 11.5 above, I am satisfied that the DART service is a high-capacity frequent transport service. No concerns have been raised by the Planning Authority, and no response has been received from either the NTA or TFI regarding capacity of the public transport network to support the future population of the development. While the proposed development will result in a marginal increase in demand on DART services, this would not account for a significant proportion of the overall demand for services and therefore consequential impact would not be significant in my view. I also note that government policy is to encourage a general population modal shift towards public transport, and therefore increased reliance on services is to be expected. Improvements to the Dublin DART network will increase the frequency of trains and dissipate this demand across services. Overall, I am content that the proposed development is acceptable in relation to public transport.

11.9. Material Contravention

- 11.9.1. Section 9(6)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 states that subject to paragraph (b), the Board may decide to grant a permission for strategic housing development in respect of an application under section 4, even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned. Paragraph (b) of same states 'The Board shall not grant permission under paragraph (a) where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land'.
- 11.9.2. Paragraph (c) states 'Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development'.
- 11.9.3. The applicant has submitted a Statement of Material Contravention with the application. This identifies potential areas that may be considered material contraventions in relation to the following:

1. Chapter 2 of the Development Plan, as varied by Variation no.2 sets out the Core Strategy and Settlement Strategy for County Fingal. Table 2.2 sets out the Remaining Capacity Residential Units for Howth as 498no. units.
Permitted developments in Howth (the Techrete site formed of 512no. units and the Deer Park site formed of 162no. units) have exceeded this remaining capacity. As such, the proposed development would exceed the remaining residential unit capacity outlined in the Development Plan for Howth.
2. Section 12.10 of the Development Plan identifies parking standards for residential development. The proposed development provides for 139 no. residents' car parking spaces at a ratio of 0.77 spaces per apartment. The 0.77 spaces per unit is below the Development Plan requirement of 1 space per unit.

11.9.4. In relation to the number of units proposed, the applicant identifies that the Core Strategy includes a potential residential unit number of 498 under the Fingal Development Plan 2017-2023. I also note that adopted Variation no.2 of the plan 'Alignment of the Fingal Development Plan with the National Planning Framework and the Regional Spatial and Economic Strategy', indicates that there is 14 hectares of zoned land remaining in Howth, with potential to deliver 436 residential units. The previously approved Techrete site formed of 512no. units and the Deer Park site formed of 162no. units already exceed this figure. Therefore, the proposed development would bring the total unit number for the area to 854 units, and significantly in excess of the identified potential unit figure in the plan. I agree with the applicant that the proposed development therefore represents a material contravention of the Development Plan in this regard.

11.9.5. In my opinion, the site is one of only a few vacant sites identified for residential development, and with excellent accessibility in Howth. In this sense, the site is strategically important for the delivery of housing in Howth in the context of national planning policy documents and guidelines. These focus on the need to increase housing delivery on appropriate sites, including Rebuilding Ireland, An Action Plan for Housing and Homelessness and Project Ireland 2040 – National Planning Framework. Equally Housing for All, continues to support and encourage Planning Authorities to facilitate and advance development to meet the housing needs of the country. As identified in section 11.3 above, the site characteristics align with

national principles underpinning sustainable compact growth in urban areas, being situated a short walking distance to Howth Dart Station and within the zoned town centre. In addition, I have described in detail in sections 11.5 and 11.7 that the proposed development is also in accordance with SPPR1 and development management criteria in the Building Height Guidelines, as well as SPPR's and associated guidance in the Apartment Guidelines. I am therefore satisfied that the exceedance in the potential unit number identified under the Fingal Development Plan is justified. In my view, with respect to the potential unit number identified for Howth under the Fingal Development Plan 2016-2023, a material contravention of the plan is justified as follows:

- 11.9.6. In relation to section 37(2)(b) (i) of the Planning and Development Act 2000 (as amended):
- 11.9.7. The strategic nature of the site for the delivery of housing, as one of only a few remaining vacant sites identified for residential development, and with excellent accessibility, in Howth. In this sense, the site is strategically important for the delivery of housing in Howth, in the context of national planning policy documents and guidelines which promote compact growth.
- 11.9.8. In relation to section 37(2)(b) (iii) of the Planning and Development Act 2000 (as amended):
- 11.9.9. Permission for the development should be granted having regard to national planning policy guidelines that promote increased housing delivery on appropriate sites, including Housing for All, Rebuilding Ireland An Action Plan for Housing and Homelessness, and Project Ireland 2040 – National Planning Framework. The site characteristics align with national principles underpinning sustainable compact growth in urban areas, being situated a short walking distance to Howth Dart Station and within the town centre. In addition, the proposed development is also in accordance with SPPR1 and development management criteria (under section 3.2) in the Building Height Guidelines, as well as SPPR's and associated guidance in the Apartment Guidelines.
- 11.9.10. In relation to section 37(2)(b) (iv) of the Planning and Development Act 2000 (as amended):

11.9.11. The pattern of development in the area, specifically being the permission for the Techrete site (Claremont SHD ref. 306102-19) formed of 512no. units and the Deer Park site (SHD ref. 310413-21) formed of 162no. units, which have been approved in exceedance of the potential unit number for Howth set out in the Development Plan, and therefore indicating that a material contravention would therefore similarly be justified for the proposed development.

11.9.12. In relation to the proposed car parking, I have assessed this against planning policy requirements in section 11.8 of my report above. I am satisfied that as the standards are described as a 'guide' in the Development Plan, and this indicates some flexibility. In addition, I note that the proposed development complies with the most up to date standard set out in the Apartment Guidelines. Objective PM43 of the Development Plan states that in relation to apartment development, regard should be had to the design standards for new apartments or any update or revision of those standards, and Objective PM42 of Variation 2 of the Development Plan reconfirms this and specifically states that in relation to apartment development *'Implement the policies and objectives of the Minister in respect of Urban Development and Building Heights Guidelines (December 2018) and Sustainable Urban Housing: Design Standards for New Apartments (March 2018) issued under section 28 of the Planning and Development Act, as amended'*. The text explaining the car parking standard under the Development Plan on page 458 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."* Therefore, application of the standards under the Apartment Guidelines which seek to minimise car parking on sites well served by public transport, such as the subject site, flows from the principal objective of the car parking standard under the Development Plan. As such, a material contravention does not arise in my view.

11.9.13. Other Potential Material Contraventions

11.9.14. I note third party assertions that other material contraventions result, and I address those matters raised here. With respect to density, I have outlined in section 11.3 why the proposed density conforms with both local and national planning policy, and I note that the zoning objective does not specify density. I have assessed height and

visual impact (including consideration of the ACA) in sections 11.4, 11.5 and 13, mix and public open space in section 11.7, car parking in section 11.8 and above, as well the range of potential construction impacts including upon land and soil in section 13, and am satisfied that no material contraventions result. I set out an Appropriate Assessment in relation to European sites in section 12. In relation to a material contravention with respect to non-compliance with the LAP/Masterplan/Urban Design Framework, I am satisfied that the characteristics of the site support the proposed development and that no material contravention results, other than in relation to unit number as addressed above. I note references to BTR, however this application has not been submitted as a BTR development. Other matters raised are not linked to any specific objectives under the Development Plan and/or require qualitative assessment (as set out in this report) and therefore are not material contraventions under the plan.

11.9.15. I am satisfied that the only potential material contravention that arises is with respect to unit number, and I have set out above why the Board would be justified in granting planning permission for the application, should they decide to do so, with reference to sections 37 2(b)(i), (iii) and (iv) of the Act.

11.10. Planning Authority's Recommendation

11.10.1. The Planning Authority's recommendation in the submitted Chief Executive report states that it is *"considered that the proposed development which is located within the development boundary of Howth and currently derelict will provide for an appropriate standard of residential development and is considered to be acceptable, subject to a number of amendments as set out in recommended conditions."*

11.10.2. In my view, this recommendation is that planning permission be granted subject to amendments specifically relating to the removal of 5th floor and set back of 4th floor to the south for block B as well as increasing the distance to the mound for the Martello Tower with additional landscaping in between; a revised western elevation to block A; and a revised material palette for block D.

11.10.3. I have described a detailed assessment of the relationship of the proposed development with the Martello Tower in section 11.4 of this report above. I also described in detail the scale, height, mass and detailed design of blocks in section 11.5 above, and why I think that this is acceptable. This is subject to minor

amendments to block B and specifically the removal of the roof terrace canopy and external stair from the northern elevation closest to the tower, as well as an alternative material palette for the development to be agreed with Planning Authority. I do not consider that a reduction in height is required to block B, which in my view adequately transitions scale away from the tower and is sensitive to this important heritage asset adjacent to the site. I also consider that the western elevation for block A is appropriate given its position on the boundary, and the need to minimise windows on this elevation that could prejudice future development potential of the adjoining site. I do agree with the Planning Authority that the proposed materials require further consideration, and that the roof terrace canopy and external stair to block B should be removed and relocated (respectively). My recommended order reflects this approach and includes conditions to secure the same.

11.10.4. Importantly, I note that the Planning Authority conclude that the proposed development *“would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect existing character and aid in the development of new character to the area and would be acceptable in terms of traffic safety and pedestrian permeability. The proposed development would therefore be in accordance with the Fingal Development Plan and objectives and the proper planning and sustainable development of the area.”* Albeit, subject to the amendments that the Planning Authority recommends.

11.11. Other Issues

11.11.1. Trees

11.11.2. An Arboricultural Report is submitted with the application, alongside plans demonstrating proposed tree removal. These describe the impacts upon trees both within and adjacent to the subject site as a result of the proposed development. In summary, it is proposed that all trees outside, but adjacent to the site, will be retained, while all trees within the site boundary will be removed. In total, 6 no. trees and 1 no. bramble thicket is proposed for removal from the site to facilitate the proposed development. The trees for removal are all category C, indicating their limited value.

11.11.3. I have assessed as part of my EIA in section 13 below, the potential impact of habitat removal, and specifically trees, upon biodiversity. In relation to visual amenity, the

removal of these trees will not result in harm, their value being limited in their current condition and on a site that does not contribute positively to the area in its current state. There is a limited number of trees identified for removal on the site, and proposed tree planting will far exceed the number and coverage of existing trees on the site. This is confirmed in the submitted Landscape Works & Landscape Maintenance Specification Document, which specifies that 176 no. trees will be planted.

11.11.4. The most prominent trees adjacent to the site are situated to the north and between the site and the Martello Tower, lining a public footpath at the base of the mound for the tower. I note that the Planning Authority's Green Infrastructure Department highlight that these trees could be adversely impacted by the proposed works. These trees will be retained and should be protected (alongside other trees outside the site but proximate to boundaries) for the extent of the proposed construction works. I have included a condition requiring the same in my recommended order below that can be relied upon by the Board should they agree with this approach.

11.11.5. Overall, I am satisfied that tree removal from the site is within acceptable parameters and will facilitate the efficient development of this site zoned for residential use.

11.11.6. Social Infrastructure including Childcare

11.11.7. I note third party concern that there is insufficient social infrastructure, including education and childcare, to meet the demand that would be generated by the population of the proposed development.

11.11.8. The application includes a Community and Social Infrastructure Overview report, and a Schools Demand and Childcare Facilities Assessment. The Community and Social Infrastructure Overview details the existing provision of facilities in the area such as community centres, retail, post office, health facilities, open space, leisure, places of worship and education. The report finds that there are extensive existing social and community facilities within a 5km catchment area. The proposed development also incorporates proposed café/retail units that will further contribute to provision in the area.

11.11.9. The Schools Demand and Childcare Facilities Assessment provides a demographic profile of the area, an estimate of the childcare and education demand that would arise from the proposed development and a review of existing and proposed

childcare and education facilities in the area. The report follows guidance described in national planning policy, including the Sustainable Residential Development Guidelines, the Childcare Facilities: Guidelines for Planning Authorities and the Apartment Guidelines. In terms of determining childcare demand arising from the proposed development, population data has been utilised to determine an estimated requirement of circa 7.5 childcare places arising from the development. The report also demonstrates sufficient capacity within existing area to cater for this demand. There are also 2 permitted childcare facilities in the area which will add to this capacity in future. I am satisfied that this approach to estimating childcare demand and capacity follows the methodology of the Childcare Facilities and Apartment Guidelines. In relation to school demand and capacity, the report details that there are 4 primary and 5 secondary schools in the catchment area. An estimated demand for circa 60 school places is anticipated and the applicant presents data within their report to demonstrate sufficient capacity to cater for the proposed development.

11.11.10. The proposed development is situated within the designated town centre area for Howth and accessible to public transport links. The proposed development is therefore proximate to a wide range of existing social, community, education, and childcare facilities. In my view, the applicant has presented sufficient data to demonstrate capacity in the area to meet the demands of future populations arising from the proposed development. Cumulative impact is also considered as part of my EIA in section 13 below.

11.11.11. Part V

11.11.12. The applicant has submitted Part V proposals as part of the application documents. 18 no. units are identified as forming the Part V housing.

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

12.0 Appropriate Assessment

- 12.1. This section of the report considers the likely significant effects of the proposal on European sites with each of the potential significant effects assessed in respect of each of the Natura 2000 sites considered to be at risk and the significance of same. The assessment is based on the submitted Natura Impact Statement (NIS) and Appropriate Assessment Screening submitted with the application.
- 12.2. I have had regard to the submissions of third parties, prescribed bodies and the Planning Authority in relation to the potential impacts on European sites, as part of the Natura 2000 Network of sites.
- 12.3. The Project and Its Characteristics
- 12.4. See the detailed description of the proposed development in section 3.0 above.
- 12.5. The European Sites Likely to be Affected (Stage I Screening)
- 12.6. The subject site is currently occupied by buildings, dry meadows, grassy verges and scrub. The site is not within a Natura 2000 site but is located immediately adjacent to Howth Head SAC. The site is within the Liffey and Dublin Bay catchment and Mayne_SC_010 sub catchment. Gray's Brook stream is located approximately 20-25m to the west of the site. This stream rises on Thornamby Hill and flows in a northerly direction towards Howth Harbour. Brook Stream is located approximately 155-160m to the east of the site. The site is situated on the Dublin groundwater body (IE_EA_G_008).
- 12.7. I have had regard to the submitted Appropriate Assessment screening report, which identifies that while the site is not located directly within any European site, there is a European site adjacent to the subject site, and there are a number of European sites sufficiently proximate or linked to the subject site, to require consideration of potential effects. These are listed below with approximate distance to the application site indicated:
- Howth Head SAC (0202) adjacent to site boundary;
 - Rockabill to Dalkey Island SAC (3000) 0.8km;
 - Baldoyle Bay SAC (0199) 0.7km;
 - North Dublin Bay SAC (0206) 2.4km;

- South Dublin Bay SAC (0210) 8.5km;
- Ireland's Eye SAC (2193) 1.3km;
- Malahide Estuary SAC (0205) 6.5km;
- Lambay-Island SAC (0204) 10.8km;
- Rogerstown Estuary SAC (0208) 12km;
- Howth Head Coad SPA (4113) 0.5km;
- Ireland's Eye SPA (4117) 0.9km;
- North Bull Island SPA (4006) 2.4km;
- South Dublin Bay and River Tolka Estuary SPA (4024) 7.2km;
- Baldoyle Bay SPA (4016) 2.8km;
- Malahide Estuary SPA (4025) 7km;
- Lambay Island SPA (4069) 10.5km;
- Rogerstown Estuary SPA (4015) 11.5km;
- Dalkey Islands SPA (4172) 11.9km.

12.8. The specific qualifying interests and conservation objectives of the above sites are described below. In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to European sites, and any potential pathways which may exist from the development site to a European site, as well as the information on file, including observations on the application made by prescribed bodies and Third Parties, and I have also visited the site.

12.9. The qualifying interests of all European sites considered are listed below:

Table 12.1: European Sites/Location and Qualifying Interests (QI)

Site (site code) and Conservation Objectives	Qualifying Interests (QI)/Species of Conservation Interest (SCI) (Source: EPA / NPWS)
Howth Head SAC (0202) adjacent to site boundary;	Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] European dry heaths [4030]

<p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	
<p>Rockabill to Dalkey Island SAC (3000) 0.8km;</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Reefs [1170]</p> <p>Phocoena phocoena (Harbour Porpoise) [1351]</p>
<p>Baldoyle Bay SAC (0199) 0.7km;</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p>
<p>North Dublin Bay SAC (0206) 2.4km;</p> <p>To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Embryonic shifting dunes [2110]</p>

	<p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p><i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p>
<p>South Dublin Bay SAC (0210) 8.5km;</p> <p>To maintain the favourable conservation condition of the Mudflats and sandflats not covered by seawater at low tide [1140]. The following habitats are listed as Qualifying Interests on the NPWS website, but are not included in the Conservation Objectives document: [1210] Annual vegetation of drift lines, [1310] <i>Salicornia</i> and other annuals colonising mud and sand [2110] Embryonic shifting dunes.</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p><i>Salicornia</i> and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p>
<p>Ireland's Eye SAC (2193) 1.3km;</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Perennial vegetation of stony banks [1220]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p>

<p>Malahide Estuary SAC (0205) 6.5km;</p> <p>To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p>
<p>Lambay-Island SAC (0204) 10.8km;</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Reefs [1170]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p><i>Halichoerus grypus</i> (Grey Seal) [1364]</p> <p><i>Phoca vitulina</i> (Harbour Seal) [1365]</p>
<p>Rogerstown Estuary SAC (0208) 12km;</p> <p>To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p>
<p>Howth Head Coad SPA (4113) 0.5km;</p>	<p>Kittiwake (<i>Rissa tridactyla</i>) [A188]</p>

<p>To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p>	
<p>Ireland's Eye SPA (4117) 0.9km;</p> <p>To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p>	<p>Cormorant (<i>Phalacrocorax carbo</i>) [A017] Herring Gull (<i>Larus argentatus</i>) [A184] Kittiwake (<i>Rissa tridactyla</i>) [A188] Guillemot (<i>Uria aalge</i>) [A199] Razorbill (<i>Alca torda</i>) [A200]</p>
<p>North Bull Island SPA (4006) 2.4km;</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Teal (<i>Anas crecca</i>) [A052] Pintail (<i>Anas acuta</i>) [A054] Shoveler (<i>Anas clypeata</i>) [A056] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162]</p>

	<p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>
<p>South Dublin Bay and River Tolka Estuary SPA (4024) 7.2km;</p> <p>To maintain the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests for this SPA save for the Grey Plover. According to the Conservation Objectives for South Dublin Bay and River Tolka Estuary (NPWS, 09/03/2015) Grey Plover is proposed for removal from the list of Special Conservation Interests for South Dublin Bay and River Tolka Estuary SPA. As a result, a site-specific conservation objective has not been set for this species.</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Wetland and Waterbirds [A999]</p>
<p>Baldoye Bay SPA (4016) 2.8km;</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p>

which the SPA has been selected.	Wetland and Waterbirds [A999]
<p>Malahide Estuary SPA (4025) 7km;</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p>	<p>Great Crested Grebe (<i>Podiceps cristatus</i>) [A005]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Goldeneye (<i>Bucephala clangula</i>) [A067]</p> <p>Red-breasted Merganser (<i>Mergus serrator</i>) [A069]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Wetland and Waterbirds [A999]</p>
<p>Lambay Island SPA (4069) 10.5km;</p> <p>To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p>	<p>Fulmar (<i>Fulmarus glacialis</i>) [A009]</p> <p>Cormorant (<i>Phalacrocorax carbo</i>) [A017]</p> <p>Shag (<i>Phalacrocorax aristotelis</i>) [A018]</p> <p>Greylag Goose (<i>Anser anser</i>) [A043]</p> <p>Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183]</p> <p>Herring Gull (<i>Larus argentatus</i>) [A184]</p> <p>Kittiwake (<i>Rissa tridactyla</i>) [A188]</p> <p>Guillemot (<i>Uria aalge</i>) [A199]</p> <p>Razorbill (<i>Alca torda</i>) [A200]</p> <p>Puffin (<i>Fratercula arctica</i>) [A204]</p>
<p>Rogerstown Estuary SPA (4015) 11.5km;</p>	<p>Greylag Goose (<i>Anser anser</i>) [A043]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p>

To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.	Shelduck (<i>Tadorna tadorna</i>) [A048] Shoveler (<i>Anas clypeata</i>) [A056] 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] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Redshank (<i>Tringa totanus</i>) [A162] Wetland and Waterbirds [A999]
Dalkey Islands SPA (4172) 11.9km; To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.	Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194]

12.10. Table 12.1 above reflects the EPA and National Parks and Wildlife Service (NPWS) list of qualifying interests for the SAC/SPA areas requiring consideration.

12.11. Potential Effects on Designated Sites

12.12. Flightline surveys were carried out at the subject site between November and March 2020-2021 and 2021-2022, habitat and mammal surveys (including bats) were also undertaken in 2021. The EIA in section 13 of this report considers potential biodiversity effects in general, whilst this section of my report focuses on potential ecological impact upon European sites.

12.13. Surveys of the subject site did not reveal any ex-situ habitat area. Sycamore (*Acer pseudoplatanus*) and Butterfly Bush (*Buddleia davidii*) were recorded throughout the site. A previous survey in 2019 detected Three Cornered Leek (*Allium triquetrum*) at the site on the slopes facing the Bailey Court Hotel, this species is listed in Schedule

III of the European Communities (Birds and Natural Habitats) Regulations 2011. No other invasive species were surveyed at the site. The results of flight-line surveys of the subject site reveal a single incident of Curlew and Oystercatcher flying over the site. The submitted AA Screening Report therefore concludes that the site is not situated on an important flight path for any 'at risk' Special Conservation Interest (SCI) species.

- 12.14. The submitted report confirms that there is potential for impact upon European sites at Howth Head from both land and hydrological pathways.
- 12.15. For Howth Head SAC and Howth Head Coast SPA, potential impacts are identified which arise due to the proximity of the subject site adjacent to these European sites. Therefore, the potential for resulting increased footfall within Howth Head SAC and Howth Head Coast SPA leading to loss/alteration/erosion of habitat in the SAC site or disturbance of Kittiwake in the SPA site is identified. There is also the possibility of impact from emissions including dust, pollutants and/or vibration, the possibility of surface water or groundwater discharges containing sediment, silt, oils and/or other pollutants during construction phase and the spread of invasive alien plant species.
- 12.16. The submitted Screening Report identifies the possibility of hydrological connections via surface water and groundwater to Rockabill to Dalkey Island SAC, Baldoyle Bay SAC and Ireland's Eye SPA. However, the possibility of likely effects is ruled out as a result of the intervening distance to these sites, the considerable open marine water between the subject site and these European sites, the low volume of any surface water run-off and the level of mixing, dilution and dispersion of any discharges prior to reaching the European sites. For North Dublin Bay SAC, North Bull Island SPA and South Dublin Bay SAC, the submitted report identifies a weak hydrological pathway resulting from the discharge of wastewater via Ringsend Wastewater Treatment Plant (WwTP) which ultimately discharges to Dublin Bay. However, the potential for significant effect is ruled out due to the completion of first phase upgrade works to Ringsend WwTP which will increase capacity, and the lack of any evidence of current impact upon marine biodiversity from the WwTP. Other potential impacts can also be discounted due to the intervening distance to the European sites from the subject site and the lack of any potential pathway or other link.

12.17. For the remaining European sites, Ireland's Eye SAC, Malahide Estuary SAC, Lambay Island SAC, Rogerstown Estuary SAC, Baldoyle Bay SPA, Malahide Estuary SPA, Lambay Island SPA, Rogerstown Estuary SPA and Dalkey Islands SPA, there is no potential impact from hydrological pathways given the considerable open marine water area that exist between the subject site and these European sites, over which any potential surface water discharges containing sediment, silt and/or pollutants would be diluted to non-discernible levels. The intervening distances between the subject site and these European sites also means that potential effects arising from emissions of noise, dust, pollutants and/or vibrations, light and increased human presence can be excluded. The subject site also does not provide significant ex-situ habitat for QI/SCI species for these European sites and there are no significant effects on SCI bird species anticipated in light of survey results.

12.18. AA Screening Conclusion

12.19. I concur with the conclusions of the applicant's screening, in that there is the possibility for significant effects on Howth Head SAC and Howth Head Coast SPA as a result of the following:

- During the construction phase potential impact from emissions including dust, pollutants and/or vibration, the possibility of surface water or groundwater discharges containing sediment, silt, oils and/or other pollutants impacting upon water quality, and the potential spread of invasive alien plant species.
- During the operational phase, potential for emissions via surface water discharges impacting upon water quality.
- During the operational phase, potential for increased footfall within Howth Head SAC and Howth Head Coast SPA leading to the potential for loss/alteration/erosion of habitat in the SAC site or disturbance of Kittiwake.

12.20. Other potential impacts can be discounted due to the intervening distance to the European sites from the subject site and the lack of any potential pathway or other link.

12.21. The specific conservation objectives and qualifying interest of the habitats for the potentially effected European sites relate to range, structure and conservation status.

The specific conservation objectives for the species highlighted for the potentially effected European sites relate to population trends, range and habitat extent. Potential effects arising from emissions and increased footfall associated with the construction and operation of the proposed development have been highlighted above, which have the potential to affect the conservation objectives supporting the qualifying interest / special conservation interests of the European sites identified. As such, likely effects on Howth Head SAC and Howth Head Coast SPA cannot be ruled out, having regard to the sites' conservation objectives, and a Stage 2 Appropriate Assessment is required.

12.22. In relation to the remaining SAC areas considered, taking into consideration the distance between the proposed development site to these designated European sites, the lack of a direct hydrological pathway with the potential to facilitate significant effect, or any other pathway or link to these conservation sites, as well as the dilution and dispersal effects and the relative low level of discharge alongside the lack of data to suggest negative effects as a result of the WwTP, 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 construction and operation of the proposed development, individually or in combination with other plans or projects, would not be likely to have an adverse effect on the conservation objectives of features of interest of Rockabill to Dalkey Island SAC, Baldoyle Bay SAC, Ireland's Eye SPA, North Dublin Bay SAC, North Bull Island SPA, South Dublin Bay SAC, Ireland's Eye SAC, Malahide Estuary SAC, Lambay Island SAC, Rogerstown Estuary SAC, Baldoyle Bay SPA, Malahide Estuary SPA, Lambay Island SPA, Rogerstown Estuary SPA and Dalkey Islands SPA.

12.23. Stage 2 – Appropriate Assessment

12.24. The submitted NIS identifies the potential for negative effects upon Howth Head SAC (0202) and Howth Head Coast SPA (4113) as a result of the proposed development during both construction and operation.

12.25. The site-specific conservation objectives and qualifying interests / species of conservation interests of Howth Head SAC and Howth Head Coast SPA are summarised above in table 12.1. The NIS provides a description of Howth Head SAC and Howth Head Coast SPA and the potential effects of the proposed

development, alongside any required mitigation to avoid adverse effects. A conclusion on residual impact is then provided. A summary of this assessment is set out below.

- 12.26. Howth Head SAC: A peninsula linked to the mainland by a raised beach. The SAC occupies the easter portion and the summit of Howth, much of the remaining area is urbanized or used for amenity. The flora is very diverse with several Red data book species and species of very restricted Irish distribution. The dry heath and sea cliff vegetation is extensive and well developed. A wide variety of seabirds nest on the marine cliffs.
- 12.27. Howth Head Coast SPA: The site comprises approximately 3km of sea cliff, which vary between about 60m and 90m in height. Where the gradient allows, shallow glacial drift supports a typical maritime flora and there is a fringe of coastal heath on the cliff tops. The marine area to a distance of 500m from the cliff base, where seabirds bathe, socialise and feed, is included within the site. Howth Head has important colonies of breeding seabirds, with nationally important populations of *Rissa tridactyla*, *Alca torda* and *Cephus grille*, and a regionally important population of *Uria aalge*. The cliffs also support a breeding pair of *Falco peregrinus*, a species listed on Annex I of the EU birds Directive.
- 12.28. Surveys of the subject site demonstrate that none of the features of interest of Howth Head SAC are located in the immediate area. A detailed assessment of the slope towards Balcadden Bay to the east of the subject site was carried out in 2019 and found none of the QIs of Howth Head SAC occurring along this slope to the east or to the north of the subject site.
- 12.29. The subject site has potential hydrogeological links via groundwater to Howth Head SAC. The vulnerability of groundwater contamination from human activities is 'High' at the western boundary of the site, 'Extreme' within the centre and east of the site and 'X – Rock at or Near the Surface' at the eastern boundary of the site. As a result, in the absence of mitigation measures, there is potential for pollutants from the subject site to enter Howth Head SAC via groundwater flows during the construction phase of the proposed development.
- 12.30. There are also two potential hydrological pathways linking the subject site to Howth Head SAC and Howth Head Coast SPA via surface waters. The first is via a surface

water sewer located on Abbey Street to the west of the site and the second is via the gullies located on Balcadden Road to the east of the site. Therefore, the NIS identifies potential for sediments/pollutants from the subject site to enter Howth Head SAC via surface water run-off during the construction and/or operational phases of the proposed development, which could impact water quality. However, as none of the QIs of Howth Head SAC occur along the slope to the east or the north of the subject site, impacts to these QIs are not anticipated from surface water discharges.

- 12.31. There is potential for impacts upon Howth Head SAC as a result of excavation, demolition and construction works associated with the proposed development, as well as haulage routes which could pass through the SAC. Excavation, demolition and construction works could result in dust emissions, which, if unmitigated, could affect habitats by potentially smothering sensitive habitats or plant species. The proposed construction traffic route traverses 196m of Howth Head SAC.
- 12.32. There is a risk that invasive alien plant species within the subject site (Sycamore *Acer pseudoplatanus*, Butterfly Bush *Buddleia davidii* and Three Cornered Leek *Allium triquetrum*) could spread to the SAC as a result of soil disturbance and clearance activities at the site.
- 12.33. Erosion of habitats arising from walking and horse-riding activities is highlighted in the Site Synopsis for Howth Head SAC. The proposed development will result in an increase of a potential c.320 inhabitants in the local area, with the potential to increase recreational use within the SAC and result in further erosion of habitats, namely the Annex I habitats vegetated sea cliffs and European dry heath. The NIS identifies that the subject site is located immediately adjacent to the Howth Head SAAO, which has an Operational Plan (2021-2025) developed by Fingal County Council. This includes actions relating to visitor management and will reduce the operational phase impacts of the proposed development upon the SAC. As a result, the NIS concludes that the proposed development will not result in significant effects on Howth Head SAC as a result of increased population. Similarly, taking into account the actions to be implemented by Fingal County Council as identified in the Operational Plan for Howth Head SAAO, no impact as a result of increased visitor numbers on Howth Head Coast SPA is anticipated.

- 12.34. Subsequently, the only potential impacts that arise from the construction and operational phase of the proposed development, relate to potential impact upon water quality arising from surface water run-off and groundwater flows, dust emissions from the site and construction traffic, and the spread of invasive alien flora.
- 12.35. Mitigation measures are outlined in section 7 of the NIS. In summary, the implementation of measures set out in a Construction and Environmental Management Plan for the proposed development will limit and control construction related effects. Surface water mitigation measures will treat the source (e.g removal of silt via silt fences, refuelling of plant at designated locations) or remove the pathway (e.g no release of wastewater to nearby drains or Balscadden Road during construction). These measures will protect surface water quality within Balscadden Bay, and as such there is no potential for significant effects on any SCI bird species or species listed under Annex II of the Habitats Directive utilising this habitat. Protection of soil and groundwater will ensure no direct untreated discharge of construction runoff into groundwater. Measures are also described in relation to accidental release of contaminants, with works to be stopped and pollution remedied. Measures to reduce dust emissions are also described, with implementation of a Dust Minimisation Plan. Monitoring of dust will also be carried out with regular inspections of the SAC. A Construction Logistics Plan and Travel Plan along with measures to restrict emissions from construction vehicles, will also be implemented. Measures are also described in relation to the treatment of invasive alien plant species, and prevention of introduction of such species, at the subject site to prevent their spread into Howth Head SAC. During the operational phase, SuDs measures included in the proposed development will protect surface waters.
- 12.36. With the application of the mitigation measures outlined in the NIS and summarised above, the NIS concludes that the project will not, alone or in-combination with other plans or projects, result in adverse effects to the integrity and conservation status of European Sites. I am satisfied with the data presented in the submitted NIS and concur with the conclusions reached with regard to the proposed mitigation measures and the overall potential significance of impact to Howth Head SAC and Howth Head Coast SPA.

12.37. I note the Planning Authority comments with respect to the Operational Plan for Howth Head SAAO. This is in relation to the implementation by a third party, namely Fingal County Council, of the Operational Plan for Howth Head SAAO, and the reliance upon this to mitigate impacts from the proposed development upon habitats at Howth Head SAC and Howth Head Coast SPA. I note that while the NIS does use the terminology of mitigation when discussing the actions to be implemented by Fingal County Council, however the NIS actually concludes that impacts would not arise in relation to increased human activity associated with the proposed development, and therefore it is not included as part of specific mitigation described in section 7 of the NIS.

12.38. In my opinion, the actions identified as part of the Operational Plan for Howth Head SAAO, exist and will operate regardless of whether this development takes place or not. As such, they do not form mitigation specifically related to the proposed development, and my assessment does not rely upon these actions as mitigation for potential impacts arising from the proposed development. The actions and approach set out in the Operational Plan relate to the protection of Howth Head SAAO which overlaps with habitats for Howth Head SAC and Howth Head SPA. This existing framework is identified as creating an approach to preventing harm to the Howth Head SAAO, which ultimately reduces potential harm from recreational use in general from populations of the area, which would also include future populations of the proposed development. In my view, the existing status quo regarding encouraging recreational use of this area in a managed environment, can be considered when determining the likelihood of potential impact arising from future populations of the proposed development. This framework does not need to be directly linked to the conservation objectives for the European Site and merely forms a description of the current status regarding managed recreational use of the area. This managed approach is supported by both the Development Plan and Local Area Plan.

12.39. I note third party objection in relation to the submitted Appropriate Assessment Screening and that this is not based upon sufficient scientific expertise, evidence and does not include analysis of all construction activities, impact upon protected species such as birds / bats or include sufficient site surveys. I have outlined above my analysis of the survey data presented, which I consider this to be sufficient, and in

my opinion the potential effects of the proposed development, are confined to those matters identified above. The implementation of the mitigation described will in my view, be completely adequate to ensure that no effects upon European sites results, and I am satisfied with the scientific expertise, data, methodology and analysis offered in the Screening and NIS. In relation to the potential for bird collision with buildings, flight line surveys are included in the submitted reports. The purpose of these surveys was to inform conclusions around the potential for disturbance to flight-lines of birds commuting over the subject site. On the basis of these surveys, it was concluded that no significant effect on bird species is anticipated, and I concur with these findings.

12.40. I note that the Department of Housing, Local Government and Heritage concludes that with the incorporation of the mitigation measures described in the application, no significant adverse impact is likely.

12.41. In-combination Effects

12.42. The submitted NIS considers planning applications listed as granted or decision pending within c.150m of the subject site. A number of large scale applications are specifically highlighted, all of which included NIS' which concludes that no significant impact would arise upon European sites. In relation to potential in-combination effects of increased visitor numbers to Howth Head SAC and Howth Head Coast SPA, reference is made to the implementation of the Operational Plan for the Howth Head SAAO. In consideration of actions under the plan to be implemented by Fingal County Council (actions that will be taken regardless of any of these, or the proposed, developments taking place), the NIS concludes that in combination increases in inhabitants arising from other developments in Howth, will not result in significant effects on Howth Head SAC and Howth Head Coast SPA.

12.43. I am satisfied that there are no projects or plans which can act in combination with this development that could give rise to any significant effect to any European Sites.

12.44. AA determination – Conclusion

12.45. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.

- 12.46. Having carried out a Stage 1 Appropriate Assessment Screening of the proposed development, it was concluded that likely adverse effects on the Howth Head SAC and Howth Head Coast SPA could not be ruled out, due to proximity to these European sites and potential hydrological links to the subject site. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.
- 12.47. Following a Stage 2 Appropriate Assessment, with submission of a NIS, it has been determined that subject to mitigation (which is known to be effective) relating to protecting water quality, dust suppression and preventing the spread of invasive species, the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites, Howth Head SAC and Howth Head Coast SPA, or any other European site, in view of the sites Conservation Objectives.
- 12.48. This conclusion is based on a complete assessment of all aspects of the proposed project, both alone and in combination with other plans and projects, and it has been established beyond scientific reasonable doubt that there will be no adverse effects.

13.0 Environmental Impact Assessment

- 13.1. This section sets out an Environmental Impact Assessment (EIA) of the proposed project. The development provides for 180 no. apartments with associated internal residential tenant amenity and external courtyards and roof terraces, 1 no. retail unit and 2 no. café/retail unit, on a site area of approximately 1.43 hectares. The site is located within the area of Fingal County Council. A number of topics and issues raised by observers that concern environmentally related matters have already been addressed in the wider planning assessment described above, and where relevant I have cross-referenced between sections to avoid unnecessary repetition.
- 13.2. Item 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:
- i) Construction of more than 500 dwelling units;*

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

- 13.3. The current application site does not fall within the two mandatory thresholds for EIA as described above, being a proposal for less than 500 dwellings on a site less than 10 hectares in size.
- 13.4. The applicant has submitted an EIAR that includes a sub-threshold screening for EIA in section 1.5. This identifies that although a mandatory EIA is not triggered for the Proposed Development, it is likely to have a significant effect on the environment having regard to the criteria set out in Schedule 7. Accordingly, having regard to the criteria set out in Schedule 7 and in consideration of the features of the site, an EIAR has been submitted with the application in conjunction with Article 299A of the Planning and Development Regulations, which state that:
- “Where a planning application for a sub-threshold development is accompanied by an EIAR and a request for a determination under section 7(1)(a)(i)(I) of the Act of 2016 was not made, the application shall be dealt with as if the EIAR had been submitted in accordance with section 172(1) of the Act.”*
- 13.5. The EIAR comprises a non-technical summary, a main volume and supporting appendices. Chapter 15 of the main volume provides a summary of the mitigation measures described throughout the EIAR. Each chapter describes the expertise of those involved in the preparation of the EIAR.
- 13.6. As is required under Article 3(1) of the amending Directive, the EIAR describes and assesses the direct and indirect significant effects of the project on the following factors: (a) population and human health; (b) biodiversity with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape. It also considers the interaction between the factors referred to in points (a) to (d). Article 3(2) includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and / or disasters that are relevant to the project concerned are considered.
- 13.7. I am satisfied that the information contained in the EIAR has been prepared by competent experts and complies with article 94 of the Planning and Development

Regulations 2000, as amended. The EIAR would also comply with the provisions of Article 5 of the EIA Directive 2014. This EIA has had regard to the information submitted with the application, including the EIAR, and to the submissions received from the council, prescribed bodies and members of the public which are summarised in sections 8, 9 and 10 of this report above.

13.8. Vulnerability of Project to Major Accidents and/or Disaster

13.9. The requirements of Article 3(2) of the Directive include the expected effect deriving from the vulnerability of the project to risks of major accidents and/or disaster that are relevant to the project concerned.

13.10. Chapter 13 Risk Management considers the potential consequences and predicted impacts of the Proposed Development in relation to vulnerability to major accidents or disasters, as well as the risk to human health, cultural heritage and the environment. Table 13-3 Major Accidents and/or Disasters Reviewed considers a range of hazards under headings of civil, natural, transportation and technological. Public safety zones are also considered in relation to possible aircraft crashes.

13.11. Relevant potential major accidents or hazards for the proposed project include a pandemic, water supply contamination, food chain contamination, floods/storm surge/tidal flooding, air quality events, flood defence failure, fire and invasive species. Individual chapters within the EIAR consider these matters further, with mitigation identified where necessary. Chapter 4 Population and Human Health addresses the Covid-19 pandemic, Chapter 7 Water (Hydrology and Hydrogeology) identifies control measures required to avoid contamination of water supplies during construction, Chapter 8 Air Quality, Climate and Microclimate identifies the vulnerability of the project to flooding and impact of upon ambient air quality, and Chapter 5 Biodiversity details preventative measures to be taken with regards to invasive species. Section 13.3.1 outlines the design standards and protective services included within the proposed development with respect to fire safety and emergency access. This includes design measures to achieve 60mins fire resistance, appropriate means of escape and the adoption of a fire evacuation strategy. As well as the incorporation of fire alarms, extinguishers, sprinkler system, dry risers, firefighting lobby ventilation and smoke extract / exhaust systems. The submitted Building Lifecycle Report also outlines the specification of materials to be

used. Section 13.3.2 considers Public Safety Zones, which are mapped out around airport runways to protect the public on the ground from possible aircraft crashes. The subject site is located approximately 12km southeast of Dublin Airport, and there are no Public Safety Zones directly over the site.

13.12. With the application of mitigation as described in the EIAR, residual impacts are anticipated to be negligible. Having regard to the location of the site and the existing land use as well as the zoning of the site, I am satisfied that there are unlikely to be any effects deriving from major accidents and or disasters.

13.13. Alternatives

13.14. Article 5(1)(d) of the 2014 EIA Directive requires:

(d) a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment;

13.15. Annex (IV) (Information for the EIAR) provides more detail on 'reasonable alternatives':

2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.

13.16. Chapter 2 Description of Alternatives in the submitted EIAR considers the reasonable alternatives that have been considered. In relation to alternative locations, consideration is given to the do-nothing alternative, develop a greenfield site, and the purchase of another existing site with current planning permission for a similar development. These alternatives are discounted as they would leave the existing site to deteriorate further, would have greater negative impacts, and the lack of availability of other sites, as well as the level of capital required to purchase an alternative site. In relation to alternative uses, the uses permitted in principle under the zoning of the site are identified in the EIAR. However, in light of the Governments policy directives for increased housing supply, and in consideration of the location of

the site in an extremely sought after place to live, the proposed development is considered in the EIAR to be the best option. In relation to alternative design and layouts, the EIAR describes the significant planning activity concerning the subject site in recent years. The proposed development is considered in the EIAR to be an effective and efficient use of the site, consistent with national, regional and local planning policy.

13.17. Overall, I am satisfied that, the Directive requirements in relation to the consideration of alternatives have been satisfied.

13.18. Consultations

13.19. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions.

13.20. Likely Significant Direct and Indirect Effects

13.21. The likely significant indirect effects of the development are considered below and reflect the factors set out in Article 3 of the EIA Directive 2014/52/EU.

13.22. Population and Human Health

13.23. Population and Human Health is considered in Chapter 4 of the EIAR. This describes the baseline demography, education, economic activity and employment, tourism and amenity, landscape and visual, human health and social health characteristics of the area.

13.24. Short-term significant negative impacts are also identified with respect to the construction phase as a result of increased traffic, air emissions, noise and visual impact. The potential to spread Covid-19 is also acknowledged, in the event that social distancing and other HSE guidelines are not adhered too. However, with Covid-19 safety protocols and hygiene measures in place, impact is considered to be negligible.

13.25. During operation, increased air emissions from traffic flows is anticipated, but concluded in the EIAR to not result in any significant impact upon air quality or human health. In consideration of the design of the proposal, neutral moderate and long term impact is anticipated to arise with respect to landscape character. Measures to attenuate and remove pollutants from water discharges from the site

will prevent pollution of the surface water network. In terms of the socio-economic and health impacts of the proposed development, this includes providing employment opportunities and housing, which can have a positive impact upon health. During construction there will be approximately 80-100 jobs created, with a maximum of 200-250 construction worker at the peak of the works. There will also be approximately 50 works employed during the operational phase of the development. 180 homes would also be provided and HSE guidelines with respect to Covid-19 will be adhered to. Therefore, the EIAR concludes that the proposed development will have significant positive effects on population and human health in terms of the socio-economic environment. Long-term positive or neutral slight impacts are also anticipated with respect to tourism, community and amenities, as a result of the provision of new open space and routes through the site.

- 13.26. The cumulative effects of the proposed development are considered taking into account other planned, existing and permitted development in the area, which are noted in the chapter. The EIAR concludes that positive cumulative effects will result in the form of increased employment opportunity, access and transport infrastructure.
- 13.27. Mitigation is considered in section 4.6 and relate to the adherence to HSE Covid-19 guidance and mitigation measures identified in respective chapters for air emissions (dust), noise, traffic, waste etc. with the primary mitigation forming the application of a construction management plan during the construction phase. The EIAR concludes that no negative residual impact in the context of population and human health are anticipated as a result of the proposed development, with positive socio-economic impacts identified with respect to the creation of employment opportunities and homes.
- 13.28. I note third party submissions regarding infrastructure capacity. Reports to describe the existing capacity of the area in relation to education, childcare and community facilities accompany the application and have informed chapter 4 of the EIAR. In section 11.11 above, I address existing social, community and educational facilities in detail, and that there is sufficient capacity in the area to meet the demands of the proposed development. I also address water and utilities infrastructure below in this EIA. In summary, I am satisfied that the applicant has presented analysis to support their conclusions that capacity exists in the area to cater for the demands of the

proposed development and that cumulative impact is considered as part of chapter 4 of the EIAR.

13.29. Overall, I concur with the conclusions of the EIAR with respect to population and human health.

13.30. Biodiversity

13.31. Chapter 8 of the EIAR considers potential impact upon biodiversity. It describes desktop study and on-site surveys of habitat, birds, mammals and bats. A separate Nature Impact Statement is also provided as part of the application and an Appropriate Assessment is described in section 13 of this report below. I also describe an assessment in relation to potential impact upon trees in section 11.11 above.

13.32. The EIAR describes the existing habitats on the site, comprised of BL3 Buildings and Artificial Surfaces, GS2 Dry Meadows and Grassy Verges, WS1 Scrub, WL2 Treeline, ED1 Exposed Sand, Gravel or Till and ED3 Recolonising Bare Ground.

13.33. Desktop records indicate that Annex I habitat [1230] 'vegetated sea cliffs of the Atlantic and Baltic coasts' occurs along the slope towards Balscadden Bay to the east of the site and Annex I habitat referred to as 'Rocky Sea Cliffs' occurs 380m east of the site. The EIAR refers to a previous assessment (Altemar 2019) of the area which concludes that features of interest of Howth Head SAC are not located in the immediate area of the proposed development. In terms of invasive plant species, Sycamore *Acer pseudoplatanus* and Butterfly Bush *Buddleia davidii* were recorded during walk over surveys of the site. It is also likely that Three Cornered Leek *Allium triquetrum* is on the site as detected in previous surveys, however the survey was undertaken in August when the species would have died back.

13.34. In terms of mammals, evidence of activity was noted during field surveys of the site (including tracks and dens) and a single fox was observed. Four species of bat were recorded during surveys of the site. No bat roosts were recorded in the buildings surveyed. A brown long-eared bat was recorded in the sports hall, however due to the brief number of bat passes, the EIAR concludes that this building is not being used as a bat roost. No trees were deemed to have potential for bat roosts. A medium level of bat activity was recorded for common pipistrelles and a low level of bat activity was recorded for remaining bat species. The subject site is concluded to

be used as foraging and commuting habitat for local bat populations and as a result of the low level of activity the EIAR concludes that the subject site is not an important area for local bat populations.

13.35. There were 19 bird species recorded during surveys of the site in July 2021. Five of these are on the Amber List of the Birds of Conservation Concern in Ireland (House Martin, Swallow, Starling, Linnet and Herring Gull). Two species (Starling and Linnet) were possibly nesting on the Proposed Development Site. No Herring Gulls were recorded breeding at the Site, but according to previous assessments of the area (Altamar 2019), the roof of the Baily Court Hotel was “occupied by at least four breeding pairs” of Herring Gull in May 2019. The results of flight-line surveys at the subject site indicate that the site is not situated on an important flight path for any ‘at risk’ Special Conservation Interest (SCI) species. There were two single incidences of Curlew and Oystercatcher flying over the site.

13.36. There are no suitable habitats for marine mammals, fish or amphibian on the site, with species likely to occur along the coast adjacent to the site. Desktop records do not record any invertebrate species listed under the Habitats Directive proximate to the site. There is no record of common lizard on or proximate to the site, however the EIAR identifies that there is suitable habitat for this species on the site.

13.37. Key Ecological Receptors (KER) are identified for the site in the EIAR, all of which are of local importance (higher value). These comprise marine mammals and fish occurring along the coast adjacent to the site, bat, bird, fox, common lizard, pygmy shrew and hedgehog (the former three not being recorded on the site but with suitable habitat identified on the site for these species). The main ecological value of the site itself is also identified in the EIAR as forming the semi natural habitats (dry meadows and grassy verges and scrub), being of value to the KER species identified.

13.38. The only proposed Natural Heritage Area (pNHA) sufficiently proximate to the site to warrant consideration of potential impact is Howth Head (000202) which is of national importance and occurs adjacent to the redline boundary. European sites are considered separately as part of my Appropriate Assessment in section 12 of this report above. The site occurs within the terrestrial buffer zone of Dublin Bay Biosphere, adjacent to the terrestrial core area and hydrologically linked to the

marine core zone, marine buffer zone and marine transition zone. The site is also within the Howth Special Amenity Area Order (SAAO) which covers much of the peninsula.

13.39. The EIAR identifies the potential impacts that could arise from the proposed development in the absence of mitigation, and this is summarised below.

13.40. In terms of potential impact to designated sites, the EIAR identifies that during construction the proposed development would result in the loss of semi-natural habitat from the terrestrial buffer zone of Dublin Bay Biosphere. However, it is concluded that this impact would be a negative permanent impact of imperceptible significance, given the size of the area to be lost (c.0.4ha of dry meadows and grassy verges and 0.4ha of scrub) proportionate to the overall size of the Dublin Bay Biosphere Buffer Zone. There is no direct loss or alterations to habitat within pNHA as a result of the proposed development, however there is potential for impacts during site preparation (including excavation) and construction works, including from surface water run-off, noise, dust, as well as the spread of invasive alien plant species. Connections from the site to European sites, which also relate to Howth Head pNHA, are considered in detail in my Appropriate Assessment above. In summary, the EIAR identifies potential for negative short-term effects which require the application of mitigation to prevent adverse impact. During operation, the proposed development will result in an increase of c.320 people in the local area, with potential to increase recreational use of the pNHA and European sites which could result in further erosion of habitats. In this regard, the EIAR identifies the Howth Head SAAO which sets out a framework for the conservation and protection of the area, including actions relating to visitor management. The EIAR anticipates impact of the proposed development in terms of increased population and associated recreational use of designated sites to be neutral as a result of the implementation of these actions by Fingal County Council. Potential impact resulting from surface water discharges during operation of the development upon designated sites is also identified in the EIAR, and concluded to be negative, permanent, slight in the absence of mitigation, in light of the overall dilution of any discharges into the sea. Operational impact from traffic emissions upon designated sites is concluded to be neutral.

- 13.41. In terms of potential impact upon habitats within the site itself, the EIAR identifies during construction, negative, permanent or long-term effects of slight or moderate significance, in relation to the loss of approximately 0.8ha of habitat assessed as local importance (higher value), the loss of treelines along the boundary as a result of works within Root Protection Area (RPA) and the removal of 6 category C trees. During operation, no effect upon habitats is anticipated.
- 13.42. In terms of potential impact upon terrestrial mammals during construction, the EIAR identifies the main impact resulting from habitat loss and disturbance. However, this impact is not anticipated to be significant given the existence of suitable habitat on Howth Head and adjacent areas for hedgehog and pigmy shrew species (both listed of least concern on the Red List of Mammals of Ireland), therefore this is a negative, permanent, slight effect. Construction works (including lighting, noise and dust) are also identified to have potential for negative, short-term or temporary effects of moderate or slight significance, on these aforementioned mammal species. The removal of a presumed fox den on the site also has potential for negative, permanent, moderate effect. During operation, the EIAR explains a precautionary approach with respect to the potential impact of light pollution upon non-volant mammals (other than bats), which would be negative, permanent, slight at a local level.
- 13.43. In terms of potential impact upon bats during construction, negative, short-term, slight effect is identified as a result of loss of potential bat habitats for foraging and commuting and increased lighting. During operation, there is potential for negative, permanent, slight local impact upon bats as a result of increased lighting and noise. With high levels of luminance known to impair bats' vision causing disorientation.
- 13.44. In terms of potential impact upon birds, there is potential for disturbance as a result of noise during construction, which is a negative, short-term, slight impact. As a result of vegetation clearance and building demolition, if this were to be undertaken during the bird breeding season (March to August) there is potential for nests to be harmed or destroyed, which equates to a negative, permanent, significant impact. The loss of potential nesting habitat at the subject site would be a negative, short-term, slight impact, as a result of the large extent of potential nesting habitat in the surrounding area. During operation, no significant effects are anticipated to arise and effect is anticipated to be neutral.

- 13.45. Potential impact during construction upon common lizard, should this species occur at the site, would result from habitat loss and disturbance or direct mortality due to earthworks and vegetation clearance. There is suitable habitat available for this species adjacent to the site in the form of coastal cliff habitat associated with Balscadden Bay. This species is listed as least concern on the Red List. In consideration of the mobility of the species and the extent of suitable surrounding habitat in adjacent area, impact is anticipated to be negative, permanent, slight. No effect upon common lizard is anticipated during operation.
- 13.46. The EIAR identifies potential for negative, short-term, moderate impact upon fish and marine mammals within the Irish Sea adjacent to the site as a result of potential contaminated surface water run-off during construction. This would result in localised effects either directly or from reductions in water quality. During operation, the EIAR identifies potential for negative, permanent, slight effect due to surface discharges from the site.
- 13.47. Mitigation measures are outlined in section 5.6 of the EIAR and summarised in brief here. Surface water mitigation measures will treat source potential contaminants or remove the pathway to sensitive receptors. Implementation of a dust management plan is intended to ensure no associated residual impact as a result of dust emissions. Invasive alien flora is intended for managed removal from the site, and therefore no pathway for transfer to designated sites would occur. Loss of semi-natural habitat on the site is addressed by retaining a portion of the site for biodiversity and incorporating tree planting and wildflower meadows into the design. Tree protection measures will also prevent loss of trees on boundaries with root protection areas overlapping the site. Mitigation is also described with respect to night-time light pollution, dust, noise and timing of vegetation clearance to prevent impact upon mammals, common lizard and birds. Specific mitigation measures relating to preventing light pollution impacting bats is described. It is also intended to incorporate two bat boxes and 5 artificial bird nesting boxes into the proposed development. Signage is also intended to be erected towards the east of the subject site to educate visitors to Howth Head SAAO (designated sites) of the flora, habitat and fauna sensitivities and that dogs should be kept on lead.
- 13.48. The EIAR concludes that with all mitigation measures implemented in full, no significant negative residual impact upon local ecology or designated nature

conservation sites are anticipated to arise from the proposed development of the site.

13.49. I note submissions in relation to Sandmartins, third parties point to these previously being surveyed at the site, the Department acknowledges that the surveys to inform the current submitted application did not note their presence. The Department concludes that “The losses of the small numbers nesting on this site, though regrettable, cannot be considered significant, but clearance of vegetation from the site could lead to the direct destruction of nests, eggs and nestlings.” In addition, the Department notes that mammals (such as hedgehogs), lizards and bats could be impacted by vegetation clearance. However, with the mitigation described, impact would be limited, with vegetation clearance undertaken in a sensitive manner to limit impact upon birds, bats, lizards and mammals. I also note third party assertion that insufficient survey data is provided in relation to bats, however as described above, I am satisfied that the survey data supports the conclusions reached in the EIAR in relation to potential impact upon bats, and that suitable mitigation measures are described to limit this impact, which would be at a local level only.

13.50. Overall, I concur with the conclusions described in the EIAR and consider there to be no residual impact upon internationally or nationally significant receptors with mitigation in place. Any residual impacts upon biodiversity will therefore be locally significant only, with suitable mitigation to reduce impact on key ecological receptors. I also note that the site is zoned for residential and thus this zoning supports redevelopment of the lands which in any form, will invariably lead to some disturbance and clearance of habitats on the site.

13.51. Land, soil, water, air and climate

13.52. Land and soil are described in Chapter 6 of the EIAR. The EIAR confirms that bedrock beneath the site is predominantly underlain by the Ballysteen Formation. A mapped fault is mapped to the southern edge of the site separating the Ballysteen and Elsinore Formations. The majority of the subject site is within a locally important moderately productive aquifer with the very southern portion of the site in a poor aquifer that is generally unproductive. The vulnerability of the aquifer in the vicinity of the subject site is high to extreme. There have been 4 intrusive ground investigations carried out on the subject site in the years 2015, 2017 and 2021. Soil samples taken

from the site showed no evidence of contamination. Ground conditions have been found to be comprised of topsoil overlying medium dense sand overlying very stiff clay, and bedrock was not proven in any of the boreholes undertaken. During the construction phase, potential impacts are identified in the EIAR and include the following; slippages and ground movement resulting in damage to surrounding buildings and environment, unforeseen conditions or obstructions, ground vibration damage to surrounding buildings, surface water runoff into the public network, ground works causing damage to Howth Sewer Tunnel and Martello Tower, hydrogeological ground water cut-offs affecting surrounding hydrogeology and ground water, surplus subsoil from excavations, dust, soil spillages on existing road network, and oil or diesel spills resulting in contamination of soils and geological structures.

13.53. The EIAR identifies risk of installation of secant pile wall impacting groundwater flows, however considers this unlikely in light of the findings of the submitted hydrological assessment, and with further mitigation in the form of gaps between pile to facilitate ground water passage. The impact of the proposed basement work is also not anticipated to have an adverse effect upon neighbouring properties due to sufficient separation, however monitoring is intended of ground movement and vibration throughout the works. During the operational phase, no significant impacts are identified.

13.54. Mitigation measures are outlined in section 6.6 of the EIAR. A soil retention system comprising a secant piled retaining wall has been designed to the site specific ground investigations and groundwater monitoring to prevent the risk of unstable soil conditions occurring during construction or ground movement causing damage to the surrounding environment. It is estimated that approximately 67,000m³ of excess soil is required to be excavated from the site. Detailed investigations and technical specifications of the proposed excavation work and resulting potential vibration and land movement has been carried out and submitted with the application. A vibration monitoring regime is proposed and gaps between the male and female piles to facilitate the passage of groundwater. An Outline Construction and Environmental Management Plan (CEMP) has also been submitted, and a final CEMP will include protocols for soil removal, including around storage, avoidance of contamination and use as clean infill. No evidence of contamination of soils on the site was recorded,

however measures are described in the event that contaminated soils are encountered during works. Measures regarding wheel washing, prevention of discharges from the site, and management of surface water are also described.

- 13.55. Mitigation measures have been informed by the Geotechnical Report and Hydrogeological Assessment appended to the EIAR. These describe detailed ground investigations at the site and the technical specifications for the proposed boundary retaining walls and stabilisation works. Ground movement analysis is also provided. The proposed retaining wall structures are also detailed in submitted drawings, specifically 'Proposed Sections' drawing no. 486_01_06. The submitted data presented supports a conclusion that there is no significant risk of damage to surrounding structures, including neighbouring residential dwellings and the Martello Tower, as a result of the proposed works.
- 13.56. With mitigation implemented as described in the EIAR and summarised above, no significant adverse impacts are predicted during construction or occupation upon soils or geology.
- 13.57. The detail set out in the application is greater than might normally be expected at the planning stage, but reflects the site-specific circumstances, with ground level changes and steep slopes that create particular conditions that warrant consideration of how the proposed development will interface with these site-specific characteristics. Conceptual site modelling has been carried out and supports the conclusions reached in the submitted EIAR.
- 13.58. I note third party concern in relation to land slippages, however I am satisfied that up to date and detailed technical data has been submitted to support a conclusion that the proposed development will not create a risk in this regard, specifically in light to the detailed technical specification and modelling described in the submitted Geotechnical Report. Importantly, the design of the development, including retaining walls and piles, has been developed with specific regard to potential consequential effects on ground movement, and therefore will counteract any risk of the same. I also note discrepancies between application reports in relation to the quantum of soil to be removed from the site, varying between approximately 63 and 78 thousand cubic metres. In my opinion, this discrepancy is not significant for the purposes of my assessment. The figures provided are an estimation at this planning stage. The

actual amount that will be removed will also depend upon the quantum of soil that might be reused for fill, this is an unknown element until excavation takes place. The proposals describe adequate and comprehensive management of excavated material from the site, and this will be undertaken in light of mitigation measures set out in the EIAR (flowing from the Construction and Environmental Management Plan) to ensure that significant adverse effects do not arise. The applicant has ensured through the data and modelling provided in this application, that a high degree of certainty can be relied upon as to what conditions can be expected on the site, however construction works invariably have to react and evolve to conditions as discovered on the site, and it is the mitigation set out in this application that will ensure that the development will not result in adverse impact regardless of the extent of excavation that will ultimately be required. As such, while I note third party comments on the detail provided, I am satisfied that this is as comprehensive as could be expected at this stage, and that there is no risk of significant adverse impact.

13.59. Water (Hydrology and Hydrogeology) is described in Chapter 7 of the EIAR. This confirms that the bedrock aquifers beneath the subject site are within the Dublin GWB (EU Code: IE_EA_G_008) (EPA, 2022). This groundwater discharges directly to the Irish Sea along the coast and to overlying rivers. The aquifer of the Ballysteen Formation beneath the north of the site is a Locally Important Aquifer – Bedrock which is moderately productive only in Local Zones. The bedrock aquifer of the Elsinore Formation beneath the south of the site is a Poor Aquifer – Bedrock which is Generally Unproductive except for Local Zones. The EIAR states that while groundwater vulnerability beneath the site is mapped as High at the western boundary, Extreme within the centre and east of the site, X – Rock at or Near the Surface at the east of the site, bedrock was not encountered during borehole drill investigations at the site, and there is discrepancy between the vulnerability map and the site investigation attributable to the limitations in vulnerability map data. As a result, the vulnerability of the site is considered to be moderate or low. Groundwater recharge, levels, flow direction, and hydrogeological site modelling for the site is also described in the EIAR. Four local surface river waterbody features are identified and existing drainage conditions for the site are described, mainly comprising discharge to surface water sewers that discharge to Howth Harbour and foul water sewers.

There is also a large concrete wastewater sewer traversing the site, below the groundwater table.

13.60. In relation to flood risk, the EIAR refers to the submitted Site Specific Flood Risk Assessment (SSFRA), which concludes that the risk of tidal and fluvial flooding is extremely low and therefore no mitigation is required. There is a high likelihood of pluvial flooding (from the drainage network and mechanical / human error associated with the ground and basement levels). There is also a high likelihood of groundwater flooding with moderate consequences identified. As such, mitigation is set out in the SSFRA and reflected in the EIAR. In relation to water quality, the EIAR details of the Water Framework Directive status for groundwater and surface water bodies located within a 2km radius of the site, with 5 of a total 7 unassigned a status, the remaining 2 assigned a good status. The status of receiving waterbodies designated / protected sites is also considered in the EIAR, and I address potential impact upon European sites specifically as part of my Appropriate Assessment in section 12 of this report above.

13.61. In terms of the potential impact of the proposed development, during construction increased hardstanding areas introduced to the site could impact on the recharge potential within a localised area of the aquifer. However, the EIAR states that taking into account the urban setting of the site, the presence of clayey strata in the overburden and limited capacity of the bedrock aquifer to accept recharge, there will be no overall impact groundwater recharge within the bedrock aquifer. The EIAR also describes that there will be no impact on groundwater flow and no requirement for large-scale dewater of groundwater or other abstractions. The male piles for the proposed basement at southern end do not intersect with the groundwater table. At the western end, male piles may intersect with the groundwater table, however the female piles provide gap and facilitate flow. No impact upon hydrology or surface water flow within receiving surface water bodies is identified. No abstraction of water for use during works is proposed, with supply coming from mains connections. The EIAR concludes that the overall impact on the hydrogeological regime of the locally import aquifer would be negative, imperceptible, temporary, changing to long term during the operation phase, within a localised zone of the aquifer. There is also potential for contamination that could impact water quality during construction. The EIAR identifies the potential sources of this contamination and in the absence of

mitigation, this would result in negative, moderate or significant, short-term or medium impacts on receiving water quality. In relation to the underlying Howth Sewer Tunnel, an assessment of the impact of the proposed development upon this was undertaken demonstrating that there would be limited increase in stress at an acceptable level and the EIAR concludes, that there would be no impact on the integrity of the sewer and no associated impact on receiving water quality.

13.62. Additional impacts during operation are described in the EIAR. Potential impact of flooding is concluded to be neutral, imperceptible, long-term. The EIAR also concludes that there will be no risk to water quality including groundwater and surface water associated with the operation of the proposed development. All foul water is to be directed to the mains sewer and below ground foul sewers will be constructed in accordance with Irish Water requirements and in line with Building Regulations. The impact on foul and surface water is therefore anticipated to be neutral, imperceptible, long-term during the operational phase.

13.63. Mitigation measures are described in section 7.6 of the EIAR, the implementation of measures described in the Construction Management Plan, Traffic Management Plan and Waste Management Plan for the proposed development set out the overarching mitigation approaches during the construction phase. Provisions include (not an exhaustive list) monitoring of groundwater, control and management of water, control and management of soil and bedrock, management of stockpiles, concrete works, piling methodology, boreholes, importation of soil and aggregates, handling of fuels and hazardous materials, and wheel-washing and water treatment. A Build-Over Agreement will be sort by the contractor in relation to the Howth Sewer Tunnel. During the operational phase, ongoing processes are intended for monitoring and maintenance of drainage and SUDS measures. The EIAR confirms that even on a worst-case scenario, incorporating mitigation, the proposed development is not likely to result in deterioration or alteration of the Water Framework Directive status of water bodies and no public health issues are identified. As a result of the foregoing, there are no likely significant adverse residual impacts on hydrology and hydrogeology anticipated.

13.64. I note third party concern in relation to the data and proposals presented in relation to groundwater. I am satisfied that the submitted data is comprehensive and that the proposals clearly take account of groundwater levels throughout the site (which vary)

with mitigation in the design of piles to ensure that flows will not be impinged upon. I also note third party concern regarding flood risk and consequential impact on ground movement, particularly in relation to the Martello Tower hill. As described above, flood risk is low for the site and the design of the proposed development incorporates suitable mitigation. My section on land and soils above also addresses the potential for ground movement and slippages and no significant risk is anticipated in this regard, particularly in relation to the tower which is outside the area of sensitivity that would be associated with the subject site.

13.65. Air Quality and Climate are described in Chapter 8 of the EIAR. This describes the relevant legislative and policy backdrop to air quality and climate action in Ireland, including the Climate Action Plan 2021 which provides a detailed framework for reducing emissions. The EIAR sets out the baseline characteristics of the site in relation to air quality and climate.

13.66. In terms of air quality, during construction there is potential for emissions that would impact on local air quality. This would be a short-term impact and temporary in nature, with the greatest impact identified to arise from construction dust emissions upon local streets surrounding the site. The EIAR concludes that the potential emission of exhaust fumes from vehicles and machinery would not be at a significant level and would be well within relevant ambient air quality standards. During the operational phase, the greatest potential effect upon air quality is from traffic-related air emissions, however the traffic associated with the proposed development is not anticipated to generate significant emissions, and therefore it is unlikely that significant air quality impacts would occur.

13.67. In terms of climate, there is potential during the construction phase for onsite machinery and traffic to emit CO₂ and N₂O pollutants. However, the EIAR concludes that these emissions would be insignificant in terms of Ireland's overall obligations. Impact is anticipated to be short-term and imperceptible. During operation, no significant risk in terms of flooding or GHG emissions is identified, the proposed development is also designed to meet building regulations and the requirement to achieve Nearly Zero-Energy Buildings.

13.68. Mitigation measures are described in section 8.1.6 of the EIAR. In relation to the construction phase and air quality, the overarching mitigation is as outlined in the

Outline Construction Environmental Management Plan as reflected in the EIAR, with specific dust suppression measures. During operational phase, no mitigation is deemed necessary. In terms of climate, no mitigation measures are proposed as best practice measures are to be implemented to minimise exhaust emissions from construction and operational vehicles and machinery, with the aim to achieve the greatest standards of sustainable construction and design. Overall, no residual impacts are anticipated on air quality or climate as a result of the proposed development.

13.69. I note third party concern regarding adverse impact upon human health as a result of airborne particular matter / pollution arising from the proposed development during construction and operation. I have described above that the EIAR has addressed potential impacts in this regard and that the significant impact is not anticipated.

13.70. I note submissions in relation to air borne particles and potential impact upon local fauna, flora and resulting wash out to the sea. I address potential impact upon adjacent European sites from such potential pollution in section 12 of my report above. Similarly, construction related activities and consequential potential effects upon biodiversity are addressed in the biodiversity section of this EIA above. I am satisfied that no significant impact is anticipated as a result of the proposed development in relation to air borne particles and that adequate mitigation is described in the EIAR in this regard.

13.71. In relation to climate, I note third party submission in relation to the current World Climate Emergency, and that the proposed construction works are not compatible with this. I am satisfied that the EIAR has adequately addressed potential impact upon climate matters, and that the wholesale suspension of construction works is not a requirement in response to the Climate Emergency.

13.72. Overall, I concur with the EIAR conclusions and consider that impacts from the proposed development will be within acceptable parameters, with no significant impact upon land, soils, geology, water, air quality or climate.

13.73. Noise and vibrations

13.74. Chapter 9 of the EIAR describes Noise and Vibration. This identifies that the nearest sensitive receptors to the proposed development are surrounding residential properties on Abbey Street, Balcadden Road and Asgard Park. In terms of potential

impact, the EIAR identifies that during construction phase, there is potential for noise and vibration impact from construction activities and plant on the site. It is not anticipated that any excessively noisy activities will be carried out during construction stage, with predicted noise expected to be relatively low at surrounding sensitive noise receptors. Noise from operational traffic will be negligible and will not have a negative impact.

13.75. Mitigation measures are outlined in section 9.6 and entail the implementation of measures during construction to minimise noise and vibration. No mitigation is deemed necessary during the operational phase. With the application of mitigation, no residual impacts are anticipated.

13.76. I concur with the conclusions of the EIAR in relation to noise and vibration impacts from the proposed development during both construction and operational phases.

13.77. I have given consideration to the third party concerns raised in relation to construction impacts, including noise, dust and traffic. Overall, it is clear that there is likely to be disruption to users and occupiers of the area surrounding the subject site during the construction of the proposed development, however this will be temporary and incorporate mitigation to limit the degree of disturbance. In my view, it would be inappropriate to stifle development opportunity on this land zoned for residential, because of these temporary, managed, disturbances from construction activities. The application of mitigation measures can be secured through conditions, particularly through the application of a final Construction and Environmental Management Plan for the proposed development. With the application of these mitigation measures and in consideration of the temporary nature of the construction works, I am satisfied that construction impacts (or construction transport impacts) resulting from the proposed development are within acceptable limits.

13.78. Transportation

13.79. Traffic and Transport is described as part of material assets in Chapter 12 of the EIAR. This describes baseline traffic data informed by traffic counts at key junctions on the road network surrounding the site. Specifically:

- Junction 1: R105(W)/R105(S)/East Pier;
- Junction 2: R105(N)/Church Street/St. Lawrence Road/R105(S);

- Junction 3: R105(N)/Main Street/R105(S);
- Junction 4: Main Street(N)/Main Street(S)/R105(S)/R105(N);
- Junction 5: Balcadden Road(W)/Kilrock Road/Balcadden Road(E);
- Junction 6: Howth Road/Greenfield Road/Dublin Road/Station Road.

13.80. Currently there are no cycle lanes in the immediate area surrounding the site, with provision from Howth Railway Station heading west linking to Clontarf and Fairview (including within bus lanes). Bleeper Bikes are available in Howth. There are pedestrian facilities within the vicinity of the proposed development. The subject site is directly served by bus services, with the closest bus stops located on Main Street serving Dublin Bus routes 6 and H3, frequency varies across the day, with a maximum frequency of 20 services in the 09:00 to 17:00 period. Howth Railway Station is approximately 750m west of the proposed access to the subject site, it is served by DART and Dublin Commuter routes.

13.81. In terms of the potential impacts of the proposed development, during construction traffic will generate noise and dust and there is potential for traffic congestion and inappropriate parking. The EIAR estimates that there will be approximately 67,000m³ of excavation required on the site, resulting in approximately 4,467 trips in and out of the site, and a daily average of approximately 75 HGV arrivals and departures. The proposed construction traffic route is south on the R105 from the subject site, taking approximately 7.5km to reach Sutton Cross. Whilst not the most direct route, the EIAR explains that this route (no.2) is selected as it would create minimal conflicts and has been agreed with Fingal County Council. The EIAR notes that there are 2 schools on this route, and that measures will be put in place to avoid construction traffic during the ½ hour before school starts and finishes.

13.82. During operation, the EIAR describes traffic estimation data, which predicts that the proposed development will generate a total of 54 car trips in the AM peak hour and 27 car trips in the PM peak hour.

13.83. Mitigation measures are described in section 12.2.6. During construction a Construction Environmental Management Plan (CEMP) will be prepared to minimise the potential impact of the construction phase, with measures to limit and control dust, dirt, noise, routes, working hours, construction traffic forecasts, time of

movements and deliveries, loading and unloading and facilities for car parking. A Construction Traffic Management Plan (CTMP) will also be prepared. Through the implementation of the CEMP and CTMP, the EIAR anticipates that traffic during construction will have a slight effect over a short term period. During the operational phase, a Travel Plan will be utilised to reduce dependence on private car journeys and encourage residents to avail of sustainable forms of transport.

13.84. In terms of predicted residual impact during the operational phase, the EIAR includes consideration of committed development, specifically the former Techrete site. A traffic growth rate is also applied for future year scenarios up to 2040. The results for traffic on all junctions assessed have then been modelled. All assessed junctions are demonstrated to currently be operating within capacity and will continue to do so in the future year scenario 2025 with the proposed development in place. For the future year scenario 2040, all junctions, with the exception of Junction 6, would continue to operate within capacity with the proposed development in place. For Junction 6, this would operate above capacity in the AM peak, both with and without the proposed development taking place in the future year scenario 2040. The EIAR concludes that the impact of the proposed development on the operation of Junction 6 is minimal. The capacity exceedance at Junction 6 is anticipated to occur as a result of general traffic growth up to 2040 regardless of the proposed development taking place and when considering traffic generated by the proposed development, this accounts for a minimal proportion of this growth.

13.85. I note third party submissions in relation to traffic congestion at Sutton Cross and associated difficulties for emergency services to access the area. As described above, this congestion is not a consequence of the proposed development, which would contribute minimally to traffic in the area. In terms of the traffic surveys undertaken, these support the conclusions reached in the EIAR and are acceptable in my view, I also note that no concern is raised by the Planning Authority in relation to this data. Third parties also raise concerns in relation to construction traffic, parking for construction workers, compatibility with cycle movements and the disruption that would be caused by construction traffic associated with the proposed development. As set out above, the EIAR has included assessment of potential impact during construction, and it is intended that this be managed and mitigated through a CTMP and CEMP. With the implementation of measures in these plans,

impacts would be minimised and over a short term period. In relation to cumulative impact, this is accounted for in the traffic growth that is forecast to occur and incorporated into the traffic modelling up to 2040. I am satisfied that this adequately accounts for planned development in the area that would contribute to overall congestion.

13.86. Overall, I concur with the conclusions of the EIAR. While long term negative impacts are anticipated to Sutton Cross, this impact is reflective of wider demand upon the road network in the area. Even in the 'no development scenario' the Sutton Cross junction would be over capacity and it is not the proposed development that generates this impact, contributing to overall congestion to a minimal degree. Overall, I am satisfied that the impact of the development upon traffic and transport will be within acceptable parameters.

13.87. Material assets – Archaeology and cultural heritage

13.88. The EIAR describes archaeology and cultural heritage in chapter 11. This considers known archaeological features, recorded monuments and other heritage assets proximate to the site (including Protected Structures and records from the NIAH). I have assessed in detail potential impact upon built heritage in section 11.4 above. In summary, I am satisfied that the proposed development will be acceptable in consideration of nearby Protected Structures and the Architectural Conservation Area.

13.89. In terms of potential impact upon archaeology, the EIAR anticipates that the greatest impact to buried archaeological deposits occurs during the large-scale removal of topsoil during the initial construction phase groundworks. The EIAR concludes that as the closest recorded RMP is located 0.05km from the site, it is predicted that the construction phase of the development will not cause any significant impact. No impact is anticipated during the operational phase of the development. In terms of mitigation, this is outlined in section 11.6. It is noted that excavation works associated with the proposed development could possibly impact on small or isolated previously unrecorded archaeological features or deposits. If any archaeological remains are discovered during works, the EIAR states that works will cease and an expert archaeologist will be brought to site to supervise all further

works. With application of this mitigation no negative residual impacts in the context of archaeology and cultural heritage are anticipated.

13.90. I note the Department of Housing, Local Government and Heritage comments with respect to archaeology, and that on the basis of the information submitted and the proposed archaeological mitigation, it recommends a planning condition pertaining to Archaeological Monitoring of all ground disturbance and topsoil removal at construction stages.

13.91. I also note the comments received from the Community Archaeologist for the Planning Authority. This identifies a number of errors and inadequacies within the submitted archaeological data in chapter 11 of the EIAR.

13.92. I agree with the Community Archaeologist that chapter 11 does contain inaccurate references with regards to the responsible Government Department (with an outdated reference), and that the baseline data presented with respect to archaeology is very light in the EIAR. However, the fundamental conclusion with respect to residual impact, remains that the risk is not significant in my view, and as such I am satisfied that it is not necessary to rewrite the chapter as suggested by the Community Archaeologist. This is supported by the Departments response to the application which accepts an approach where mitigation is secured by condition, namely archaeological monitoring of ground disturbance and topsoil removal. Such a condition would go further than the mitigation suggested in the EIAR, which only triggers archaeological supervision in the event that deposits or features are discovered during works.

13.93. I am satisfied, that by securing archaeological monitoring of ground disturbance and topsoil removal, this would ensure an appropriate level of mitigation, ensuring no residual risk to archaeological features as a result of the proposed development and subsequently responding to the concerns raised by the Community Archaeologist. I have therefore included a condition requiring the same in my recommended order below, which the Board can rely upon should they agree with this approach.

13.94. Material assets – Utilities

13.95. Chapter 12 describes waste and utilities as part of Material Assets. The EIAR identifies that the closest local electricity transformer is situated 6km west of the subject site. Connections to the natural gas network is available in Howth Village.

There is currently no onsite consumption or use of electricity or gas. The closest mobile/ICT communications mast is located at Howth Garda Station approximately 240m west of the subject site. The subject site is located in an area where high speed broadband is available, there is no current IT infrastructure in place at the site. The site is not currently connected to a municipal water supply but is located in a well-serviced area. The public drainage network is also proximate to the site on Main Street.

- 13.96. In terms of potential impact, construction related activities will require temporary connection to the local electricity supply network, with application via ESB Networks. Temporary suspensions of the network locally will be required to facilitate the connection of the proposed development, these will be controlled by ESB Networks. The impact upon local electricity supply during construction is anticipated to be negative, slight and short-term. During operation, demand upon the local network will be increased and energy use has been considered as part of the EIAR and associated assessments. The operational phase impact is anticipated to be neutral, long term and moderate.
- 13.97. New connections to the existing ICT network may be required during construction and will be controlled by the network provider. Impact is anticipated to be neutral, imperceptible and temporary. Given the relatively low rise height of proposed structures, the EIAR anticipates that the likely effect of height upon surrounding microwave links will be neutral and imperceptible in the long term. Increased demand upon networks will also be generated during operation of the development, and as the site is in an area with high speed broadband and mobile communications is available, impact is anticipated to be neutral, imperceptible in the long term.
- 13.98. No gas supply is required for the construction phase, therefore impact will be neutral and imperceptible. During the operational phase, the proposed development is not intended to be connected to the natural gas network, as electric exhaust air pumps will be used, therefore impact is anticipated to be neutral, imperceptible in the long term.
- 13.99. In terms of water supply, connection will be required at both construction and operational phase, with associated increases in demand. During construction, disruptions to the local supply network are predicted, the effect is anticipated to be

negative, non-significant and temporary. During operation, Irish Water have confirmed that connection is feasible without upgrades and that the additional demand generated by the proposed development can be facilitated. It is anticipated that effects on water supply will be neutral, non-significant and long term. In terms of wastewater, Irish Water have confirmed that connection is feasible subject to upgrade works. These works may cause disruptions to the foul water network during construction phase. These disruptions will be controlled by Irish Water. The effect is anticipated to be negative, non-significant and temporary. A build-over agreement will be required for the 1,500mm diameter concrete wastewater sewer on the site and works will be required to fulfil Irish Water standards and requirements. During the operational phase, Irish Water have confirmed capacity within the existing foul sewer network to serve the site. The foul water will ultimately be treated at Ringsend Wastewater Treatment Plant (WwTP) that operates under existing statutory consents and Irish Water have completed the first phase of upgrade works to the Ringsend WwTP which will increase capacity. The increased in wastewater being discharged to the main public sewer as a result of the proposed development is anticipated to have neutral, non-significant and long-term effects.

- 13.100. Waste will be generated during both construction and operation of the proposed development. In the absence of mitigation effect is anticipated to be significant and negative in the short term during construction, changing to the long term.
- 13.101. Section 12.1.6 of the EIAR considers mitigation measures. For water, these are described in detail in Chapter 7 of the EIAR and are considered in my assessment above. New connections for electricity and telecommunications will be coordinated with the relevant utility provider and Fingal County Council, working to standard protocols. An Outline Construction and Demolition Management Plan and Operational Waste Management Plan describes measures to manage and control the disposal of waste generated at the site. With the application of mitigation as described throughout the EIAR, no significant residual impacts are anticipated.
- 13.102. I note submissions in relation to water supply problems in the area and cumulative impact in this regard, however Irish Water is the appropriate body to coordinate water supply through the area and they confirm sufficient capacity to serve the development. In relation to third party concern regarding increased pressure on power, waste, drainage and flood risk, I have described above considerations of these matters and

that new connections to the site will be coordinated by relevant providers. I am satisfied that appropriate regard has been had in the EIAR to these matters.

13.103. I concur with the conclusions reached in the EIAR concerning utilities and waste and I am satisfied that there are no significant permanent adverse impacts upon utilities and services, with impact predicted to be within acceptable parameters.

13.104. Landscape and visual

13.105. A landscape and visual impact assessment is described in Chapter 10 of the submitted EIAR. This describes the baseline environment surrounding the site, including the historic and special landscape character context of the area. I have also set out a detailed assessment of visual impact in sections 11.4 and 11.5 above which should be read in conjunction with this part of my EIA.

13.106. During construction negative moderate impact to the site and negative medium low impact to the surrounding area, is anticipated as a result of construction related activities, however this impact would be on a temporary, short-term basis. This impact is consistent with the type of impact that is general experienced in urban areas during construction works. This is a site zoned for residential development on a site zoned for the same and within the designated town centre area for Howth, and therefore this negative impact is to be expected as part of redevelopment works in line with this zoning.

13.107. During the operational phase, moderate-slight positive impact is anticipated to the site itself, while slight / neutral-positive impact is anticipated to the wider area. The impact upon individual viewpoints is also described. The majority of these viewpoints are expected to have impacts ranging for neutral to positive, with the exception of the following views which are address in more detail here.

13.108. Viewpoint 4 is anticipated to experience a low level, slight/negative impact on this medium value receptor. This view is from Thormanby Road at the junction with Nashville Road, uphill from the application site and with views of the top storeys of the proposed development apparent in the context of the ACA and surrounding residential area. The EIAR concludes that the proposal would be visible in this view but would not unduly obstruct or block views in the area and would appear as fitting, as a suitably scaled contemporary addition. I concur with this appraisal, and the viewpoint clear illustrates that the proposed development would be absorbed into the existing built

environment in my opinion. However, I do not agree with the EIAR that the impact upon this view is negative, and in my opinion, this impact would be neutral with the proposed development assimilated into the view and surrounding existing built forms.

13.109. Viewpoint 11 is anticipated to experience a low level, moderate-slight/negative impact, upon this high-medium value receptor. This view is from St. Mary's Abbey in Howth Village looking southwest towards the subject site. The EIAR concludes that while the proposed development in this view would increase the vertical imprint of the visa, it would not govern the skyline and would not be visually dominant, nor would it appear overbearing. I concur with the EIAR that the proposed developments visibility in this location would be readily apparent but would not detract from the setting. Given the high sensitivity of the receptor within the ACA, this visibility may be perceived as a slight/negative impact, however I am satisfied that this impact would be within acceptable parameters, appearing as a backdrop addition and not overbearing the the ACA as detailed in my assessment at section 11.4 above.

13.110. Viewpoint 13 is anticipated to experience a medium-low level, moderate-slight/negative impact, upon this medium-low value receptor. The view is from St. Lawrence Road looking east/north east towards the subject site. The EIAR concludes that the proposed development will represent a moderate alteration to the available vista, will not inhibit the inherent visual amenity of the scene, but will generate a stronger impression of foreshortening, regarding the risen skyline. Similar to my assessment viewpoint 11 above, I concur with the EIAR that the proposed development will be readily visible and change the skyline in this view, however I am satisfied that this impact would not be overbearing and is within acceptable parameters.

13.111. Viewpoint 14 is anticipated to experience a low-negligible level, slight-imperceptible/neutral-negative impact, upon this medium value receptor. The view is from Balglass Road looking north east towards the site. The EIAR concludes that the proposed development will appear as a fitting and suitably scaled contemporary addition in the view. Similar to my assessment of viewpoint 4 above, I concur with this appraisal, however, I do not agree with the EIAR that the impact upon this view is negative, and in my opinion, this impact would be neutral with the proposed development absorbed into the existing built environment.

- 13.112. Viewpoint 15 is anticipated to experience a low-negligible level, light-imperceptible/neutral-negative impact, upon this medium value receptor. The view is from the public open space overlooking Howth village. The EIAR concludes that the proposal in this view would not adversely impact seaward views and would not have any detrimental effect, with the majority of the development not visible in the view. I agree with the EIAR that of what is discernible, the proposed development would appear as a contemporary addition, however in my opinion, the proposed development is hardly perceptible in this view, would not stand out and certainly would not have any degree of negative impact as a result. I consider the impact to be more neutral in this view.
- 13.113. Viewpoint 18 is anticipated to have a low-negligible level, slight-imperceptible/neutral-negative impact, upon this medium value receptor at west pier Howth harbour. The EIAR concludes that the proposed development would be partially visible but far from distinct, manifesting as a suitably scale, contemporary addition. In my opinion, similar to my assessment above for viewpoint 15, the proposed development is barely perceptible in this view and does not stand out. The impact would be neutral as a result in my opinion.
- 13.114. Viewpoint 19 is anticipated to have a low level, slight/neutral-negative impact, upon this medium-low value receptor. Taken from middle pier Howth harbour, the EIAR concludes that the proposed development would be partially visible in this view, but far from noticeable and views of the Martello Tower and St. Mary's Abbey would be unimpeded. In my opinion, similar to my assessments above, the proposed development would be readily assimilated into the view of the existing built environment in this view and the impact would be neutral as a result in my opinion.
- 13.115. Viewpoint 21 is anticipated to be a medium-low level, moderate-slight/negative impact, upon this medium value receptor. The view is taken via a drone from Balcadden Bay. The EIAR concludes that the proposed development will be an apparent feature in this view, manifesting as a suitably scaled, tastefully finished piece of contemporary multi-storey architecture, and while it would increase the sense of enclosure at the bay, it would not inhibit or block any sources of visual amenity. I concur with the EIAR that the proposed development would be striking in this view, but I am satisfied that this impact would be consistent with the evolution of the built environment in the area with a contemporary addition on a site zoned for residential

development and partially within the designated town centre area. As such, while a moderate-slight/negative impact would result, this is within acceptable parameters given the characteristics of the site in my opinion.

13.116. I note third party concern that the Landscape and Visual Impact Assessment in the EIAR does not include the photomontages, however these viewpoints (as described in my assessment) are appended to the EIAR and I am satisfied that the viewpoints provided are comprehensive.

13.117. Overall, I concur with the EIAR that no significant negative impact would result in relation to landscape and visual impact from the proposed development. It should also be noted that the assessment of visual impact has a subjective quality, and as such, the fact that I do not concur with all the conclusions reached in the landscape and visual impact assessment is not to question the methodology of the assessment carried out, which in my view is EIAR compliant. I am satisfied that the proposed development would in general have neutral and positive effects upon landscape character and visual environment, with slight negative impact to isolated areas that would be consistent with the evolution of the built environment for the area and within acceptable parameters for impact.

13.118. The interaction between the above factors

13.119. A specific section on interactions between the topic areas under the EIAR is included within each individual topic chapter. Chapter 14 of the submitted EIAR is entitled 'Interactions' and highlights interactions which are considered to potentially be of a significant nature. The development is concluded in the EIAR to have no significant negative impact when mitigation measures are incorporated.

13.120. I have considered the interrelationships between factors and whether these might as a whole affect the environment, even though the effects may be acceptable on an individual basis. Having considered the mitigation measures contained in the EIAR, and the additional mitigation I suggest in my recommendation, I am satisfied that residual impact resulting from interaction between all factors is minimised.

13.121. Cumulative impacts

13.122. I note third party responses that the cumulative impact of development in the area should be considered alongside the current application. The proposed development

would occur in tandem with the development of other sites that are zoned in the area. Such development would reflect land uses envisaged under the county development and local area plans which have been subject to Strategic Environment Assessment. A number of developments in the surrounding area have been specifically identified as being considered in the submitted EIAR, including the Claremont and Dear Park SHD sites.

13.123. Each topic chapter in the submitted EIAR has considered cumulative impacts and I have highlighted these where most relevant to my assessment. The proposed land use of the development is in keeping with the zoning of the site, and the proposed development is generally within the provisions of the relevant plans, with the exception of potential unit numbers for Howth. It is therefore concluded that the culmination of effects from the planned and permitted development and that currently proposed would not be likely to give rise to significant effects on the environment, other than those that have been described in the EIAR and considered in this EIA.

13.124. Other Third Party Comments

13.125. I note third party concern that the EIA Screening is insufficient and that a full EIA should be required, however these representations do not appear to be specifically related to the current application which includes an EIAR. Comments are also made with respect to the inadequacy of the EIAR and its conformity with the EIA Directive. I am satisfied that the submitted EIAR is informed by comprehensive data and surveys of the site, and that it has been produced in accordance with the requirements of the EIA Directive, and subsequently is compliant with Article 94 of the Planning and Development Regulations, 2001.

13.126. Reasoned Conclusion on the Significant Effects

13.127. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the developer, and the submissions from the planning authority, prescribed bodies and observers in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

13.128. **Population and human health** - positive impacts in relation to the provision of new homes in close proximity to public transport, increased economic activity and with the provision of new public route. Positive cumulative impact from increased employment

opportunities, access and transport infrastructure. Mitigation measures include adherence to HSE Covid-19 guidance and application of a construction management plan during the construction phase to reduce impact upon human health. After implementation of these measures there is no risk of significant negative residual effects.

13.129. **Biodiversity** – with mitigation in place, no long-term significant impacts are expected. No residual impact upon internationally or nationally significant receptors will arise with mitigation in place. Residual impact upon biodiversity will be locally significant, with suitable mitigation in place to reduce impact on key ecological receptors. Mitigation includes the implementation of measures in a Construction and Environmental Management Plan during the construction phase, reduce risk of discharge from the site, and ensuring sensitivity to bats. Removal of vegetation will be timed to avoid impact on birds, bats, mammals and lizard. Managed removal of invasive alien flora from the site preventing transfer to designated sites. During the operational phase, new tree planting and wildflower meadows, sensitive lighting and signage to educate visitors to Howth Head SAAO will reduce impact. After implementation of these measures there is no risk of significant negative residual effects.

13.130. **Land, soils, geology, water, air quality or climate** - with the implementation of mitigation through management measures in the Construction and Environmental Management Plan, as well as surface water management, attenuation and drainage of foul waters, there is no risk of significant negative impacts. Mitigation measures have been informed by the Geotechnical Report and Hydrogeological Assessment appended to the EIAR. Technical specifications for the proposed boundary retaining walls and stabilisation works provided. Modelling demonstrates that destabilisation of the site and surrounds will not result. After implementation of mitigation measures there is no risk of significant negative residual effects.

13.131. **Noise and vibration** – during the construction phase, impact from construction related activities and plant is anticipated. These impacts will be on a short-term, temporary basis and will be mitigated through measures in the Construction and Environmental Management Plan. During the operational phase, no negative impacts are identified. After implementation of mitigation measures, there are no significant negative residual effects.

- 13.132. **Transportation** –mitigation measures described in the Construction and Environmental Management Plan will limit residual impact during construction to slight short term effects. During the operational phase, negative long-term effects are anticipated on the Sutton Cross junction in terms of increased congestion. However, this impact is not a consequence of the proposed development, with the proposal contributing marginally to overall congestion in the area. In the ‘no development scenario’ the Sutton Cross junction would still be over capacity. Reduced car parking is intended to promote use of more sustainable transport modes. Overall, impact will be within acceptable parameters.
- 13.133. **Material Assets - Archaeology and cultural heritage** – no risk of significant permanent adverse impacts upon archaeological cultural heritage, with the application of mitigation measures.
- 13.134. **Material Assets – Utilities and waste** - no significant effects are anticipated. During construction phase, new connections may be required, and this impact would be temporary in duration. Mitigation is formed of adherence to relevant codes of practice, design guidance and consultation with local and statutory authorities. An Outline Construction and Demolition Plan and Operational Waste Management Plan mitigate impacts in terms of waste. With mitigation in place, no significant residual impacts will result.
- 13.135. **Landscape and visual impacts** – during construction short-term negative impact is anticipated. During operation, no significant negative impact would result in relation to landscape and visual impact from the proposed development. The proposed development would in general have neutral and positive effects upon landscape character and visual environment, with slight negative impact to isolated areas that would be consistent with the evolution of the built environment for the area and within acceptable parameters for impact.
- 13.136. Having regard to the above, the likely significant environmental effects arising as a consequence of the proposed development have been satisfactorily identified, described and assessed in this EIA. I also consider that the EIAR is compliant with Article 94 of the Planning and Development Regulations, 2001, as amended.

14.0 Conclusion

- 14.1. The subject site is zoned Objective TC – Town and District Centre and Objective RS – Residential, where residential is a permitted in principle use. The proposed café/retail uses are also acceptable. The proposed development will involve the demolition of buildings which, due to their current poor condition, do not contribute positively to the Architectural Conservation Area, and construction of buildings that are sensitively scaled in response to the proximity to the Martello Tower Protected Structure and heritage character of the area. This is in light of provisions contained in the Architectural Heritage Guidelines.
- 14.2. The density of the proposed development is also appropriate, in light of the location of the site partially within the designated town centre for Howth, walking distance to Howth DART Station, giving access to high frequency, high capacity public transport. This is supported by the ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ (2020) and the ‘Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities’ (2009) which support higher density development at appropriate locations. The height of the proposed development at maximum 5 storeys is also appropriate, incorporating the criteria set out in the ‘Urban Development and Building Height, Guidelines for Planning Authorities’ (2018).
- 14.3. A detailed assessment of amenity impacts has been carried out, and this has determined that no significant adverse impact would result from the proposed development upon surrounding residents’ amenity. The future occupiers of the scheme will also benefit from an acceptable standard of internal amenity. The overall provision of car parking and cycle parking is considered acceptable. I am satisfied the future occupiers of the scheme will not be at an unacceptable risk from flooding, and the proposal will not increase the risk of flooding elsewhere.
- 14.4. The subject site is located immediately adjacent to Howth Head SAC and proximate to Howth Head Coast SPA, designated European sites of importance. Appropriate Assessment has been carried out and mitigation is incorporated to ensure the proposed development would not adversely affect the integrity of European sites.

- 14.5. Environmental Impact Assessment has been carried out and has confirmed that with the incorporation of mitigation, no significant negative residual impacts would result from the proposed development.
- 14.6. Having regard to the above assessment, I recommend that section 9(4)(a) of the Act of 2016 be applied and that permission be GRANTED for the proposed development, subject to conditions, for the reasons and considerations set out below.

15.0 Recommended Order

Planning and development Acts 2000 to 2019

Planning Authority: Fingal County Council

- 15.1. Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 28th Day of March by Balcadden GP3 Limited care of Brady Shipman Martin, Mountpleasant Business Centre, Ranelagh, Dublin, D06 X7P8.

Proposed Development

- 15.2. The proposed development consists of:
- Demolition of existing structures on site including the disused sports building (c.604sqm) on the Balcadden Road portion of the site and the Former Bailey Court Hotel Buildings on Main Street (c.2051sqm) and the construction of a residential development set out in 4no. residential blocks, ranging in height from 2 to 5 storeys to accommodate 180no. apartments and duplexes with associated residential tenant amenity, 1no. retail unit and 2no. café/retail units.
 - The site will accommodate a total of 139no. car parking spaces and 410no. bicycle spaces.
 - Landscaping will include a new linear plaza which will create a new pedestrian link between Main Street and Balcadden Road to include the creation of an additional 2no. new public plazas and also maintains and upgrades the

pedestrian link from Abbey Street to Balscadden Road below the Martello Tower.

- The 4no. residential buildings range in height from 2 storeys to 5 storeys, accommodating 180no. apartments comprising 4no. studios, 62no. 1 bed units, 89no. 2 bed units and 25no. 3 bed units as follows:
- Block A is a 3 storey building, including balconies, accommodating 2no. units;
- Block B is a 2 to 5 storey building, including setbacks, balconies, and external roof terraces at 3rd to 4th floors accommodating 126no. units;
- Block C is a 3 to 5 storey building, including setbacks and balconies, accommodating 43no. units;
- Block D is a 3 storey building, including balconies, accommodating 9 no. residential units;
- Residential Tenant Amenity Space is provided in Blocks B and C, totalling c.427.1sqm and Communal External Amenity Space is provided throughout the scheme including at roof level on Block B, totalling c.4,108sqm.
- Non-residential uses comprise of retail unit of c.106.4sqm in Block A at ground level, café/retail unit of c.142.7sqm in Block C at ground and first floor, café/retail unit of c.187.7sqm in Block D at ground level resulting in a total of c.436.8sqm of non-residential other uses.
- The development will include a single level basement under Block B, accessed from Main Street only, containing 139 car spaces, including 7 accessible spaces, plant, storage areas, waste storage areas and other associated facilities. A total of 410 cycle parking spaces are provided for at both basement and ground level, comprising 319 resident spaces and 91 visitor spaces.
- The scheme provides for a new linear plaza which will create a new pedestrian and cycle link between Main Street and Balscadden Road to include the creation of an additional 2no. new public plazas and also maintains and upgrades the existing pedestrian link from Abbey Street to Balscadden Road below the Martello Tower.
- All other ancillary site development works to facilitate construction and the provision of the basement car park, site services, piped infrastructure, a sub

station, public lighting, plant, signage, bin stores, bike stores, boundary treatments and hard and soft landscaping.

- It is proposed to reduce the ground levels on the site from c.34.5m OD to c.19.97m OD locally under Block C. A single storey basement is proposed under Block B with the existing ground level reduced from c.20m OD to c.17.1m OD. occurring at formation level.

Decision

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

Matters Considered

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

16.0 Reasons and Considerations

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

- (a) the location of the site in the established urban area of Howth in an area zoned for residential (Objective TC – Town and District Centre and Objective RS – Residential, where residential is a permitted in principle use.);
- (b) the policies and objectives of the Fingal Development Plan 2017-2023;
- (c) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016 and Housing for All: A new Housing Plan for Ireland 2021;
- (d) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;

- (e) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (f) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government 2020;
- (g) Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- (h) Architectural Heritage Protection- Guidelines for Planning Authorities 2011;
- (i) The nature, scale and design of the proposed development and the availability in the area of public transport and water services infrastructure;
- (j) The pattern of existing and permitted development in the area;
- (k) The planning history of the area, including its proximity to the Howth Special Amenity Area and within the Buffer Zone to the SAA, as well as being in the Howth Historic Core Architectural Conservation Area, and proximate to Protected Structures in the ACA (particularly the Martello Tower);
- (l) Section 37(b)(2) of the Planning and Development Act 2000, as amended, whereby the Board is not precluded from granting permission for a development which materially contravenes a Development Plan;
- (m) The submissions and observations received;
- (n) The Chief Executive Report from the Planning Authority; and
- (o) The report of the inspector.

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

Appropriate Assessment: Stage 1

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

Appropriate Assessment: Stage 2

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

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

- a) the site-specific conservation objectives for the European sites,
- b) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, and in particular the risk of impacts relating to water quality, dust and the spread of invasive species,
- c) the mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the

potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' conservation objectives.

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

This conclusion is based on the measures identified to control the quality of surface water discharges which provide for the interception of silt and other contaminants prior to discharge from the site during construction and operational phases, dust suppression and preventing the spread of invasive species.

Environmental Impact Assessment

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

- (a) the nature, scale and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- (c) the submissions from the Planning Authority, the observers and prescribed bodies in the course of the application,
- (d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant identifies and describes adequately the direct, indirect and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board agreed with the summary and examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in

the course of the application. The Board is satisfied that the Inspector's report sets out how these were addressed in the assessment and recommendation (including environmental conditions) and are incorporated into the Board's decision.

Reasoned Conclusions on the Significant Effects

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account current knowledge and methods of assessment and the results of the examination set out in the Inspector's Report. The Board is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are those arising from the impacts listed below. A Construction Environmental Management Plan is the overarching general mitigation relevant to the project design and delivery for the construction stage.

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

- 16.1. **Population and human health** - positive impacts in relation to the provision of new homes in close proximity to public transport, increased economic activity and with the provision of new public route. Positive cumulative impact from increased employment opportunities, access and transport infrastructure. Mitigation measures include adherence to HSE Covid-19 guidance and application of a construction management plan during the construction phase to reduce impact upon human health. After implementation of these measures there is no risk of significant negative residual effects.
- 16.2. **Biodiversity** – with mitigation in place, no long-term significant impacts are expected. No residual impact upon internationally or nationally significant receptors will arise with mitigation in place. Residual impact upon biodiversity will be locally significant, with suitable mitigation in place to reduce impact on key ecological receptors. Mitigation includes the implementation of measures in a Construction and

Environmental Management Plan during the construction phase, reduce risk of discharge from the site, and ensuring sensitivity to bats. Removal of vegetation will be timed to avoid impact on birds, bats, mammals and lizard. Managed removal of invasive alien flora from the site preventing transfer to designated sites. During the operational phase, new tree planting and wildflower meadows, sensitive lighting and signage to educate visitors to Howth Head SAAO will reduce impact. After implementation of these measures there is no risk of significant negative residual effects.

- 16.3. **Land, soils, geology, water, air quality or climate** - with the implementation of mitigation through management measures in the Construction and Environmental Management Plan, as well as surface water management, attenuation and drainage of foul waters, there is no risk of significant negative impacts. Mitigation measures have been informed by the Geotechnical Report and Hydrogeological Assessment appended to the EIAR. Technical specifications for the proposed boundary retaining walls and stabilisation works provided. Modelling demonstrates that destabilisation of the site and surrounds will not result. After implementation of mitigation measures there is no risk of significant negative residual effects.
- 16.4. **Noise and vibration** – during the construction phase, impact from construction related activities and plant is anticipated. These impacts will be on a short-term, temporary basis and will be mitigated through measures in the Construction and Environmental Management Plan. During the operational phase, no negative impacts are identified. After implementation of mitigation measures, there are no significant negative residual effects.
- 16.5. **Transportation** –mitigation measures described in the Construction and Environmental Management Plan will limit residual impact during construction to slight short term effects. During the operational phase, negative long-term effects are anticipated on the Sutton Cross junction in terms of increased congestion. However, this impact is not a consequence of the proposed development, with the proposal contributing marginally to overall congestion in the area. In the ‘no development scenario’ the Sutton Cross junction would still be over capacity. Reduced car parking is intended to promote use of more sustainable transport modes. Overall, impact will be within acceptable parameters.

- 16.6. **Material Assets - Archaeology and cultural heritage** – no risk of significant permanent adverse impacts upon archaeological cultural heritage, with the application of mitigation measures.
- 16.7. **Material Assets – Utilities and waste** - no significant effects are anticipated. During construction phase, new connections may be required, and this impact would be temporary in duration. Mitigation is formed of adherence to relevant codes of practice, design guidance and consultation with local and statutory authorities. An Outline Construction and Demolition Plan and Operational Waste Management Plan mitigate impacts in terms of waste. With mitigation in place, no significant residual impacts will result.
- 16.8. **Landscape and visual impacts** – during construction short-term negative impact is anticipated. During operation, no significant negative impact would result in relation to landscape and visual impact from the proposed development. The proposed development would in general have neutral and positive effects upon landscape character and visual environment, with slight negative impact to isolated areas that would be consistent with the evolution of the built environment for the area and within acceptable parameters for impact.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, or historic environment, would be acceptable in terms of urban design, height, scale, mass, and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area. In coming to this conclusion, specific regard was had to the Chief Executive Report from the Planning Authority and particularly the recommended amendments to the proposed development, which were addressed in detail in the Inspector's Report. It was considered that while the height, scale and mass of the development would not have an unacceptable impact at maximum 5 storeys in height. The Board concluded that the development would not result in undue overlooking of adjacent sites or within

the proposed development itself and would represent an acceptable standard of quality for the proposed accommodation, with a height, scale and mass that would have an acceptable visual impact on the heritage setting of the site. The Board also concluded that the proposed development was acceptable in all other respects.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area, a grant of permission could materially contravene the potential unit number identified under the Fingal Development Plan 2017-2023 for Howth. The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Development Plan would be justified for the following reasons and consideration.

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

The strategic nature of the site for the delivery of housing, as one of only a few remaining vacant sites identified for residential development, and with excellent accessibility, in Howth. In this sense, the site is strategically important for the delivery of housing in Howth, in the context of national planning policy documents and guidelines which promote compact growth.

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

Permission for the development should be granted having regard to national planning policy guidelines that promote increased housing delivery on appropriate sites, including Housing for All, Rebuilding Ireland An Action Plan for Housing and Homelessness, and Project Ireland 2040 – National Planning Framework. The site characteristics align with national principles underpinning sustainable compact growth in urban areas, being situated a short walking distance to Howth Dart Station and within the town centre. In addition, the proposed development is also in accordance with SPPR1 and development management criteria (under section 3.2) in the Building

Height Guidelines, as well as SPPR's and associated guidance in the Apartment Guidelines.

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

The pattern of development in the area, specifically being the permission for the Techrete site (Claremont SHD ref. 306102-19) formed of 512no. units and the Deer Park site (SHD ref. 310413-21) formed of 162no. units, which have been approved in exceedance of the potential unit number for Howth set out in the Development Plan, and therefore indicating that a material contravention would therefore similarly be justified for the proposed development.

17.0 Conditions

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

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) To Block B, the proposed framed canopies serving roof terraces within the northern half of the block shall be omitted;
 - (b) Stairwells to access roof terraces shall be positioned away from the northern section of Block B;
 - (c) Material finishes to the roofs of Blocks A and D to be amended to natural slate and the material finish to the dormer/bay windows in the roof should complement the colour of the roof covering;

- (d) The Material Palette for the development should be amended to omit use of render (refer to condition 6);
- (e) Safe, segregated access for cyclists to the cycle storage at basement level shall be demonstrated;
- (f) The secondary windows to open plan living rooms in the top two floors (2nd and 3rd floors) of Block B where it is situated on the western boundary and secondary windows to open plan living area and bedroom within Block A where it is situated on the boundary, shall be obscure glazed;
- (g) Balconies shall be accessible and have a functional relationship with the main living space to units, and comprise the minimum space required, as described in the Sustainable Urban Housing: Design Standards for New Apartment; and
- (h) Detailed landscape drawings of the pedestrian path to the north of the application site and base of the Martello Tower, demonstrating full public access. Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

3. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report submitted with this application as set out in Chapter 15 of the EIAR 'Summary of Mitigation Measures', shall be carried out in full, except where otherwise required by conditions attached to this permission.

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

4. The mitigation measures contained in the Natura Impact Statement which was submitted with the application shall be implemented in full.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the European sites.

5. Notwithstanding the provisions of Article 10(4) of the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, no room in the proposed development shall be used for the purpose of providing overnight paying guest accommodation/ Short term Letting without a prior grant

of planning permission.

Reason: In order to prevent overdevelopment of the site in the interest of residential amenity.

6. Details of the materials, colours and textures of all the external finishes to the proposed dwellings/buildings shall be agreed in writing with the planning authority prior to commencement of development. A sample of the stone finish at ground floor is to be submitted to the Planning Authority for written agreement prior to the commencement of the development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

7. Details of all security shuttering, external shopfronts, lighting and signage shall be agreed in writing with the planning authority prior to-occupation of the commercial/retail units.

Reason: In the interest of the amenities of the area/visual amenity.

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

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

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

9. The landscaping and earth works as submitted to An Bord Pleanála as part of this application shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be

adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

10. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. A piece of public art or sculpture or architectural feature should also be incorporated, the location of which shall be agreed with the Planning Authority in writing. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority or management company.

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

11. The recommendations of the submitted tree report shall be implemented in cooperation with the appointed Project Arborist, with retention of those trees outside of the redline boundary but proximate to the site, as identified in the submitted tree survey drawing with the application.

(a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained, shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.

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

storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

(c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of trees to be retained, as submitted with the application, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.

(d) No trench, embankment or pipe run shall be located within three metres of any trees which are to be retained.

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

12. The internal road, pedestrian, cycle network serving the proposed development, including turning bays, footpaths and kerbs, and the underground car park shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of amenity and of traffic and pedestrian safety.

13. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. Residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.
- (b) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units (and the remaining development).

14. A minimum of 10% of all car parking spaces should be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/stations at a later

date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, the development shall submit such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

15. An ecological management scheme (including reference to phasing/construction timing and landscaping, as well as appointment of a scheme Ecologist) for the proposed development, with an objective of monitoring and recording any ecological impacts, both within and adjacent to the site (and with specific regard for Howth Head SAC and Howth Head Coast SPA) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The site shall be managed in accordance with the agreed scheme.

Reason: To ensure the preservation and protection of flora and fauna.

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

Reason: In the interests of amenity and public safety.

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

Reason: In the interests of visual and residential amenity.

18. Proposals for an estate/street name, apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the

development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

19. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

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

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

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

Prior to commencement of development the developer shall submit to the

Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

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

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

22. The developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

23. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including (but not limited to):

- a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- b) Location of areas for construction site offices and staff facilities;
- c) Details of site security fencing and hoardings;
- d) Details of on-site car parking facilities for site workers during the course of construction;
- e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- f) Measures to obviate queuing of construction traffic on the adjoining road network;
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- i) Provision of parking for existing properties during the construction period;
- j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;

- m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains to be initiated at the earliest stage of the project on site.
- n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.
- o) Complete specification of cut and fill works to the site.
- p) Construction Traffic Management Plan.
- q) A Ecological Clerk of Works to oversee all environmental/biodiversity mitigation measures set out in the CEMP/NIS/EIAR, including supervision of vegetation clearance from the site, with pre-clearance checks for bat roosts.

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

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

Reason: In the interest of sustainable waste management.

25. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays and 0800 to 1400 Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

26. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To ensure the satisfactory completion and maintenance of this development.

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

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Rachel Gleave O'Connor
Senior Planning Inspector

28th November 2022