



An
Bord
Pleanála

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

Inspector's Report ABP-313144-22

Strategic Housing Development

312 no. residential units (205 no. houses, 107 no. apartments), childcare facility and associated site works.

Location

In the townland of Regles, Minister's Road, Lusk, Co. Dublin.
(www.luskregles.ie)

Planning Authority

Fingal County Council

Applicant

Dwyer Nolan Developments Limited

Prescribed Bodies

1. Irish Water
2. Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs
3. Heritage Council

4. An Taisce – the National Trust for Ireland

5. The relevant Childcare Committee

6. Transport Infrastructure Ireland

7. National Transport Authority

Observer(s)

1. Brian Dennehy

2. Gary Dignam

3. Justin Dawson

4. Karla Piner

5. Levine Dignam

6. Louise Ray

7. Lusk Action Group

8. Lusk Community Council

9. Robert O'Donoghue

10. Round Towers Lusk GAA Club

11. Tricia Lynch

Date of Site Inspection

10th January 2023

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 application relates to a c.8.3 hectare site located in Lusk in Fingal. The site is on the western outskirts of Lusk Village. The subject site is bounded by Minister's Road to the south, by agricultural lands to the north, to the east by the Round Towers GAA Club and to the west by agricultural lands that include a dwelling and a golf driving range. The site comprises five fields or field sections and is traversed centrally by field boundaries, drainage ditches and mature hedge planting. The northern and southern boundaries are defined by field boundaries with hedge planting. The eastern boundary is undefined. The upper section of the western boundary includes a field boundary that is marked by hedge planting at its northern section, while the lower section is undefined. The site comprises a mixture of grassland, tilled land, bare ground, dry meadows, grass verges and scrub and ground levels fall from north to south. There is an underground gas main and an associated wayleave running north – south through the eastern section of the site.

2.2. The Dun Emer housing estate is located to the south of Minister's Road opposite the site. Lands to the immediate east are zoned Open Space with an established sports facility at this location (GAA pitches), while the lands to the west, (including a small portion of the application site to the south west), are zoned for General Employment uses.

3.0 Proposed Strategic Housing Development

3.1. The proposed development is for 312 residential units on a 8.3ha site as follows:

- 312 no. dwellings comprised of 205 no. 3 & 4 bed, 2 & 3 storey, detached, semi-detached and terraced houses, 40 no. 2 & 3 bed apartment / duplex units in 3 no. 3 storey blocks (comprised of Duplex Types A1, A2, B1 & B2) and 67 no. 1, 2 & 3 bed apartments in 2 no. blocks (comprised of Block C,

being 3 storeys, and Block E, being 2-5 storeys over a basement level car park).

- The development includes a 1-2 storey creche (c.484.6sqm) with associated outdoor space to the rear.
- Access to the development will be via 2 no. vehicular access points form Minister’s Road, along with the provision of a roadside footpath and cycle path along the front of the site at Minister’s Road.
- The proposed development also provides for: (i) all associated site development works above and below ground, (ii) public open spaces (c. 0.99 ha / 9,999m²), (iii) communal open spaces (c. 1,849m²), (iv) hard & soft landscaping & boundary treatments, (v) basement & surface car parking (Total: 583 no. car parking spaces, including EV parking), (vi) basement & surface bicycle parking (Total: 498 no. bicycle parking spaces), (vii) bin & bicycle storage, (viii) public lighting, and (ix) 2 no. ESB sub-stations

3.2. Table 3.1: Key Figures

Site Area in hectares (ha)	8.3ha
No. of units	312 (205 houses, 67 apartments and 40 duplexes)
Density (units per hectare – uph)	c.37.5 uph
Height	2 to 5 storey
Dual Aspect	67% of proposed apartments
Open Space	9,999sqm public open space
Part V	31 no. units (10%)
Vehicular Access	Ministers Road
Car Parking	583 (surface and basement)
Bicycle Parking	498 (surface and basement)
Creche	484.6sqm

Housing Type	1 bed	2 bed	3 bed	4 bed	Total
House	-	-	161	44	205
Apartment	22	43	2	0	67
Duplex	0	20	20	0	40
Total	22	63	183	44	312
(%)	(7%)	(20%)	(59%)	(14%)	(100%)

4.0 Planning History

- 4.1. ABP Reference 305713-19: SHD application refused by An Bord Pleanála for 359 no. residential units (223 no. houses and 136 no. apartments) creche and associated site works. The Board refused for one reason related to the proposed road layout, dominance of surface carparking and lack of high quality usable public open space, which was considered to be an unsatisfactory design response that was contrary to Ministerial Guidelines.
- 4.2. PA Reference F17A/0327 / ABP Reference No. 301001-18: 2018 decision by An Bord Pleanála to refuse permission for a proposed residential development comprising of 228 dwelling units, a crèche and associated works on the site. (Subject to conditions, the planning authority decision granted permission for 209 units). The Board refused for two reasons: reason 1 related to too low of a density and reason 2 related to inadequate provision for an identified feeder cycle route along the southern boundary of the site along Minister's Road frontage).

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 29th September 2021 in respect of a proposed development of 328 no. 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 16th November 2021 (ABP Ref. 310654-21) 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. Delivery of public and communal open space in conjunction with the proposed treatment of surface water.
- 5.4. Specific information was also requested in relation to the following:
- Clarification of proposed wastewater services;
 - Site layout plan indicating areas to be taken in charge;
 - Detailed site layout plan illustrating proposal and land zoning;
 - Additional CGIs;
 - Response to Traffic and Transport issues raised by Fingal CC;
 - Report addressing the treatment of hedgerows;
 - Sunlight/Daylight/Overshadowing analysis;
 - Information referred to in article 299B(1)(b)(ii)(II) and article 299B(1)(c);
 - Material Contravention Statement if relevant.

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 (2022) (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.
- Climate Action Plan 2023

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.

6.3. Local Policy

6.3.1. The Fingal County Development Plan 2017-2023 applies. The Lusk Local Area Plan 2009, contained local objectives relating to the subject site and its immediate environs. However, this plan has expired and is superseded by the more up to date policy context contained in the Fingal Development Plan 2017-2023

6.3.2. The site is zoned RA 'Residential Area' with an objective to 'provide for new residential communities subject to the provision of the necessary social and physical infrastructure'. The zoning vision is to 'ensure the provision of high quality new residential environments with good layout and design, with adequate public transport and cycle links and within walking distance of community facilities'. Residential development is permitted in principle.

6.3.3. A small portion of the site is also zoned GE – 'General Employment' with the objective to 'provide opportunities for general enterprise and employment'.

6.3.4. Variation No 2 (adopted June 2020):

6.3.5. Core Strategy: Lusk is a self-sustaining town and having regard to the level of development undertaken in the town, it is considered that a 5% growth projection is appropriate.

6.3.6. Table 2.4: Total residential capacity in Lusk 38 (ha) / 1,020 remaining residential units.

6.3.7. Masterplan:

6.3.8. Sheet No.6 Lusk / Rush: The site is within the development boundary of Lusk and is within Masterplan area "MP 6.B".

6.3.9. Policy PM14: Prepare Masterplans for areas designated on Development Plan maps in co-operation with relevant stakeholders, and actively secure the implementation of these plans and the achievement of the specific objectives indicated.

6.3.10. Objective LUSK 11: Prepare and/or implement the following masterplans during the lifetimes of this plan

6.3.11. Minister's Road Masterplan (see Map Sheet 6A: MP 6.B):

- Provide for a new Community Facility with a minimum of 300 sq. m.
- Provide for phased residential development ensuring that playing pitches and the Community Facility are provided in tandem.
- Ensure that no development takes place until such time as a Management Plan for the Outer Rogerstown Estuary is adopted by the Council. The Management Plan shall incorporate a timescale for the implementation of management measures.

6.3.12. Objective SS20: Manage the development and growth of Lusk, Rush and Skerries in a planned manner linked to the capacity of local infrastructure to support new development.

6.3.13. Chapter 3 sets out Design Criteria for Residential Development including mix of dwellings, density and open space provision.

6.3.14. The Development Strategy for Lusk, contained in Chapter 4 'Urban Fingal' seeks to conserve and enhance the unique character of the town core, consolidate the planned growth of the town and to ensure that the level of retail and local services grows to serve the expanding town population. The following objectives are also considered relevant:

- Objective LUSK 4 is to retain the traditional hedgerow boundary treatment characteristic of the town. The objectives states that the protection and enhancement of existing boundary hedgerows and trees shall be required save where limited removal is necessary for the provision of access and promote the planting of hedgerows and trees using native species within new developments.
- Objective LUSK 7 is to ensure that existing and future development is consolidated within well-defined town boundaries to maintain the distinct physical separation of Lusk and Rush.

- Objective LUSK 11 is to prepare and/or implement Masterplans during the lifetime of this Plan for the identified Masterplan areas including the Minister's Road Masterplan (Map Sheet 6A: MP 6.B refers). The objectives states that the main elements to be included in the Ministers Road Masterplan should include the provision of a new community facility with a minimum of 300 square metres, provision for phased residential development ensuring that playing pitches and the community facility are provided in tandem and ensure that no development takes place until such time as a Management Plan for the Outer Rogerstown Estuary is adopted by the Council.
- Objective MT13: Promote walking and cycling as efficient, healthy, and environmentally-friendly modes of transport by securing the development of a network of direct, comfortable, convenient and safe cycle routes and footpaths, particularly in urban areas.
- Objective MT14: The Council will work in cooperation with the NTA and adjoining Local Authorities to implement the Greater Dublin Area Cycle Network Plan subject to detailed engineering design and the mitigation measures presented in the SEA and Natura Impact Statement accompanying the NTA Plan.
- Objective MT41: Seek to implement the Road Improvement Schemes indicated in Table 7.1 within the Plan period, subject to assessment against the criteria set out in Section 5.8.3 of the NTA Transport Strategy for the GDA, where appropriate and where resources permit. Reserve the corridors of the proposed road improvements free of development. Ministers Road upgrade is listed as a proposed road scheme in Table 7.1.
- Section 12.3 of the Development Plan sets out design criteria for urban development and includes quantitative standards relating to dwelling size, separation standards, public and private open space provision, car parking, etc. Reference is made to guidelines published by the Department of Environment, Community and Local Government in respect of quality housing and sustainable residential development and to the Design Manual for Urban Roads and Streets, which was published jointly with the Department of

Transport Tourism and Sport. Policy objectives PM31 to PM33 promote good urban design practices in accordance with these guidelines.

- With respect to residential densities, the Development Plan states that regard should be had to the government's guidelines (Sustainable Residential Development in Urban Areas, Urban Design Manual) (Objective PM41).

6.3.15. Public Open Space:

- Table 12.5: Quantum and quality for public open space areas.
- Objective PM52 & Objective DMS57: Require a minimum public open space provision of 2.5 hectares per 1,000 population.
- Objective DMS57A: Require a minimum 10% of a proposed development site area be designated for use as public open space.
- Objective DMS57B: Require a minimum 10% of a proposed development site area be designated for use as public open space.

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 and outlining the following potential material contraventions that may result from the proposed development:

- i) Public Open Space – the proposed development does not provide for a quantum of public open space of 2.5 hectares per 1000 population as per objectives PM52 and DMS57 of the Fingal County Development Plan.
- ii) Car Parking – the proposed development provides for 134 no. car parking spaces for the proposed apartment and duplex units, along with 13 no. visitor car parking spaces, which is a shortfall of 26.5 long term car parking spaces and 8 no. visitor car parking spaces, with reference to table 12.8 of the Fingal County Development Plan. 410 no. car parking spaces are also

included to serve the proposed houses in the development, along with 16 no. visitor spaces, in compliance with table 12.8 of the Development Plan.

- iii) Apartment Standards – the Fingal County Development Plan includes a single size standard for two bed apartments being 73sqm, however the Apartment Guidelines includes both a 2 bed / 4 person size standard of 73sqm and a 2 bed / 3 person size standard of 63sqm. The proposed development includes 2 bed / 3 person apartment units that would not conform with the minimum 73sqm described in the Development Plan, but which meet the reduced size standard of 63sqm described in the Apartment Guidelines.

8.0 Third Party Submissions

8.1. 11 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

- Query if development is in keeping with the draft Fingal Development Plan.

8.3. Transportation

- Upgrade of Ministers Road should be conditioned to include road improvements, footpath construction and new cycle lane. Should take place prior to commencement in light of additional traffic generated.
- No cycle lanes within the internal road layout.
- Additional pressure of traffic on Ministers Road which is prone to potholes from heavy machinery. Already busy with tractors, trucks, cars.
- Additional traffic congestion in Lusk.
- Driveways directly onto Minister's Road, residents will reverse onto the road and be a danger.
- The Location Map on page 9 of the Traffic and Transport Assessment (TTA) is inaccurate and does not reflect the current volume of houses built on the ring road. The primary access route indicated on the TTA to the town centre by car or bike is inaccurate and doesn't reflect use by existing residents. The

section of Church Road located in the vicinity of the Round Tower is one-way, from the junction of Barrack Lane to the Square. The lower end of Church Road is a two-way street, but there is an unofficial contraflow in operation here, as the road is so narrow two vehicles cannot pass each other.

- Buses are overcrowded by the time they reach Lusk.
- Minister's Road is dangerous to walk on as no street lighting or bank / ditch / verge.
- Footpath to the train station is not fit for purpose. No cycle path link to station. Trains are overcrowded. Insufficient cycle storage at the station.
- TTA map of local amenities is inaccurate.
- Proposed upgrades to cycle links and buses are not certain.
- No provision for visitor parking.
- TTA does not take into account traffic growth and pressure at the Blake's Cross junction as a result of the Dun Emer and Chapel Farm housing estates. Ministers Road is also a through road to Rush, Loughshinny and Skerries as a result of congestion at Blake's Cross.
- There is a 3-tonne limit on Minister's Road which is not enforced, resulting in fumes, noise and vibrations.
- Road surfaces at the T junctions from Dun Emer Way on to Minister's Road have a difference in levels and have not been properly integrated.
- No pedestrian crossing to existing incomplete footpath and cycle lane provision on Minister's Road.
- Same developer has failed to provide improvements to Minister's Road in the past.
- Ministers road is inadequate for the current volume of traffic, lacking road markings or traffic calming measures.
- No disability car-parking.

- Previously refused as lack of cycle lane on Ministers Road. Current application has no cycle infrastructure in the estate. Trees lining cycle path on Ministers Road are in private gardens and will not be taken in charge.
- Lusk LAP 2009 refers to the upgrade of Ministers Road. Previous FDP required upgrade prior to development. Current FDP in Objective MT41 and Table 7.1 carries this through. Lack of footpaths is a serious concern.

8.4. Residential Amenity

- Green space should not be reduced.
- Roadside verges should not be taken into account in the calculation of public open space provision.
- Tree specifications do not show size. Images imply a tree age of 10 to 15 years.

8.5. Design and Scale

- High rise apartments will destroy the environmental landscape of the area. Scale and design of apartment blocks do not complement or bare any connection to existing dwellings on Minister's Road.
- Layout is unacceptable with future connections to GE lands, farm land and GAA pitch. Doesn't adhere to the zoning objective.
- Use of red brick is not appropriate.
- Three storey homes directly accessed from Ministers Road is inappropriate and does not reflect established precedent in the Dun Emer housing estate opposite for boundary walls and railings.
- Proposed 1.2m fence inappropriate boundary, particularly with GAA and GE lands. Leave residents vulnerable to vandalism. Leave GAA grounds unsecure. Trespassing on grounds, unsupervised, uncontrolled access. Encourage anti-social behaviour. Request 2m high block wall.
- Objective LUSK 2, 5 storey apartment block will impede views form the Ministers Road approach.

8.6. Flooding

- Concern that outfall from the site will exacerbate issues on pitch two for the GAA lands.
- Historical flooding issues at the southern junction of Hands Lane and Ministers Road.
- €80,000 set aside in the current Programme of Works to address the historical drainage issues that are associated with the outflow. Extra pressure from the development.

8.7. Infrastructure

- New community facility of minimum 300sqm should be provided. Creche is not a substitute for this. Mentioned in the development plan.
- Taking in charge process should be aligned with the phases of the development.
- Street trees on Ministers Road should be accommodated in a verge area that will be taken in charge in order to ensure appropriate long-term management.
- Request condition for physical or in-kind contribution towards bus shelter adjacent to the Ministers Road / R132.
- Lusk village has grown rapidly with additional housing, but very few amenities placed in the village.
- Insufficient places in schools.
- No educational or sports facilities to meet Autistic needs in Lusk Village.
- Does not fit with the agreed Lusk 2030 plan for better sports facilities, youth club facilities and open spaces.
- Foul odours in recent years from the sewer at the junction of Dun Emer Avenue/Minister's Road due to the volume of untreated sewage being pumped.
- Lusk has no library, no additional commercial units, clothes/discount/flower shops, restaurants and lack of recreational amenities. No training facility for athletics club. Insufficient football facilities.

- Objectives under the Lusk Local Area Plan 2009 require provision of a community facility on the site. And pedestrian right of way between community facility and Hands Lane. This is retained to a degree in FDP Lusk Objective 11.
- Ministers Road Masterplan 6.B provides for a new community facility and phasing to ensure playing pitches, community facility provided in tandem with residential development.
- If community facility not provided a financial contribution in lieu should be secured. Precedent for this in decision ref.F17A/0327 condition no.27.
- Taking in charge process should be phased as development carried out.

8.8. Mix

- The proposed design does not provide an appropriate mix of house sizes. There is need for 4 bed houses.
- No single storey homes in Lusk.
- Repetitive housing types in Lusk creating transient community.
- No dwellings to meet the need of people with disabilities.

8.9. Other

- The developer's work is substandard. Evidence submitted regarding the same.
- May be archaeological historic pieces on the site that should be examined.
- Creche never provided as required in the Forge estate, which was constructed by same developer, urge ABP to take enforcement.
- Concern that as road connections to the GE lands are shown, the landowner (who is the same developer for the current application) will seek a change in zoning of GE lands to residential. Direct connectivity with GE lands is not in line with the National Urban Design Guidelines.
- Wayleave is shown in the incorrect location on the submitted plans as previously had to be relocated by the GAA. Actual location follows the boundary with the site and GAA lands, rather than cuts through GAA lands.

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. Compliance with Development Plan Zoning
- 9.3. The proposals as it relates to use class and zonings accords with the Fingal Development Plan.
- 9.4. Objective LUSK 11 relates to the application site and adjoining lands regarding the preparation and implementation of a Masterplan for Ministers Road. The development plan includes elements for inclusion for any such Masterplan which include provision of a new community facility a minimum of 300sqm; provision for phased residential development ensuring that playing pitches and the community facility are provided in tandem; and a requirement that no development takes place until such time as a Management Plan for the Outer Rogerstown Estuary is adopted by the Council. To date no Masterplan has been prepared for the overall lands.
- 9.5. The Planning Authority is generally supportive of the development of the subject site in an appropriate manner as it can contribute to consolidating the built form of Lusk.
- 9.6. Compliance with Core Strategy
- 9.7. The proposal is considered to comply with the Core Strategy of the Development Plan.
- 9.8. Density is acceptable taking account characteristics of the site and the Core Strategy.
- 9.9. Proposed phasing is considered reasonable.
- 9.10. Urban Design & Placemaking
- 9.11. Concerns are expressed in submissions in relation to provision of community facilities in Lusk and the development of pedestrian/cycling links along Ministers Road from Lusk to the junction of the R132. On balance, the urban form, design and scale of the scheme, whilst urban in form is considered appropriate for an edge of settlement development.

- 9.12. The proposal demonstrates a high level of connectivity and permeability. Note concerns in submissions regarding connections to GE lands. There is a logical route of primary and secondary internal roads with an evident hierarch throughout the scheme.
- 9.13. Internal layout and road hierarchy inform focal points and wayfinding achieved through open spaces, destinations (i.e. the creche) and the apartment blocks to articulate arrival.
- 9.14. The Planning Authority generally welcome the frontage along Ministers Road which is predominantly 3 storey. The planning authority have concerns in relation to the scale, massing and design of the apartment blocks within a predominantly conventional-style housing development. Recommended that Apartment block E be reduced to a maximum height of 4 floors with the top (fourth) floor recessed / set back.
- 9.15. Noting the proximity of Apartment Block C to the western site boundary and the potential for overlooking that may arise from balconies and windows, it is recommended that, in the event of a grant of permission, Block C shall be omitted.
- 9.16. Concern with respect to the repetitious nature of a number of the dwelling facades. It is considered appropriate to ensure material finishes provide for high quality appearance. The west-facing elevation on the proposed block Duplex type B1 facing Ministers road could benefit from more visual interest in order to provide for a higher quality setting on approach to the site from the west (R132 junction) and better overlooking and active frontage / dual frontage at the access 'Road 1'.
- 9.17. Unit Typologies and Mix
- 9.18. The overall accommodation mix is considered to be wholly acceptable.
- 9.19. Residential Amenity
- 9.20. With the exception of Apartment block C as noted above, it is considered that the subject development, on account of its location and siting would not result in overlooking or overshadowing which would negatively impact on the existing residential amenities of the area. Proposed residential development is acceptable.
- 9.21. Visual Impact and Landscape

- 9.22. The subject site is within the 'low lying Agricultural' landscape character. The height of the proposed apartment blocks would not give rise to significant levels of negative visual impacts upon the dwelling units of the proposed development or the wider environs.
- 9.23. Open Space and Landscaping
- 9.24. Minimum required size of public open space is 500sqm. Open space area no.6 does not meet this minimum standard and should not be included in the calculation for Public Open Space provision. The linear strip of grass attached to north of open space area no.3 along the eastern flank of the site is considered to be Environmental Open Space and should not be included in the calculation for Public Open Space provision. The public open space layout is acceptable in principle. However the final landscape plan, specifications and maintenance details shall be agreed with the Planning Authority.
- 9.25. The play provision requirement for the development is 1,312sqm. Details outlined regarding the same.
- 9.26. Landscape drawings indicate extensive removal of trees and hedgerow within the site. The hedgerow to the north and part of the western site boundaries is to be retained. It is noted that part of the northern boundary and along Ministers Road to the south also comprises a townland boundary. Where townland boundaries exist in the form of hedgerows these should be retained where possible. Details of boundaries should be agreed with the Planning Authority, request a wall instead of a fence to the south-eastern boundary adjoining the Round Towers football pitch. Open Space 1 and units to the south shall have a boundary that is formed of a plinth wall and 20mm diameter railing. Boundary to GAA land should be a 1.2m wall topped with curtain railing to a total height of 1.8-2m.
- 9.27. Access and Transportation
- 9.28. The submitted Traffic and Transport Assessment and the DMURS Compliance Statement indicate that sightline visibility from both access points of 70m will be provided from a 2.4m setback in both directions. The Roads Layout drawing indicates 65m sightlines from a 2.4m setback at both access points. The Transportation Section for the PA notes a small discrepancy but nonetheless

consider the proposal to be acceptable. Access arrangements and cycle infrastructure provision noted.

- 9.29. The applicant has shown good connectivity and permeability throughout the proposed development, secondary routes are of coloured tarmac, with the Homezone areas finished in paving block. The applicant has shown good footpath connectivity in and around the site, there are several junctions where the pedestrian does not have priority, however this can be addressed by condition.
- 9.30. In general, the applicant has shown street/road hierarchy throughout the site which is satisfactory in accordance with the recommendations set out in the Design Manual for Urban Roads and Streets. Note that the Transportation Section for the PA state that for perpendicular parking areas a 6m wide road is required to facilitate reversing on egress and reduce the number of potential reversing manoeuvres. Pedestrians and cyclists should have priority throughout the site and this could be improved upon (condition recommended).
- 9.31. Note that the Transportation Section consider that the proposed development has a good mix of parallel / perpendicular parking provided in-curtilage and on-street. 9 no. units along the front boundary of the site are accessed directly off Ministers Road, which will inevitably result in reversing manoeuvres being carried out on egress from the in-curtilage parking and it is considered to be not ideal. Parking for the proposed Duplex units does not meet Development Plan Standards (78 spaces are required formed of 70 resident and 8 visitor bays), however 58 provided, so shortfall of 17 spaces. The provision of bicycle parking is generally considered to be acceptable.
- 9.32. Note that the Transportation Section state that perpendicular parking at the Creche is not acceptable as this inevitably involves reversing manoeuvres in and around the main drop off/pick up areas which has a high probability of vehicle-pedestrian conflict. Therefore, perpendicular parking should be for staff members only who will arrive before and leave after the children. The Creche should have a proper parallel set down area.
- 9.33. Note taking in charge drawing. Condition requested. Note that a proportion of parking is on-street and would become first come first served if taken in charge and would not be designated. All the parking spaces for residential house units should

include EV charging points. A minimum 10% of apartment and duplex unit parking spaces should be EV with ducting and servicing to all spaces to facilitate retro fitting.

9.34. Conditions requested in relation to Construction Management Plan and Mobility Management Plan.

9.35. Drainage/Flooding/Water Supply

9.36. The proposal is acceptable subject to application of Standard Irish Water requirements and concluding the capacity studies and agreement of any upgrade work requirements prior to submission to An Bord Pleanála. Note Irish Water have issued a Statement of Design Acceptance in relation to Water Supply.

9.37. The proposal relies heavily on below ground attenuation within Stormtech™ modular units. Although not normally considered permissible due to its negligible value in terms of biodiversity and amenity, its use has been deemed acceptable in this instance following intensive consultation internally and also with the applicant's consultants. In view of the vast attenuation storage requirement (c.3550sqm), limitations associated with the preferred layout, development density requirements and public open space constraints, the provision of large detention basins / bio-retention ponds are not considered viable or appropriate. In light of this, the Planning Officer directs the Boards attention to the recommendation of the Department of Housing, Local Government and Heritage who have sought the provision of a pond for amphibious creatures as part of the development. On balance, the surface water drainage proposal is considered to be acceptable and fit for Taking-in-Charge.

9.38. Recommend the installation of water butts to each house and that a design infiltration rate of 5mm/hr used in the design of swales is achieved.

9.39. Note the conclusions of the submitted Flood Risk Assessment.

9.40. Conservation and Ecology

9.41. Note mitigation to offset impact upon ecology.

9.42. Archaeology

9.43. Note that the approach presented in the application towards archaeology is acceptable to the Planning Authority.

9.44. Community Infrastructure

- 9.45. Note Objective LUSK 11 relating to a masterplan and elements include a new Community Facility. To date no Masterplan has been prepared for the overall lands. No community facility is proposed as part of the proposed development. The subject application relates to the portion of the Masterplan lands zoned for residential use. The Masterplan objective also includes adjoining lands zoned for general Employment and Open Space.
- 9.46. The scale, design and location of the proposed childcare facilities are generally considered acceptable.
- 9.47. Part V
- 9.48. Request condition.
- 9.49. EIA and AA
- 9.50. Not that An Bord Pleanála is the competent authority.
- 9.51. Conclusion
- 9.52. The proposed development which is located on a site within the settlement boundary of Lusk, will provide for an appropriate standard of residential development which is considered to be acceptable, subject to amendments as set out in conditions below.
- 9.53. Recommended Conditions
- 9.54. 30 no. conditions are recommended. Conditions are reflected in the summary above, including reference to specifications. Conditions of note include the following:
- Condition no.2 that apartment Block E be revised to a maximum 4 storey height, with recessed fourth floor; the omission of apartment block C; and revise the corner dwelling units 29-30 (duplex type b1) to incorporate a dual frontage on the west facing elevation and incorporate revised fenestration detail on the west-facing elevation at first floor level to promote an attractive and active visual relationship with Ministers Road.
 - Condition no.30 requesting a financial contribution towards expenditure that was and/or that is proposed to be incurred by the planning authority in respect of public infrastructure and facilities benefiting development in the area of the Authority, as provided for in the Contribution Scheme for Fingal County made by the Council.

9.55. **Departmental Reports**

9.56. Economic, Enterprise, Tourism and Cultural Development

- Recommend a condition to secure provision of public art or sculpture or architectural feature.

9.57. Environment Section

- Recommend condition in relation to preparation of a Construction and Demolition Resource Waste Management Plan.

9.58. Water Services

- Proposals are acceptable in relation to flood risk, foul water, water supply and surface water drainage.
- Recommend waterbutts to each house and that design infiltration rate of 5mm/hr is used in the design of swales.

9.59. Transportation Section

- Comments noted in summary of Chief Executive report above.

9.60. Report of Parks and Green Infrastructure Division

- Open Space no. 6 does not meet minimum standard. The linear strip of grass attached to Open Space no.3 is considered Environmental Open Space and should not be included in the calculation for Public Open Space provision. In relation to Public Open Space Provision calculations, Objective DMS 73 should also be noted. Applicant is required to make up any shortfall of Public Open Space provision in line with Development Plan standards, by way of a financial contribution in accordance with section 48 of the Planning and Development Act 2000.
- Public open space layout is acceptable in principle. The final landscape plan to be agreed with the Planning Authority.
- Play provision requirement for the development is 1,312sqm. Specifications for play provision noted and to be secured.
- Where residential property bounds directly onto Public Open Space, a wall shall be provided instead of fence.

- Proposed wood fence specification shall be to NRA Motorway standard.
- Boundary between Open Space 1 and the units to the south is to be a plinth wall and 20mm diameter railing instead of parkland railing.
- Path surfaces to be tarmacadam rather than dust.
- ESB substations should be relocated from Public Open Space areas.
- Central tree planting on Open Space no.2 (containing Stormtech unit) should be omitted to avoid structural damage in future.
- No compounds or storage of material to be located on areas of Public Open Space, and on SUDS, due to issues of soil compaction and denaturing.
- Measures to be secured for the protection of hedgerows.
- A tree bond of €30,000 is to be lodged with the Council prior to the commencement of development in order to ensure that the hedgerows shown for retention are protected and maintained in good condition throughout the course of development. This bond will be held by FCC for 3yrs post construction which may be extended in the event of possible construction related defects.
- A street tree plan is required to be agreed with the Planning Authority.

9.61. Heritage Officer

- The proposed development will have a detrimental impact on the areas of identified potential archaeological features. If it is not possible to preserve the identified archaeological sites in situ through redesign then archaeological excavation under license to the National Monuments Service, Department of Housing, Local Government and Heritage is required.
- Specifications for archaeological investigation, excavation and preservation outlined.
- Given the scale of the site, identification of isolated features during test-excavation across the site and the relatively high potential for further identification of archaeological material in the areas beyond those subject to test excavation, a programme of archaeological monitoring is also recommended. Specifications for the same outlined.

9.62. Elected Members

9.63. The Chief Executive Report includes a summary of comments made by Elected Members at the Special Meeting of Balbriggan, Rush-Lusk, and Swords Electoral Areas on 29th April 2022, which is copied below:

- Density is to be stated as gross/net;
- Calculation of density queried;
- Open space standards queried;
- Provision of adequate housing mix / Part V queried;
- Community Facility should be provided as per the previous LAP/Masterplan. If it cannot be provided then a financial contribution should be ring-fenced for a community facility;
- Consider design of the cycle infrastructure within and outside the scheme;
- Potential maintenance issues in future;
- Concern regarding access and egress to the adjacent GE zoned lands along with the indicated connectivity to the GE lands;
- The proposed development cannot impact on the viability of the GE zoned lands;
- Upgrade of Ministers Road to the R132 required due to additional traffic and usage;
- The scheme should deliver a pedestrian footpath connection from the R132 to Lusk;
- The developer owns a considerable amount of land toward to the R132;
- Concerns raised over Round Towers GAA club;
- The boundary between the club and the proposal needs to be resolved and proper boundary treatment put in place;
- The access to the GAA club needs to be secured;
- The wooden post and rail fence not acceptable;
- The wayleave demonstrated on the site is not accurate;

- The developer should meet/engage with the GAA club;
- Upgrade of Ministers Road to the R132 required due to additional traffic and usage;
- There is an opportunity to develop the footpaths, cycle lanes, erect bus shelters so that more people can access public transport in this area of Lusk;
- A Community Facility should be included as part of the development.
- The Planning Authority should not accept a financial contribution in lieu of shortfall of open space. The developer should provide the required amount;
- There should be alignment of the phasing of the development and the taking-in-charge process to ensure orderly development;
- Lusk suffers for inadequacy of infrastructure (transport and social);
- Community infrastructure needs to be delivered and frontloaded as part of any development;
- Provision of safe pedestrian and cycling access;
- Provision of adequate housing mix and housing for social/affordable;
- Query made regarding the provision of a drop off zone for the creche;
- Concern raised regarding lack of connectivity to the Lusk/Rush Train Station;
- Concern raised regarding design/layout of proposals along Minister's Road. A number of units appear to be 3 storey. 2 storey units considered more appropriate;
- Foul Water Provision – Agreement must be in place;
- The boundary to the industrial zoned land should be a secured boundary;
- The scheme presents an opportunity to provide better connectivity and pedestrian cycling links to Lusk.

10.0 Prescribed Bodies

10.1. Department of Housing, Local Government and Heritage

- Archaeology: On the basis of the submitted information, the Department recommends a planning condition pertaining to archaeological excavation and monitoring.
- Nature Conservation: It is welcomed that the townland boundary hedgerows on the north western edges of the site are to be retained, through regrettably the hedgerow along Ministers Road is to be removed. Proposed measures to mitigate impact noted. There is no provision in the development proposals for the inclusion of a pond or other water body in the landscaping of the scheme which could provide a suitable future breeding location for amphibian species. Recommend that the proposed landscaping of the Ministers Road boundary is modified to retain the hedgerow that currently exists, by constructing the footpath proposed to be built along this boundary to the rear of the hedgerow. A Hedgerow Management Plan, lighting design, bat boxes, and ponds should be secured by condition.

10.2. Inland Fisheries Ireland

- The development is located in the catchment of the Ballough/ Corduff system. The Corduff River system, which is salmonid, supports a significant local population of both resident Brown trout and migratory Sea trout (both *Salmo trutta*). Only clean, uncontaminated water should leave the site and drain to the river network.
- If permission is granted, all works will be completed in line with the Construction Management Plan (CMP) which ensures that good construction practices are adopted throughout the works period. The CEMP should detail and ensure Best Construction Practices including measures to prevent and control the introduction of pollutants and deleterious matter to surface water either directly or indirectly through the storm water drainage network and measures to minimise the generation of sediment and silt.
- There can be no direct pumping of contaminated water from the works to a watercourse at any time. Any dewatering of ground water during excavation works must be pumped into an attenuation area before being discharged offsite.

- The short-term storage and removal / disposal of excavated material must be considered and planned such that risk of pollution from these activities is minimised. Drainage from the topsoil storage area may need to be directed to a settlement area for treatment. A common issue encountered on large construction sites is the excessive removal of top soil from the site resulting in the generation of volumes of silted water after wet weather that cannot be sufficiently treated before discharge to watercourses.
- Precautions must be taken to ensure there is no entry of solids, during the connection to the surface water system.
- It is essential that local infrastructural capacity is available to cope with increased surface and foul water generated by the proposed development in order to protect the ecological integrity of any receiving aquatic environment.
- Mitigation measures such as silt traps and oil interceptors should be regularly maintained during the construction and operational phase. If permission is granted we suggest a condition to require the owner to enter into an annual maintenance contract in respect of the efficient operation of the petrol/oil interceptor.
- All discharges must be in compliance with the European Communities (Surface Water) Regulations 2009 and the European Communities (Groundwater) Regulations 2010.
- The Department of Housing, local Government and Heritage have recently published the following interim guidance document on Nature-based Solutions to the Management of Rainwater and Surface Water Runoff in Urban Areas Water Sensitive Urban Design Best Practice Interim Guidance Document which should be considered when designing drainage systems.
<https://www.gov.ie/en/publication/10d7c-nature-based-solutions-to-the-management-of-rainwater-and-surface-water-runoff-in-urban-areas-best-practiceinterim-guidance-document/>

10.3. Irish Water

- A water connection is feasible without infrastructure upgrade by Irish Water.

- A wastewater connection is feasible subject to upgrades namely approx.. 50m of new 150mm ID watermain to connect the site development to the existing 400mm DI main. Irish Water does not currently have plans to extend its network in this area and upgrades would be required to be developer funded.
- Statement of Design Acceptance issued 14th January 2022.
- Conditions recommended concerning connection agreement, no permission to build over IW assets / separation distances and compliance with IW standards and codes of practices.

10.4. Transport Infrastructure Ireland

- Confirm no observations to make.

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
- 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:

- The majority of the site is zoned RA - 'Residential Area' with an objective to 'provide for new residential communities subject to the provision of the necessary social and physical infrastructure'.
- A small portion of the site is also zoned GE – 'General Employment' with the objective to 'provide opportunities for general enterprise and employment'.

11.2.4. Residential and childcare facilities are permitted in principle uses within RA lands where the proposed creche, housing, apartments and duplexes are located on the subject site. The GE lands are situated to the south west of the site and relate to the pedestrian footpath where public realm improvements are proposed, no other development is proposed in this area and therefore the proposed development is compatible with the zoning.

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

11.2.6. Local Area Plan and Masterplan

11.2.7. I note that third party submissions refer to objectives in the Lusk Local Area Plan 2009. This LAP is expired and superseded by policies and objectives in the current adopted Fingal County Development Plan 2017-2023. As such, the former LAP does not describe policy for the purposes of my planning assessment.

11.2.8. I also note third party submissions in relation to the requirement for a Masterplan. Objective LUSK 11 of the Development sets out that a Masterplan should be prepared for the lands zoned RA (Residential Area), OS (Open space) and GE (General Employment) located to the north of Ministers Road, identified under MP 6.B in the zoning map for the area. The Masterplan is required to include a new community facility of minimum 300sqm and phased residential development ensuring that playing pitches and the community facility are provided in tandem. The Development Plan also stipulates in relation to the MP 6.B lands that no development should take place until such time as a Management Plan for the Outer Rogerstown Estuary is adopted by the council. In relation to this, I note the Rogerstown Coastal Flood and Erosion Risk Management Plan for Fingal.

11.2.9. The Planning Authority notes that to date, no Masterplan has been adopted for the area. The Chief Executive Report states that the subject site is located on the

periphery of Lusk and that the Planning Authority is generally supportive of the development of the subject site as it can contribute to the consolidating the built form of Lusk.

11.2.10. I note that the Masterplan requirements as described in the Development Plan are applicable to the entirety of the MP 6.B lands, and not just the subject site. The provision in relation to the delivery of community use and playing pitches, is that those uses should be in tandem, while residential development should be phased. The proposed development outlines a phasing plan and nothing in the application would prohibit the delivery of playing pitches / community use in tandem on the adjacent open space lands outside of the subject site but within the masterplan area. I also note that the previous two applications on the site, while refused by the Board, were not refused on the basis of prematurity in relation to the requirement for a Masterplan under Objective LUSK 11 (ABP SHD Reference 305713-19 and Appeal PA Reference F17A/0327 / ABP Reference No. 301001-18).

11.2.11. In my opinion, the location of the site on lands zoned RA and on the edge of the established residential area, make it a logical site for the expansion of the Lusk in a sequential manner. In light of the context of the site and the detail of the proposals in the application, which cover the zoned RA lands in their entirety for the MP 6.B area, I do not consider that development of the subject site would benefit from a masterplan. The development of the subject site also does not compromise the future development potential of adjacent lands zoned GE and OS in my view. As such, I am satisfied that no conflict arises with respect to Objective LUSK 11.

11.2.12. County Development Plan

11.2.13. I note third party objections relating to the compatibility of the proposed development with the Draft Fingal County Development Plan 2023-2029. The new Development Plan is not currently in force, and as such, is not a material consideration under section 9 of the 2016 act. It would not be appropriate to determine this application on the basis of provisions under that plan before it comes into force. Therefore, the planning framework for assessment of the application is through adopted planning policy as expressed in section 6 of this report, and specifically, the current Development Plan 2017-2023 and associated zoning of the site.

11.2.14. Wayleave

11.2.15. I note third party assertion that the wayleave passing over the subject site is shown in the incorrect location on the submitted site plans. Third parties indicate that the location differs where the wayleave passes over the adjacent GAA lands, following the boundary of this adjacent site, rather than cutting through it as shown in the application plans. The location of the wayleave as it passes through the adjacent GAA lands does not impact my assessment, and I am satisfied that there is no suggestion that the location of the wayleave as it passes through the subject site itself is inaccurate. The proposed development incorporates public realm, road, footway and open space in areas where the wayleave is indicated to be located within the site. Overall, I am satisfied that on the basis of the information before me, no conflict arises with this wayleave as a result of the proposed development.

11.3. **Density**

- 11.3.1. 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.
- 11.3.2. Having regard to the Sustainable Residential Development in Urban Areas Planning Guidelines and Circular NRUP 02/2021, the subject site can be considered an Outer Suburban / 'Greenfield' site. On such sites, densities ranging between 35-50 dwellings per hectare (dph) should be achieved. The proposed development has a density of 37.5 dph and therefore conforms with the Sustainable Residential Development Guidelines.
- 11.3.3. 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 relation to the accessibility characteristics of the site, there are existing bus stops on the Dublin Road approximately 1km to 1.5km to the south east of the site. A Bus Eireann service from Dublin to Drogheda also has a bus stop approximately 1.5km to the north east of the site. Rush & Lusk train station is located approximately 3km to the east of the site. The subject site is also approximately 10 minutes walking distance from the Town Centre for Lusk. As such, the subject site can be defined as a 'Peripheral and/or Less Accessible Urban Location under the Apartment Guidelines, where development may include a minority of apartments at low-medium densities, broadly <45 dph. The proposed development therefore also conforms with these guidelines with a density of 37.5 dph.

11.3.4. In the Fingal Development Plan 2017-2023, Lusk is defined as a Self Sustaining Town in Variation no.2 of the plan, with a remaining residential capacity of 1020 units. The Planning Authority confirm in their submitted Chief Executive Report that the proposed development equates to approximately 30% of this remaining capacity and is considered to comply with the Core Strategy of the Fingal Development Plan.

11.3.5. 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 and amenity, and I set this out in further detail in sections 11.5, 11.6 and 11.7 below.

11.4. Height, Scale, Mass and Design

11.4.1. Concerns are raised by third parties in relation to the height and design of the proposed development, particularly in relation to the proposed apartment blocks.

11.4.2. 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.

11.4.3. The Development Plan also describes landscape character types for the Fingal area, with Lusk identified as having a 'Low Lying Character Type' which is characterised as having moderate value with a low to medium sensitivity to development. A

number of Objectives are described in the Development Plan relating to the preservation and protection of landscape character that are relevant to 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.

- 11.4.4. 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.
- 11.4.5. 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, which I have considered as part of my assessment below.
- 11.4.6. 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 bus stops. The subject site is approximately 10 minutes walking distance to Lusk Town Centre and the range of amenities and services offered there, as well as employment opportunities.

11.4.7. The second criterion relates to the character of the area in which the development is located. The prevailing scale of the built environment surrounding the site is 2 storey, formed by the Dun Emer Estate to the south of the site. To the east, west and north of the site, the prevailing character is of agricultural lands and open space. However this character is expected to evolve in future, and I note the general employment zoning of the lands to the west of the site. The GAA pitches are situated to the east.

11.4.8. The proposed development is formed of largely 2 and 3 storey houses, 3 storey duplex blocks, as well as 4 and 5 storey apartment blocks set within and to the north of the site. I note third party concern regarding the 3 storeys proposed to Minister's Road, however I also note paragraph 1.9 of the Building Height Guidelines which state that:

"...these guidelines require that the scope to consider general building heights of at least three to four storeys, coupled with appropriate density, in locations outside what would be defined as city and town centre areas, and which would include suburban areas, must be supported in principle at development plan and development management levels."

11.4.9. Therefore, while the proposed development will evidentially be a departure from the established scale of built form in the area as characterised by the 2 storey buildings for the Dun Emer Estate, this increase in scale to 3 and 4 storeys is supported as a sustainable and efficient development of residential lands walking distance to the established town centre for the area. As such, in my opinion, the proposed heights up to a 3 and 4 storey scale is acceptable.

11.4.10. In relation to the proposed 5 storey height to apartment block E, the applicant describes this as being located centrally within the site and providing a focal point adjacent to open space. The Chief Executive Report states that the 'height of the proposed apartment blocks which rise from 3 and 5 storeys respectively would not give rise to significant levels of negative visual impacts upon the dwelling units of the proposed development or the wider environs.' However, the report also notes concerns with regard to the scale and design of the proposed apartments, and

recommends that in the event that planning permission is granted, 'Apartment Block E be reduced to a maximum height of 4 floors with the top (fourth) floor recessed / set back.' Recommended condition no.2 in the Chief Executive report confirms that this request relates to storey height.

- 11.4.11. I note that the applicant has included verified views and CGIs of the proposed development, as well as a Landscape and Visual Impact Assessment, and these have informed my assessment. No negative residual impacts are noted within the submitted LVIA in relation to the visual effects of the proposed development.
- 11.4.12. In my opinion, the proposed 5 storey scale to apartment block E would result in an incongruous form in the wider landscape setting of the site. This is illustrated in views no.2 and 4 in the submitted document, which show that the upper storey to block E appears in stark contrast to the open setting around the site. I therefore agree with the Planning Authority that reducing this block by a storey would benefit the scheme given the characteristics of the site. The submitted CGIs entitled CGI C and CGI D also illustrate an imposing scale to block E at 5 storeys which is not appropriate for this outer suburban site in my view. The national planning policy approach is clear in my opinion, that sites such as this on the edge of Lusk, are generally appropriate for buildings up to 4 storeys in height, and with reference to the CGIs and views provided, I am satisfied that 4 storeys would be a more appropriate maximum height for the subject site. As such I have included a condition requiring amended drawings for block E to a maximum 4 storey height, which can be relied upon by the board should they agree with this approach.
- 11.4.13. In terms of an assessment of the contribution of the proposed development to the urban neighbourhood (a 3.2 criterion), the proposed houses and duplexes will provide improved frontage onto Minister's Road and provide increased enclosure at a human scale to the northern edge of the road. The proposed houses, duplexes and apartment blocks also front onto the internal roads proposed within the site, as well as overlooking the proposed open spaces. The proposed development therefore contributes positively to the urban neighbourhood in my view.
- 11.4.14. In terms of the detailed appearance of the blocks (3.2 criteria including avoidance of uninterrupted walls, and materials), I note that the Planning Authority raise concerns regarding repetitious design and material finishes in the scheme. Specifically in

relation to proposed duplex block type B1, and recommended condition no.2 requests revised fenestration detail on the west-facing elevation to increase attractiveness onto Minister's Road. In my opinion, the side elevation of proposed duplex type B1 does not require amendment and reflects the typical approach to reduced fenestration to the side of a residential dwelling where increased proximity to adjacent properties could result in privacy conflicts. As such, I am not recommending that increased fenestration be included to the west-facing elevation for duplex type B1. In relation to material finish in general, a brick is the predominate material to be used, which is appropriate and will ensure a robust finish to the development. A varied colour palette to the brick is also incorporated to define different character areas within the site, which is also a logical approach in my view. However, final selection of materials can be secured by condition, and I recommend that the Planning Authority agree the selection of brick finishes to be used. I have included a condition regarding the same in my recommended order below that can be relied upon by the Board should they agree with this approach. In relation to the Planning Authority concern regarding repetitious design to a number of dwelling facades, I do not agree that this is a consequence of the design. In my view, an appropriate approach has been taken to defining character areas across the site and organising the design of blocks to reflect each character area. Further diversification would not benefit the scheme in my view and might result in a disjointed appearance.

11.4.15. In relation to the enhancement of public spaces, key thoroughfares, I have already described above that I am satisfied that a positive impact results upon Minister's Road as a result of proposed development with increased enclosure on this edge of the site. I am also satisfied that the proposed development appropriately addresses the proposed open spaces within the site, with a clear hierarchy to the streets and spaces throughout the site. This has been informed by the proposed road layout, which has satisfactorily addressed the reason for refusal of the previous SHD submitted on the site (ref. 305713-19) in my view.

11.4.16. In terms of contribution to legibility, the scale of the proposed apartment blocks (at a reduced maximum 4 storey height), will provide markers within the site that contribute to visual legibility. Proposed block E (at a reduced maximum 4 storey height) defines the edge of the central public open space within the site and provides a focal point marking this proposed open space.

11.4.17. 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 11.5 and 11.6 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; EclA; Landscape and Visual Impact Assessment alongside appended Verified Photomontages; Sunlight, Daylight and Shadow Assessment and Appropriate Assessment Screening Report.

11.4.18. I am satisfied that the proposed development, with a reduced maximum height of 4 storeys, would appropriately incorporate the criteria described in section 3.2 of the Building Height Guidelines which I have had regard to above.

11.4.19. Overall, I am satisfied that the proposed development at a maximum 4 storey height, would not have significant negative visual impacts, would not be overbearing, and conforms with relevant objectives under the Development Plan.

11.5. Neighbouring Residential Amenity

11.5.1. Daylight and Sunlight

11.5.2. 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 11.6 below I address the potential conditions for future occupiers of the development.

11.5.3. 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.

11.5.4. 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.

11.5.5. 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)

11.5.6. 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.

11.5.7. 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.

11.5.8. The application includes a Sunlight, Daylight and Shadow Assessment report. This describes the results of testing of conditions within the development itself. Testing is not included in relation to existing neighbouring properties as it states in the 'Preliminary Overview' section of the submitted report, that there are no close neighbours for assessment. However, the report has not set out in accordance with BRE methodology as described above, why neighbouring properties would not be impacted with reference to the height of proposed buildings and distance to surrounding properties.

11.5.9. There are no existing residential properties sufficiently proximate to the north, west or east boundaries of the site to require testing, and therefore I agree with the applicant that no testing is required to those bounds of the site. However, to the south of the site and to the opposite side of Minister's Road, there are two storey residential properties fronting onto the road. These properties are situated between 18m and 21m away.

11.5.10. The BRE Guidelines notes the following tests that assist in assessing potential impact, which follow one after the other if the one before is not met:

(i) Is the separation Distance greater than three times the height of the new building above the centre of the main window (being measured); (ie. if 'no' test 2 required)

(ii) Does the new development subtend an angle greater than 25° to the horizontal measured from the centre of the lowest window to a main living room (ie. if 'yes' test 3 required)

(iii) Is the Vertical Sky Component (VSC) <27% for any main window? (ie. if 'yes' test 4 required)

(iv) Is the VSC less than 0.8 the value of before ? (ie. if 'yes' test 5 required)

(v) In room, is area of working plan which can see the sky less than 0.8 the value of before ? (ie. if 'yes' daylighting is likely to be significantly affected)

11.5.11. The proposed development includes 3 storey houses and 3 storey duplexes along the frontage to Minister's Road. The height of these 3 storey houses and duplexes is approximately between 10m and 12m, and therefore the distance to the midline of ground floor windows to the existing properties is not three or more times the height

of these proposed buildings, this distance being a minimum of 18m [with reference to test (i) above]. As such, following BRE methodology, these properties should have been tested in relation to test (ii) set out above. A section drawing is not provided through Ministers Road showing the relationship to existing properties, and therefore I am unable to carry out test (ii) myself. However, in my opinion, it is possible that layout and roof arrangement to the proposed 3 storey houses and duplexes ensures limited occurrences of the development falling within a subtended line drawn from a 25° angle from the centre of the lowest window to existing properties. This is due to the incorporation of pitched roofs to the proposed buildings, so while ridge heights are to be between approximately 10m and 12m, eaves heights are approximately 8m or a gable end is presented to the road meaning a narrowing of the bulk to the top of the proposed building.

11.5.12. It should also be noted that this site is zoned for residential development and the proposed development is confined to 3 storeys in height where it is situated closest to existing properties, reflecting a low rise residential character that is appropriate for the area. I am satisfied that the separation of minimum 18m to the proposed 3 storey buildings to the front or side of the existing properties, will not result in significant adverse impact upon the existing properties daylight, sunlight or cause undue overshadowing. The 3 storey height of the proposed development, separation of between 18m and 21m, and situation of the proposed buildings to the north of existing properties, ensures that such impacts would be minimal.

11.5.13. While I note the lack of specific data to demonstrate potential impact upon neighbouring occupiers daylight/sunlight/overshadowing with the application, I am satisfied that this does not have a material bearing on my assessment, and in my opinion, potential daylight/sunlight/overshadowing impacts upon existing residents in accordance with the criteria described in the BRE guidelines can be determined as negligible and reasonable for the location of the site. Specifically, that as a result of the separation distance to existing dwellings, the low rise height of the proposed development at those points closest to existing dwellings and the orientation of these structures, impacts upon daylight and sunlight would not be significantly harmful. In particular, the orientation of the proposed development to the north of the existing properties on Minister's Road will ensure negligible loss of sunlight or overshadowing resulting. Therefore, while a specific assessment has not been submitted with

quantification of this impact, in my opinion the proposed development has been designed in consideration of potential daylight and sunlight/overshadowing impact upon existing residents and this is reflected in the scale and layout of the proposal.

11.5.14. I am satisfied that that proposal has a layout that reflects a standard suburban residential estate, as well as in scale and form, which will limit potential for reduced daylight and sunlight to surrounding properties. As such, I consider that the proposed development makes adequate provision for daylight and sunlight to surrounding properties in accordance with BRE considerations that I have applied, and therefore the requirements under the Fingal County Development Plan and s.28 guidance are satisfied.

11.5.15. Separation Distances

11.5.16. The proposed development has no rear adjacencies to existing properties less than 22m, in accordance with Objective DMS30 of the Development Plan. The closest neighbouring properties to the proposed development are those situated to the south on the opposite side of Minister's Road, and with a front to front, or front to side separation distance of at least 18m, ensuring no adverse impacts result in terms of privacy impacts or undue overlooking.

11.5.17. I note that the Planning Authority consider there to be overlooking from balconies and windows in proposed apartment block C to the western site boundary, recommending that this block be omitted. Currently the lands bounding the north-western corner of the site where proposed block C is situated are undeveloped, therefore there is no overlooking in the existing situation. However, the lands to the west of proposed block C are zoned GE and therefore could be developed in future. I address this further in section 11.6 below in relation to privacy implications for future occupiers of the proposed development.

11.6. **Proposed Residential Standards**

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

11.6.2. Daylight, Sunlight and Overshadowing

11.6.3. 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. 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 guides like A New European Standard for Daylighting in Buildings IS EN17037:2018, UK National Annex BS EN17037:2019 and the associated BRE Guide 209 2022 Edition (June 2022), with succeed the BRE standards. It should be noted that while the Apartment Guidelines reference the more up to date European Standard and UK National Annex, these follow the former BRE Guidelines. As the Apartment Guidelines identify that regard should be had to guides 'like' the European Standard and UK National Annex, I am satisfied that the BRE Guidelines still describe a suitable benchmark for daylight / sunlight evaluation, particularly as the application of the more recent guides are not enshrined in a specific planning policy requirement under the Apartment Guidelines. Objective DMS30 of the Development Plan also states that all new residential units should comply with the BRE Guidelines and B.S. 8206. However, it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria.

- 11.6.4. 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.
- 11.6.5. 97% of the apartment rooms in the proposed development comply with ADF targets set out in the BRE guidelines. There are 4 living rooms within proposed apartment block E that have ADF levels of between 1.1% and 1.7% falling below the 2% target. In relation to sunlight, 100% of windows in proposed apartment block C meet BRE targets for APSH and WPSH, while 74% of windows in proposed apartment block E meet target levels. This reflects a high pass rate with respect to this criterion, which the BRE guidelines acknowledge may be difficult to achieve (para.3.1.8 of the guidelines). I also note that sunlight is not a specific requirement under either the Building Height or Apartment Guidelines which refer to daylight or more generally to light. With respect to overshadowing of amenity areas, all proposed shared and public amenity spaces are demonstrated in the submitted report to pass the BRE

target levels, receiving a least 2hrs sunlight over at least 50% of the area on the 21st March.

11.6.6. The submitted report outlines compensatory measures that have been incorporated in reflection of requirements under section 28 guidelines. In this regard I note that the rooms within proposed apartment block E that do not meet target ADF levels, overlook the central landscaped courtyard for the block. These units also have been designed to be larger, with floor space areas that exceed minimum standards. Block E is also situated immediately adjacent to proposed open space, which will receive extensive sunlight, as demonstrated in the submitted report. The scale of the block is also intended to provide enclosure to this space.

11.6.7. In relation to the proposed house and duplex units, these are between 2 and 3 storeys in height, limiting the extent of overshadowing that may result. Separation between blocks and dwellings is also acceptable and will limit the degree of obstruction that could result between blocks in the proposed development. All of the proposed house and duplex dwellings are dual aspect, maximising available light and ventilation to both the self-contained housing and duplex units proposed. Buildings proximate to the subject site are not of a scale or height that would generate significant obstruction to light or overshadowing of areas.

11.6.8. Overall, I am satisfied that the proposed development will experience acceptable daylight, sunlight and overshadowing conditions and that it does accord with criteria described in the BRE guidelines, albeit, in recognition that this guidance is flexible and requires a reasoned judgement to be made on all aspects of design.

11.6.9. Dual Aspect

11.6.10. All of the proposed houses are dual aspect. Of the 107 duplex and apartment units proposed, 19 are single aspect, with no north facing single aspect units. This equates to a dual aspect proportion of approximately 82% of the apartment/duplex units proposed. I am satisfied that this is an appropriate proportion of dual aspect units in the proposed development and in compliance with SPPR 4.

11.6.11. Internal Space Standards

11.6.12. All of the proposed units comply with minimum floor areas as described in both the Fingal County Development Plan (with respect to the proposed houses) and the

Apartment Guidelines (with respect to the proposed apartments and duplexes). However, I note that the proposed development includes 2 bedroom 3 persons apartment units that would not comply with the minimum 2 bedroom 4 persons internal space standard described in the Development Plan. I discuss apartment space standards further in section 11.8 below in relation to potential material contraventions.

11.6.13. Floor to Ceiling Heights

11.6.14. The floor to ceiling height of the ground floor to the proposed apartment blocks is 2.7m in compliance with SPPR 5 of the Apartment Guidelines.

11.6.15. Privacy

11.6.16. The proposed development has been designed to ensure that there are no rear opposing windows at first floor closer than 22m, in accordance with Objective DMS30 of the Development Plan.

11.6.17. As noted above, the Planning Authority consider there to be overlooking from balconies and windows in proposed apartment block C to the western site boundary, recommending that this block be omitted. These lands to the west of proposed block C are zoned GE and therefore could be developed in future. While that future potential development would be for employment (according to the current zoning of the lands), adverse privacy impact could result to future occupiers of proposed block C given the proximity to the site boundary here. Proposed block C is situated less than 2.5m to the boundary at its closest, with balconies projecting even closer.

11.6.18. In my opinion, the proximity of proposed block C to the western boundary of the site is not well considered and does not appear to have been determined in light of future development potential of lands to the west. In general, proposed block C relies upon this adjacent neighbouring land for its outlook and access to light on this side, and alteration to this adjacent land could have consequential impact upon any future occupiers of proposed block C within units overlooking this end of the site. I have given consideration to how a condition might enable revised plans to secure a more appropriate design response in proposed block C to these boundaries, however in my view, a more substantial redesign is required. While removal of only the south western part of the proposed block might be considered, there would be consequential effects upon the elevational appearance in my view, with large extents

of blank façade as indicated in section drawings submitted, and therefore I am not recommending such an approach. While there is undoubtedly opportunity to include a three storey apartment block in this corner of the site in my opinion, the current design has not successfully achieved this. The proposed design is over reliant upon the adjacent lands for outlook to units on this end in block C, and therefore the quality of proposed accommodation is at risk of negative impacts should conditions on the adjacent lands alter at any stage. As such, I agree with the Planning Authority that proposed block C should be omitted, and I have included a condition requiring the same which can be relied upon the Board should they agree with this approach.

11.6.19. Number of Apartments to a Core

11.6.20. SPPR 6 requires a maximum of 12 apartments per floor and the proposed development complies with this with a maximum of 6 units per floor.

11.6.21. Private Amenity Space and Communal / Public Open Space

I note the comments within the Chief Executive Report and from the Parks and Green Infrastructure Division with respect to open space. While the public open space layout is considered to be acceptable in principle, there are comments with respect to the inclusion of some inappropriate areas within the overall calculation for open space and the quality of landscape treatment. However, the Planning Authority recommend that these matters be addressed by condition, with reference to Objective DMS 73 of the Fingal Development Plan and that the applicant be required to make up any shortfall of Public Open Space provision, by way of a financial contribution in accordance with section 48 of the Planning and Development Act 2000.

11.6.22. The applicant states that the 10% minimum open space requirements under Objective DMS57A are met, with 12% of the site area provided as open space, equating to 9,999sqm. Taking the Planning Authority approach and discounting open space 6 and the linear strip to the north of open space 3, would equate to a total open space quantum of approximately 9,500sqm or 11% and therefore still in excess of the minimum 10% requirement. With respect to Objectives PM52 and DMS57, the proposed development does not provide the minimum quantum of open space based upon occupancy rate, which for this site would equate to 27.8% of the site area. This is addressed in the Material Contravention section of this report below in section

11.8. I also note that Objective PM53 relates to financial contributions in lieu of open space provision and that the Planning Authority request the same, I have also included a relevant condition pertaining to financial contributions arising from the proposed development in my recommended order that can be relied upon by the Board should they agree with this approach.

11.6.23. I note that the Planning Authority calculate a play provision requirement for the development at 1,312sqm. However, Objective DMS75 requires 4sqm of playground facilities per a proposed residential unit. In this scheme, that equates to 1,248sqm and the proposed development provides 1,257sqm complying with this requirement. Further details are requested by the Planning Authority of the play equipment to be provided and a condition can be included requiring the same should the Board agree with my recommendation.

11.6.24. I note Objectives DMS73 and DMS74 with respect to the location of SuDS and attenuation tanks with respect to open space. However, the applicant outline that the proposed approach to the provision of SuDS within open space areas has been agreed with the Planning Authority and there is no objection raised to the proposed approach by the Planning Authority. I am satisfied that the proposals for open space with incorporation of SuDS in two areas, is acceptable, and similar proposals have been accepted previously by the Board.

11.6.25. I note third party and Planning Authority comments with respect to boundary treatment. Changes to the proposed arrangements are requested, which can be secured by condition. I concur with the Planning Authority with respect to this request and have included a condition that requires boundary treatment to be agreed with the Planning Authority across the site, and specifically that boundary treatment between the subject site and the adjacent GAA lands is formed of a wall instead of the proposed fence.

11.6.26. I also note that the Planning Authority state that the northern boundary and southern boundary along Ministers Road comprises townland boundaries, and where townland boundaries exist in the form of hedgerows these should be retained where possible. I also note Objective LUSK 4 which requests the retention of hedgerows in development where possible, with allowance made for limited removal to accommodate access. Areas of hedgerow to the northern boundary is retained in the

proposed development however the southern hedgerow to Minister’s Road is proposed for removal. Centrally to the south of the site on Minister’s Road, hedgerow removal is necessary to accommodate access to a number of proposed houses, which I discuss further in section 11.7 below. The Department of Housing, Planning and Local Government note that the removal of the hedgerow to Minister’s Road is regrettable and recommend that the landscaping of this boundary is modified to retain the hedgerow by constructing the footpath to the rear of the hedgerow.

11.6.27. With reference to the submitted Tree Protection Plan, it appears to me that there may be further opportunity to retain some parts of this hedgerow to the southern boundary of the site towards the western and eastern ends, and I have therefore included a condition requiring a revised treatment to the boundary of Minister’s Road to allow greater preservation of hedgerow, with the extent of any removal to be agreed with the Planning Authority.

11.6.28. Dwelling Mix

11.6.29. I note third party objection in relation to the proposed dwelling mix and typologies, however the proposed development is acceptable in light of local and national planning policy and I note that the Planning Authority consider the proposed mix and typologies to be acceptable. Specifically, I note that SPPR 1 of the Apartment Guidelines states that housing developments may include up to 50% one-bedroom or studio type units. The proposed development does not include studio units and is formed of 7% one bedroom units in compliance with this requirement. With the incorporation of amendments recommended above and in conditions below, the proposed development would result in the loss of 12 units in Block E (6x 1 bed and 6x 2 bed), as well as 9x 2 bed units in Block C. This alters the proportion of 1 bedroom units in the development to approximately 5% and therefore remains in compliance with SPPR1. The table below shows the revised unit mix following the recommended amendments I describe in this report:

Table 11.6.1: Revised Unit Mix

Housing Type	1 bed	2 bed	3 bed	4 bed	Total
House	-	-	161	44	205

Apartment	16	28	2	0	46
Duplex	0	20	20	0	40
Total	16	48	183	44	291
(%)	(5.4%)	(16.4%)	(62.8%)	(15.1%)	(100%)

11.7. Traffic and Transport

11.7.1. I note third party concerns regarding transportation impacts.

11.7.2. The applicant has included a Traffic and Transport Assessment with the application. This demonstrates that the predicted impact of the proposed development upon the surrounding road network would be minimal, taking into account both existing and future predicted traffic generation.

11.7.3. I note that third parties request upgrades to Minister's Road as part of the proposed development, however there is no requirement under adopted policy in the Development Plan for such upgrades and the Planning Authority has also not suggested that upgrades are required. I am satisfied that the submitted Traffic and Transport Assessment demonstrates that the proposed development would have a minimal impact upon the operation of the road network, and therefore upgrades are not required as a consequence of traffic generation associated with this development. While third parties suggest inaccuracies in this submitted assessment, I am satisfied that the data presented is sufficient for the purposes of my assessment and demonstrates that adequate capacity exists on the network to accommodate the proposed development. In my opinion, the type of inconsistencies described by third parties would not impact the overall conclusion of the assessment in this regard, and I note that the assessment accounts for increased demand on the network through future growth scenarios which would adequately account for cumulative impact.

11.7.4. Access and Layout

11.7.5. Vehicular, pedestrian and cycle access to the site is via Minister's Road. The Planning Authority notes discrepancies in relation to proposed sightlines for the development but consider the proposal to be acceptable. I concur that the access

roads proposed from Minister's Road are acceptable at a minimum 65m sightline from a 24m setback.

- 11.7.6. I note that previous SHD application on the site (305713-19) was refused due to concerns regarding layout, which I have also considered in section 11.6 above. The proposed development shows good connectivity and permeability through the site, with a clear hierarchy to streets, primary routes being finished in tarmac and homezone areas finished in paving block. The Planning Authority request that greater consideration be given to pedestrian and cyclist priority at junctions, and this can be addressed by way of condition, requiring that the development meet Planning Authority requirements for the design of road layouts and junctions. I have included a condition concerning the same in my recommended order below.
- 11.7.7. I am satisfied that the access and road layout for the proposed development is suitable and reflects guidance set out in the Design Manual for Urban Roads and Streets. I note concerns raised by third parties concerning the suitability of cycle infrastructure on adjacent streets, however there is no requirement for development of this site to upgrade cycle infrastructure in the wider area. The proposed development incorporates a cycle route as the site adjoins Minister's Road, which is what would be reasonably expected of a scheme of this size and also address a reason for refusal associated with a previous appeal on the site (Reference F17A/0327 / ABP Reference No. 301001-18). The Planning Authority request further details of this cycle infrastructure and my recommended order reflects this.
- 11.7.8. Access to a number of car parking spaces is provided directly from Minister's Road to proposed units 1-7 fronting onto that street. This will inevitably lead to reversing onto Minister's Road which the Planning Authority and third parties state could result in a safety hazard. The speed limit along the Minister's Road is 50kph, and it is not unusual for there to be accesses to private driveways along 50kph roads in Dublin County. However, I observed that cars did exceed this limit frequently. I note that there are accesses proposed to seven houses in short succession, and that further along Minister's Road and Ashgrove on route to the centre of Lusk to the east of the site, there are numerous properties with driveways directly accessed from the road, also in short succession. This does not represent a hazard in my view and assists in slowing down the traffic along the road, with cars having to accommodate the possibility, or occurrence of, cars accessing or exiting driveways. While this

arrangement has consequences for the ability to retain hedgerow along the southern boundary, which I discuss in section 11.6 above, I note that Objective LUSK 4 allows for the limited removal of hedgerow necessary for the provision of access. As such, the provision of accesses along this part of Minister's Road constrains the ability to retain additional hedgerow, but there may be opportunity the south west and south east bounds of the site, and I have included a condition on my recommended order allowing for opportunity to retain additional hedgerow area at those ends of the site.

11.7.9. I note third party concern regarding future potential access links to adjacent lands. In my view, this is appropriate and recognises the future development potential of those lands for general employment use.

11.7.10. Car Parking

11.7.11. There are 585 car parking spaces included within the proposed development. This is comprised of 519 surface level parking spaces and 64 basement car parking spaces for proposed apartment block E. This equates to an overall car parking ratio of 1.84 spaces per residential unit. Each of the proposed houses has two car parking spaces within its curtilage, while there are 134 car parking spaces for the proposed apartment units equating to a ratio of 1.25 spaces per a unit. I note that the Planning Authority note that parking for the proposed duplex units does not meet Development Plan Standards, with 58 spaces proposed, rather than 78 spaces required. The Development Plan describes car parking standards in Table 12.8. I note that the proposed development does not conform with the standards as set out in the Development Plan, however 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.

11.7.12. The Apartment Guidelines provides a benchmark guideline for peripheral and/or less accessible urban locations such as where the subject site is located of one car parking space per unit, together with an element of visitor parking, such as one space for every 3 or 4 units. The proposed development includes 107 apartments and duplexes, generating a calculation of 133.75 car parking spaces according to the apartment guidelines (based on a visitor space for every 4 units). As such, the proposed provision of 134 car parking spaces, is in keeping with this benchmark guideline and therefore the national planning policy approach.

11.7.13. The proposed development is located within a 10 minute walk to the centre of Lusk, proximate to the range of services, amenities and facilities that can be found in the designated town centre area. 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. The quantum of parking proposed is suitable for this peripheral site.

11.7.14. I note that the Transportation Section state that perpendicular parking at the Creche is not acceptable as this inevitably involves reversing manoeuvres in and around the main drop off/pick up areas which has a high probability of vehicle-pedestrian conflict. It is suggested that this be address by condition with revised plans submitted demonstrating a more appropriate layout, and I concur with this approach. I have included a condition requiring the same which the Board can rely upon should they agree with this approach. I also note EV spaces are included in the proposal and recommend that this provision be secured at 10% alongside future proofing the potential to retrofit all spaces to EV.

11.7.15. The submitted Traffic and Transport Assessment confirms provision for mobility impaired parking has been accounted for in the submitted proposals and no concerns are raised regarding this provision by the Planning Authority.

11.7.16. Cycle Parking

11.7.17. There are 498 bicycle spaces proposed, which exceeds Development Plan and the Apartment Guidelines minimum standards.

11.7.18. Public Transport

11.7.19. I note third party concern regarding the capacity of public transport to serve future residents of the proposed development. In my view, the key accessibility benefit of this site is via pedestrian links to the centre of Lusk, albeit recognising that this requires users to cross the road in order to access continual footpath for this route to the designated town centre. Therefore, the proposed development is not overly reliant upon public transport for immediate accessibility to surrounding services and amenities in the town centre, and therefore would not be expected to place undue strain upon public transport services in my view.

11.8. Material Contravention

- 11.8.1. 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'.
- 11.8.2. 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'.
- 11.8.3. 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:
- i) Public Open Space – the proposed development does not provide for a quantum of public open space of 2.5 hectares per 1000 population as per objectives PM52 and DMS57 of the Fingal County Development Plan.
 - ii) Car Parking – the proposed development provides for 134 no. car parking spaces for the proposed apartment and duplex units, along with 13 no. visitor car parking spaces, which is a shortfall of 26.5 long term car parking spaces and 8 no. visitor car parking spaces, with reference to table 12.8 of the Fingal County Development Plan. 410 no. car parking spaces are also included to serve the proposed houses in the development, along with 16 no. visitor spaces, in compliance with table 12.8 of the Development Plan.
 - iii) Apartment Standards – the Fingal County Development Plan includes a single size standard for two bed apartments being 73sqm, however the Apartment Guidelines includes both a 2 bed / 4 person size standard of

73sqm and a 2 bed / 3 person size standard of 63sqm. The proposed development includes 2 bed / 3 person apartment units that would not conform with the minimum 73sqm described in the Development Plan, but which meet the reduced size standard of 63sqm described in the Apartment Guidelines.

- 11.8.4. With respect to the first matter and public open space, I can confirm that Objective PM52 and DMS57 of the Development Plan require 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.
- 11.8.5. In this case, the applicant states that the proposed development incorporates 12% of the site area as open space, equating to 9,999sqm, and this is reduced to 9,500sqm or 11% when taking the Planning Authority approach and discounting open space 6 and the linear strip to the north of open space 3. However, based upon occupancy rate, the minimum quantum of open space for this site would equate to 27.8% of the site area or 2.31 hectares (23,050sqm).
- 11.8.6. The Planning Authority has requested a financial contribution in lieu of the remaining open space requirement and the applicant recognises the Planning Authorities discretion in this regard in both in the submitted Planning Statement and Material Contravention Statement. I have included a condition requiring development contributions in my recommended order below, that the Board can rely upon should they accept my recommendation.
- 11.8.7. With respect to the incorporation of SUDs within open space areas, I note DMS73 and DMS74 which state that SUDs will not be accepted under public open space. In the proposed application, the SUDs proposals put forward by the applicant and the principle of the open space arrangement is acceptable to the Planning Authority and includes the incorporation of SUDs in open space areas. I note that DMS73 and DMS74 are development standards and not objectives under the plan, but are

development management standards, and the preceding paragraph to these standards specifically states that:

“...SuDS areas do not form part of the public open space provision, except where they contribute in a significant way to the design and quality of open space. The determination shall be at the discretion of the Planning Authority.” (Page 438).

- 11.8.8. As such, in my view, flexibility and discretion may be exercised in relation to the application of DMS73 and DMS74, and in this case the Planning Authority have stated acceptance of the proposed design. As such, I am satisfied that no material contravention arises.
- 11.8.9. In relation to the second matter and the proposed car parking, I have assessed this against planning policy requirements in section 11.7 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.
- 11.8.10. 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 with respect to car parking in my view.

11.8.11. Lastly, with respect to minimum floor areas to apartments, I note that there is a single standard under the Development Plan for a 2 bedroom apartment, which is a minimum size consistent with a 2 bedroom 4 person unit under SPPR 3 in the Apartment Guidelines, being 73sqm. However, the proposed development incorporates a number of 2 bedroom 3 person apartment units at a minimum 63sqm size. The Apartment Guidelines state in section 3.6 that:

“...planning authorities may also consider a two-bedroom apartment to accommodate 3 persons, with a minimum for areas of 63 square meters, in accordance with the standards set out in Quality Housing for Sustainable Communities...”

11.8.12. Appendix 1 of the Apartment Guidelines includes a specific standard for 2 bedroom 3 person apartments at 63sqm and the Planning Authority has not raised concern with respect to the size of these units. As such, the proposed development complies with the Apartment Guidelines minimum standards for minimum floorspace. With respect to the Development Plan, I note 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’*. Similar to the matter of car parking outlined above, the Development Plan is clear that in the application of standards under the plan, regard should be had to the Apartment Guidelines or any update or revision of those national standards. As such, I am satisfied that while the proposed development does not conform with the minimum space standard of 2 bed units under the Development Plan, it does conform with the Apartment Guidelines, and in light of Objective PM42, no material contravention arises.

11.8.13. As a result of the foregoing and the wider assessment set out in this report, in my opinion there are no material contraventions with respect to the current application.

11.9. Planning Authority’s Recommendation

11.9.1. The Planning Authority’s submitted Chief Executive report concludes that the proposed development *‘will provide for an appropriate standard of residential development which is considered to be acceptable, subject to amendments’* which

are described in suggested conditions. Recommended condition no.2 asks for the revision of apartment block E to a maximum four storey height, formed of three stories with recessed fourth floor; the omission of apartment block C and a revision to the corner of duplex type B1 (corner dwelling units 29-30) to incorporate dual frontage on the west facing elevation / revised fenestration.

11.9.2. I have described in my assessment of design in section 11.4 above, why I agree with the Planning Authority that the proposed development should be amended to reduce the height of block E to 4 storeys. I also set out in my assessment of separation distances in section 11.6 why I consider that proposed apartment block C should be omitted from the proposed development. With these amendments, I am satisfied that the proposed development is acceptable and concur with the Planning Authority in this regard.

11.9.3. However, with respect to a revised design to duplex type B1, I have set out in section 11.4 above why I do not agree with the Planning Authority that increased fenestration is needed to the corner of this block, and I am not recommending amendments in this regard.

11.9.4. Overall, I am satisfied that my recommendation fully considers the Planning Authorities findings as described in their submitted Chief Executive Report, and particularly, I concur with key design amendments recommended in that report and reflected in my recommended order below, which the Board can rely upon should they agree with this approach.

11.10. **Other Issues**

11.10.1. Water Infrastructure, Drainage and Flood Risk

11.10.2. I note third party concerns raised in relation to flood risk and water infrastructure.

The applicant has submitted an Engineering Report and drawings detailing the proposals for water supply and foul water disposal, as well as surface water drainage arrangements. The Planning Authority have confirmed that the proposed arrangements are acceptable. Irish Water issued a Statement of Design Acceptance for the proposed arrangements for water supply and foul water connection.

Infrastructure upgrade would be required as part of sewer connection to the site and would need to be funded by the developer.

11.10.3. I note that the Department of Housing, Planning and Local Government recommend that there is no provision in the development proposals for the inclusion of a pond or other water body in the landscaping of the scheme which could provide a suitable future breeding location for amphibian species. However, the Planning Authority state in the submitted Chief Executive report that they do not consider the provision of large detention basins / bioretention ponds to be viable or appropriate for the development proposition on the site. The Planning Authority concludes that the surface water drainage proposed is acceptable and fit for taking-in-charge.

11.10.4. I concur with the Planning Authority that the provision of a large detention basin in the form of a pond and as part of attenuation requirements would conflict with competing requirements for the development of the site. This includes open space provision and density targets for efficient housing delivery. As such, I am not recommending that a attenuation basin pond be included in the scheme. However, the Planning Authority do recommend the inclusion of a pond in light of biodiversity considerations and provision for amphibians, which I address further below. This biodiversity pond would not be large and would not have the same conflicts with open space quality as an attenuation basin pond.

11.10.5. I note that the Planning Authority recommend the installation of water butts to each house and a condition is included in my recommended order below in this regard.

11.10.6. In relation to flood risk, a Site Specific Flood Risk Assessment has been submitted with the application. This confirms that the site is situated in Flood Zone C where the development of housing is considered appropriate. I am satisfied that the proposed development incorporates an appropriate approach to drainage, including the incorporation of sustainable urban drainage systems to manage surface water. The proposed drainage for the site would direct any extreme pluvial flooding events towards on-site open spaces and therefore in my view, adverse impact upon the adjacent GAA lands would not be expected. Overall, I am satisfied that the proposed development would not be exposed to flood risk and would not increase the risk of flooding to adjacent areas.

11.10.7. Biodiversity

11.10.8. An Ecological Impact Assessment Report (EclAR) has been submitted with the application. This describes the existing habitats on the subject site, the potential

impacts of the proposed development and mitigation measures to be incorporated to limit residual effects.

- 11.10.9. The report identifies the potential of a weak hydrological connection to the Rogerstown Estuary pNHA to via surface water or foul water originating from the proposed development. Wastewater generated by the proposed development is to be treated at Portrane Donabate Wastewater Treatment Plan, which is currently compliant with the emission limit values set in the wastewater discharge licence. Surface water management is also proposed. No significant effects to any NHA or pNHA areas are anticipated as a result.
- 11.10.10. Habitats on the site itself comprise Arable Crops (BC10), Improved Agricultural Grassland (GA1), Dry Meadows (GS2), Wet Grassland (GS4), Scrub (WS1), Spoil and Bare Ground (ED2), Buildings and Artificial Surfaces (BL3), Hedgerows (WL1), Treelines (WL2) and Drainage Ditches (FW4). No invasive species [plants listed on the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations 2011] were recorded at the site. Survey results for amphibians, birds, mammals and bats are also described in the submitted EclAR.
- 11.10.11. The EclAR identifies the key ecological receptors (KERs) for the site as hedgerows, treelines, drainage ditches, hedgehog, pygmy shrew, bats, birds, common frog and smooth newt.
- 11.10.12. Permanent negative impacts upon hedgerow, treelines and drainage ditches are identified, consequentially resulting in permanent negative impact upon mammals from habitat loss. This is alongside other short-term negative impacts upon small mammals during construction. Permanent significant loss of commuting/foraging habitat for bats is also identified. Other negative effects upon bats would occur from lighting and during construction. Short-term negative impact upon birds and amphibians is also outlined. The report addresses potential cumulative effects with reference to approved planning applications for development in the area.
- 11.10.13. Mitigation is described in section 7 of the EclAR and includes hedgerow management, controlled vegetation removal, noise control, yellowhammer habitat provision, measures to reduce impacts during construction specifically with reference to small mammals, incorporation of hedgehog highways, bat habitat enhancement, bat-friending night-time lighting, pre-felling bat survey and tree removal, and an

amphibian pre-construction survey. With the incorporation of mitigation as described in the EclAR and summarised above, no significant negative residual impacts upon ecology or designated nature conservation sites is expected.

11.10.14. An Arboricultural Assessment is also submitted to describe the potential impact upon trees and hedgerows as a result of the proposed development. This confirms that the site is currently occupied by 21 individual trees and 12 hedges. All trees are identified as category C being of low quality/value. The proposed development would result in the loss of 20 trees (identified as tree no.'s 0167-0181 and 0184-0187) and areas of hedgerow, specifically all of hedge no.1 along the Minister's Road, all of hedge no.2, 4, 5 and 6, circa 42m of hedge no.3, hedge no.7A and circa 20m of hedge no.7B.

11.10.15. I concur with the EclAR in relation to identified KERs. I am also satisfied that the survey results described indicate that impact would be experienced at a local population level only for identified KERs, including protected species identified on the site i.e. bats (species of least concern, soprano pipistrelle, brown long-eared, common pipistrelle, leisler's, whiskered, daubenton's, nathusius' pipistrelle and natterer's bat), and small mammals (hedgehog and pygmy shrew), amphibians (potential breeding habitat for frog and newt) and birds (two red listed and six amber listed species).

11.10.16. In relation to habitat removal, there is extensive removal of trees and hedgerows from the site. In relation to tree removal, only one tree will be retained in the proposed development, however given the low quality of these existing trees and the proposed landscaping that will incorporate extensive new tree planting, I am satisfied that this impact is acceptable. In relation to the removal of hedgerows, I have noted in my assessment of open space and boundary treatment at section 11.6 above, that there is protection afforded to hedgerow on townland boundaries and that preservation of hedgerow on the site is supported in objectives for the Development Plan. I also note the concern raised by both the Planning Authority and the Department of Housing, Planning and Local Government in relation to the removal of the hedgerow to Minister's Road. I am recommending that a condition be incorporated on any grant of consent for the proposed development, to require a revised layout to Minister's Road boundary that will allow for additional preservation of the existing hedgerow there. The Department also recommends that a Hedgerow Management Plan, lighting design, bat boxes, and ponds should be secured by condition which I have reflected in my

recommended order below. The Board can rely upon these conditions should they agree with my assessment in this regard.

11.10.17. In relation to hydrological connections from the site, I address this with specific reference to European sites in section 12 below. I also note Inland Fisheries Ireland's comments with regards to surface water discharges from the site. The development is located in the catchment of the Ballough/ Corduff system. The Corduff River system, which is salmonid, supports a significant local population of both resident Brown trout and migratory Sea trout (both *Salmo trutta*). Inland Fisheries Ireland state that only clean, uncontaminated water should leave the site and drain to the river network and mitigation is recommended to secure this in relation to construction management and treatment of surface water prior to discharge from the site. The incorporation of SUDs and best management construction methods is a standard requirement for all housing developments. Conditions are included in my recommended order in this regard that can be relied upon the Board to secure the quality of water discharges from the site with reference to protecting local fish populations.

11.10.18. I am satisfied that given the site characteristics, informed by survey results as well as planning policy, including its zoning for residential development and the requirement for an efficient density for housing delivery on this site proximate to the designated town centre, it is inevitable that a degree of impact upon existing biodiversity on the site will result from any development proposition for the lands. However, with the incorporation of mitigation described in the submitted EclAR for the application and the additional mitigation I describe in the preceding paragraphs, I am satisfied that biodiversity impact and specifically with respect to KERs for the site, is within acceptable parameters.

11.10.19. Social Infrastructure

11.10.20. I note third party concern regarding the capacity of infrastructure to serve future occupiers of the proposed development. With respect to water infrastructure including sewage connections, I have addressed this above. I have described in this section above and in section 11.6 why I consider that a revised treatment to Minister's Road is required with respect to landscaping and the preservation of hedgerow. I have also addressed requests for a community facility in light of objectives under the

Development Plan in section 11.2 above, including regard to associated references to the delivery of playing pitches.

11.10.21. I note that the Planning Authority does not raise any concerns with respect to infrastructure capacity in the local area to serve future occupants of the proposed development.

11.10.22. The applicant has submitted a Social Infrastructure Assessment. This describes the existing provision of health centres /services, childcare facilities, primary educations, sports and recreational, places of worship and burial grounds, community buildings and other social infrastructure such as libraries and community centres, in the vicinity of the subject site, being a maximum 10km distance away. Given that populations of outer periphery areas such as in Lusk would be used to traveling such a distance to access facilities and services in the area, I accept the approach taken by the applicant in relation to the submitted assessment. I also note that the proposed development incorporates a childcare facility to accommodate 95 childcare places, exceeding the minimum requirement anticipated under applicable guidelines (being the Childcare Facility Guidelines and Apartment Guidelines). Overall, I am satisfied that the applicant has demonstrated sufficient social infrastructure provision to serve future populations of the proposed development. I note third party concern regarding the accuracy of the data presented in this assessment, however minor discrepancies would not alter my overall conclusion that sufficient infrastructure exists to support the proposed development.

11.10.23. It is also requested by a third party that a contribution be sought towards bus shelter provision on the Minister's Road, however I note that no similar request has been made by either the Planning Authority or Transport Infrastructure Ireland and in my view there is no evidence to suggest such a contribution is required, as such, I am not suggesting a condition in this regard.

11.10.24. Archaeology

11.10.25. An Archaeological Assessment has been submitted with the application. I note that both the Planning Authority and the Department for Housing, Planning and Local Government recommend conditions to secure mitigation described in this submitted assessment. This mitigation comprises archaeological supervision of works, monitoring and preparation of an archaeological report upon the completion of

excavation works. I have included a condition to ensure that this mitigation is secured, and the Board can rely upon this should they agree with this approach. With the application of this condition to secure mitigation, I am satisfied that no significant adverse impact would arise with respect to archaeology from the proposed development.

11.10.26. Part V

11.10.27. The applicant has submitted Part V proposals as part of the application documents.

31 no. units are identified as forming the Part V housing equating to 10%.

11.10.28. I note the 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.

11.10.29. Complaints Concerning the Developer

11.10.30. I note that third parties raise concern regarding the developer for the application, with reference to poor quality development that this developer has previously been responsible for. The suggestions include reference to faulty construction with material submitted regarding the same.

11.10.31. The credibility of the developer for this planning application is not a matter for my assessment and there is no planning policy or guidance that would allow such judgements to inform the decision process for this application. I also note that any planning permission for the subject site would not be tied to a particular developer. The type of disputes described by third parties between the developer and individuals that have purchased a property from that developer, are private matters, which cannot be answered by, or bear influence upon the Board, in the determination of this current application.

12.0 Screening for 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 comprised of agricultural lands, including hedgerows, treelines, ditches, grassland and meadows. It is located in the Nanny-Delvin catchment and primarily within the Ballough[Stream]_SC_010 sub-catchment, with the southeast of the site located in Palmerstown_SC_010. The Regles Stream flows approximately 500m east of the site and receives surface water discharge from Lusk which is then discharged into the Rogerstown Estuary. The ecological status of this stream is unassigned by the EPA, and the Rogerstown Estuary is currently At Risk of not meeting its Water Framework objectives.
- 12.7. The submitted Screening report confirms that the Site is situated on the Lusk-Bog of the Ring groundwater body, which is Not at Risk of not meeting its WFD objectives. The aquifer type within the Site boundary is a Locally Important Aquifer (Lm) aquifer on bedrock which is Generally Moderately Productive. The groundwater rock units underlying the aquifer are classified as Dinantian Upper Impure Limestones (GSI, 2022). The level of vulnerability of the Site to groundwater contamination via human activities is Low. The soil is classified as Elton (Fine loamy drift with limestones), and the subsoil is Limestone till (Carboniferous) (TLs) (EPA, 2022).
- 12.8. The site is not located within or adjacent to any European site.

12.9. 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 are a number of European sites sufficiently proximate or linked to the site to require consideration of potential effects. These are listed below with approximate distance to the application site indicated:

- Rogerstown Estuary SAC 0208 (2.4km)
- Malahide Estuary SAC 0205 (5.9km)
- Rockabill to Dalkey Island SAC 3000 (7.4km)
- Lambay Island SAC 0204 (10.4km)
- Baldoyle Bay SAC 0199 (12.2km)
- Rogerstown Estuary SPA 4015 (2.4km)
- Malahide Estuary SPA 4025 (5.9km)
- Skerries Islands SPA 4122 (7.3km)
- Rockabill SPA 4014 (9km)
- Lambay Island SPA 4069 (10.4km)
- Baldoyle Bay SPA 4016 (12.3km)
- River Nanny Estuary and Shore SPA 4158 (13.5km)
- Ireland's Eye SPA 4117 (14.6km)

12.10. 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 by the information on file, including observations on the application made by prescribed bodies and Third Parties, and I have also visited the site.

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

Table 12.1: European Sites/Location and Qualifying Interests

Site (site code) and Conservation Objectives	Qualifying Interests/Species of Conservation Interest (Source: EPA / NPWS)
<p>Rogerstown Estuary SAC 0208 (2.4km)</p> <p>To maintain and 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>Malahide Estuary SAC 0205 (5.9km)</p> <p>To maintain and 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>Rockabill to Dalkey Island SAC 3000 (7.4km)</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><i>Phocoena phocoena</i> (Harbour Porpoise) [1351]</p>

<p>Lambay Island SAC 0204 (10.4km)</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>Halichoerus grypus (Grey Seal) [1364]</p> <p>Phoca vitulina (Harbour Seal) [1365]</p>
<p>Baldoyle Bay SAC 0199 (12.2km)</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 maritima) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p>
<p>Rogerstown Estuary SPA 4015 (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>Greylag Goose (Anser anser) [A043]</p> <p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Shelduck (Tadorna tadorna) [A048]</p> <p>Shoveler (Anas clypeata) [A056]</p> <p>Oystercatcher (Haematopus ostralegus) [A130]</p> <p>Ringed Plover (Charadrius hiaticula) [A137]</p> <p>Grey Plover (Pluvialis squatarola) [A141]</p> <p>Knot (Calidris canutus) [A143]</p> <p>Dunlin (Calidris alpina) [A149]</p> <p>Black-tailed Godwit (Limosa limosa) [A156]</p> <p>Redshank (Tringa totanus) [A162]</p> <p>Wetland and Waterbirds [A999]</p>
<p>Malahide Estuary SPA 4025 (5.9km)</p>	<p>Great Crested Grebe (Podiceps cristatus) [A005]</p> <p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p>

<p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p>	<p>Shelduck (<i>Tadorna tadorna</i>) [A048] Pintail (<i>Anas acuta</i>) [A054] Goldeneye (<i>Bucephala clangula</i>) [A067] Red-breasted Merganser (<i>Mergus serrator</i>) [A069] 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] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa totanus</i>) [A162] Wetland and Waterbirds [A999]</p>
<p>Skerries Islands SPA 4122 (7.3km)</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] Shag (<i>Phalacrocorax aristotelis</i>) [A018] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Purple Sandpiper (<i>Calidris maritima</i>) [A148] Turnstone (<i>Arenaria interpres</i>) [A169] Herring Gull (<i>Larus argentatus</i>) [A184]</p>
<p>Rockabill SPA 4014 (9km)</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p>	<p>Purple Sandpiper (<i>Calidris maritima</i>) [A148] Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p>

<p>Lambay Island SPA 4069 (10.4km)</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>Baldoyle Bay SPA 4016 (12.3km)</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]</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> <p>Wetland and Waterbirds [A999]</p>
<p>River Nanny Estuary and Shore SPA 4158 (13.5km)</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p>	<p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Herring Gull (<i>Larus argentatus</i>) [A184]</p> <p>Wetland and Waterbirds [A999]</p>
<p>Ireland's Eye SPA 4117 (14.6km)</p> <p>To maintain or restore the favourable conservation condition of qualifying</p>	<p>Cormorant (<i>Phalacrocorax carbo</i>) [A017]</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>

interests/species of conservation interest for which the SPA has been selected.	Razorbill (<i>Alca torda</i>) [A200]
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12.12. The above Table 12.1 reflects the EPA and National Parks and Wildlife Service (NPWS) list of qualifying interests for the SAC/SPA areas requiring consideration.

12.13. Potential Effects on Designated Sites

12.14. The submitted report identifies any pathways or links from the subject site to European Sites considered in this screening assessment, and I summarise this below.

12.15. The subject site does not overlap directly with any European site and therefore there is no risk of direct habitat loss or fragmentation to occur as a result of the development. The subject site does not support populations of any fauna species linked to the qualifying interest (QI) populations of European sites. There is no hydrological connection or any other connection to Malahide Estuary SAC, Lambay Island SAC, Baldoyle Bay SAC, Malahide Estuary SPA, Skerries Islands SPA, Rockabill SPA, Lambay Island SPA, Baldoyle Bay SPA, River Nanny Estuary and Shore SPA and Ireland’s Eye SPA. In addition, the intervening distance between the subject site and these aforementioned European sites is sufficient to exclude the possibility of any effects arising upon these European sites during either the construction or operational phases of the proposed development on the subject site.

12.16. The proposed development will be connected to the existing surface water network via Regles Stream during the construction and operational phases to Rogerstown Estuary SAC and Rogerstown Estuary SPA. In addition, there is a hydrological pathway via discharges from Portrane Donabate Waste Water Treatment Plant (WwTP) during the operational phase to Rockabill to Dalkey Island SAC.

12.17. While a surface water hydrological connection is identified to the European sites at Rogerstown Estuary, this is a weak connection as there is a 500m intervening distance between the subject site and the stream. During both the construction and operational phase, the implementation of best practice measures will prevent harmful

discharges into the hydrological network. These measures are not designed or intended specifically to mitigate any putative potential effect on European sites. They constitute the standard approach for construction works in an urban area and are incorporated into development design as part of necessary surface water management systems through SUDs. Their implementation would be necessary for a housing development on any site in order to protect the surrounding environs regardless of proximity or connections to any European site or any intention to protect a European site. It would be expected that any competent developer would deploy them for works on a site whether or not they were explicitly required by the terms or conditions of a planning permission.

12.18. Furthermore, any discharges from the subject site would have to travel approximately 4km along the Regles Stream before reaching the European sites, and as such, would be diluted and result in no impact upon overall water quality.

12.19. In relation to hydrological connections via foul waters to Rockabill and Dalkey Island SAC, this is a weak connection as discharges are via Portrane Donabate WwTP. Any risk of significant effect upon the European site as a result of this connection during operation of the development can be discounted due to the dilution of treated foul water flows once they are discharged from Portrane Donabate WwTP into the Irish Sea. In addition, the treated discharge from the Portrane Donabate WwTP is currently compliant with the emission limit values set in the wastewater discharge licence.

12.20. In combination / cumulative effects

12.21. The submitted report identifies the potential for in-combination effects in section 3.5.2.6 of the submitted report. This identifies a number of planning permissions in the area surrounding the subject site. These developments would be required to comply with policy objectives in the Development Plan relating to the protection of European sites and water quality. The Development Plan and Biodiversity Action Plan for Fingal are also identified, and plan for development in the area with measures to enhance biodiversity. There are no projects or plans identified that in-combination with the proposed development, could cause any likely significant effects on European sites.

12.22. 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.

12.23. AA Screening Conclusion

12.24. In conclusion, having regard to the nature and scale of the proposed development on serviced lands (via feasible network upgrades), the nature of the receiving environment, the distances to the nearest European sites, the lack of hydrological or any other pathway and/or the dilution effect that would occur to any discharges from the site, it is reasonable to conclude that the proposed development, individually or in combination with other plans or projects would not be likely to have effects on any European sites, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

12.25. In reaching this conclusion I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on any European Sites.

13.0 **Screening for Environmental Impact Assessment**

13.1. The applicant has addressed the issue of Environmental Impact Assessment (EIA) within the submitted EIAR Screening Report and I have had regard to the same. The report concludes that the proposed development is below the thresholds for mandatory EIA and that a sub threshold Environmental Impact Assessment Report (EIAR) is not required in this instance as the proposed development will not have significant impacts on the environment.

13.2. Section (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

(i) Construction of more than 500 dwelling units;

(iv) Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other built-up area and 20ha elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)

13.3. Item (15)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that an EIA is required for:

“Any project listed in this part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.”

- 13.4. The proposed development is for 312 residential units and creche with associated site works. The overall site area is approximately 8.3ha and is currently formed of agricultural land. It is sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b)(i) and (iv) of the Planning and Development Regulations 2001 (as amended), in that it is less than 500 units and is below 10ha (that would be the applicable threshold for this site, being outside a business district but within an urban area). Class 14 relates to works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7. I would note that the uses proposed are in keeping with land uses in the area and that the development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation. In relation to habitats or species of conservation significance, the AA screening set out above, concludes that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites.
- 13.5. The criteria at Schedule 7 to the regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that could and should be the subject of EIA. Section 299B(1)(b)(ii)(II)(A) of the regulations states that the Board shall satisfy itself that the applicant has provided the information specified in Schedule 7A. The submitted EIA Screening Report addresses the information under Schedule 7. It is my view that sufficient information has been provided within the documentation to determine whether the development would or would not be likely to have a significant effect on the environment. The various reports submitted with the application address a variety of environmental issues and assess the impact of the proposed development, in addition to cumulative impacts regarding other permitted developments in proximity to the site, and demonstrates that, subject to the various construction and design related mitigation measures recommended, the proposed development will

not have a significant impact on the environment. I have had regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts. I have examined the sub criteria having regard to Schedule 7A and all other submissions, and I have considered all information which accompanied the application including inter alia:

- Planning Statement;
- Statement of Consistency;
- Material Contravention Statement;
- Housing Quality Assessment;
- Building Life Cycle Report;
- Universal Design Statement;
- Social Infrastructure Assessment;
- Outline Construction Management Plan;
- Architectural Design Statement and Drawings;
- Engineering Services Report and Drawings;
- Mobility Management Plan;
- DMURS Compliance Statement;
- Traffic & Transport Assessment;
- Landscape Rational and Drawings;
- Arboricultural Assessment and Drawings;
- Outdoor Lighting Report and Drawings;
- Appropriate Assessment Screening Report;
- Environmental Impact Assessment Screening Report;
- Ecological Impact Assessment Report;
- Statement in accordance with Article 299B(1)(b)(ii)(II)(C) of the Planning and Development Regulations 2001, as amended;
- Archaeological Assessment;

- Verified Views and CGIs;
- Construction and Demolition Waste Management Plan;
- Landscape & Visual Impact Assessment; and
- Sunlight, Daylight & Shadow Assessment.

13.6. In addition I have taken into account the SEA of the Development Plan. Noting the requirements of Article 299B (1)(b)(ii)(II)(C), whereby the applicant is required to provide to the Board a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union Legislation other than the EIA Directive have been taken into account, I would note and have considered that the following assessments / reports have been submitted:

- A Statement in accordance with Article 299B(1)(b)(ii)(II)(C) of the Planning and Development Regulations 2001 as amended, providing an assessment of relevant EU legislation in relation to the proposed development and identifying the consideration of relevant EU legislation in the preparation of plans / reports as follows;
 - Directive 92/43/EEC, The Habitats Directive, in the submitted AA Screening Report, Ecological Impact Assessment, Landscape Design Statement;
 - Directive 2000/60/EU, EU Water Framework Directive, in the submitted AA Screening Report, Ecological Impact Assessment, Construction and Demolition Waste Management Plan, Outline Construction Management Plan and Engineering Services Report;
 - Directive 2001/24/EC, SEA Directive, in the submitted EIA Screening Report;
 - Directive 2002/49/EC, Environmental Noise Directive, in the submitted Construction and Demolition Waste Management Plan and Outline Construction Management Plan;
 - Directive 2008/50/EC on ambient air and cleaner air for Europe, in the submitted Outline Construction Management Plan, Mobility

Management Plan, Traffic and Transport Assessment, Construction and Demolition Waste Management Plan and DMURS Compliance Statement;

- Directive 2007/60/EC on the assessment and management of flood risks, in the submitted Site Specific Flood Risk Assessment and Engineering Services Report;
- Directive (EU) 2018/850 on the landfill of waste, in the submitted Outline Construction Management Plan and Construction and Demolition Waste Management Plan;
- Directive 2008/98/EC on waste and repealing certain Directives, in the submitted Outline Construction Management Plan and Construction and Demolition Waste Management Plan;
- Directive 2000/14/EC on noise emission in the environment by equipment for use outdoors, in the submitted Outline Construction Management Plan and Construction and Demolition Waste Management Plan;
- Directive 2012/27/EU on energy efficiency, in the submitted Building Lifecycle Report and Sunlight, Daylight & Shadow Assessment;
- Regulation (EU) 2018/842 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) no.525/2013, in the submitted Building Lifecycle Report and Sunlight, Daylight and Shadow Assessment;
- The Bern and Born Convention, and Ramsar Convention, in the Ecological Impact Assessment;
- Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources, in the submitted Building Lifecycle Report;
- Regulation (EU) No 517/2014 on fluorinated greenhouse gases in the submitted building Lifecycle Report.

13.7. The EIAR Screening Statement prepared by the applicant has under the relevant themed headings considered the implications and interactions between these

assessments and the proposed development, and as outlined in the report states that the development would not be likely to have significant effects on the environment. I am satisfied that all relevant assessments have been identified for the purposes of EIA Screening.

13.8. I have completed a screening assessment as set out in Appendix A of this report and recommend to the Board that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report (EIAR) would not therefore be required. The conclusion of this assessment is as follows:

13.9. Having regard to: -

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

(b) the location of the site on lands zoned under the Fingal County Development Plan 2017-2023 as residential.

(c) The pattern of development and planning approvals in surrounding area.

(d) The availability of mains water and wastewater services to serve the proposed development.

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

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

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

(h) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Ecological Impact Assessment, Construction and Demolition Waste Management Plan and Outline Construction Management Plan.

- 13.10. It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.
- 13.11. My EIA screening assessment is informed by the application documentation as a whole and does not solely rely upon the submitted EIA screening report.
- 13.12. The submitted EIA Screening also considers potential cumulative impacts with reference to approved and planned projects in the locality, which has also informed my assessment. I am satisfied that with respect to cumulative impact, that the proposed development relates to residentially zoned lands and that the development of other residentially zoned lands in the area has been accounted for under the Development Plan which was subject to its own SEA. There are no anticipated significant cumulative impacts anticipated with respect to surrounding development which would not have already been accounted for under the Development Plan.

14.0 Conclusion

- 14.1. The subject site is zoned Objective RA - 'Residential Area' where the new housing development and creche are proposed. A small portion of the site is also zoned GE – 'General Employment' where new footpath and public realm is proposed. All uses on the site are in accordance with the Development Plan zonings for the area. The density of the proposed development is appropriate in light of the locational characteristics of the site and the national planning policy approach set out in the Sustainable Residential Development Guidelines and Apartment Guidelines.
- 14.2. The height of the proposed development is a maximum 5 storeys as described in the submitted application. However, in accordance with the Development Management Criteria described in the Building Height Guidelines, as well as general design principles set out in the Development Plan and the Urban Design Manual, it is recommended that the height of proposed block E be reduced to 4 storeys. It is also recommended that proposed block C be omitted from the scheme, in light of concerns regarding proximity to boundaries and future development of lands to the west.
- 14.3. A detailed assessment of amenity impact has been carried out, and this determined that with the incorporation of amendments as described above and mitigation set out

in conditions described below, no significant adverse impact would result from the proposed development upon surrounding residents or future occupier 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. Screening for Appropriate Assessment has been carried out and confirms that there would be no impact upon the integrity of European sites. 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.
- 14.5. 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 Recommendation

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 2022 by Dwyer Nolan Developments Limited care of Armstrong Fenton Associates, 13 The Seapoint Building, 44-45 Clontarf Road, Dublin 3, D03 A0H3.

Proposed Development

- 15.2. The proposed development consists of:
- 312 no. dwellings comprised of 205 no. 3 & 4 bed, 2 & 3 storey, detached, semi-detached and terraced houses, 40 no. 2 & 3 bed apartment / duplex units in 3 no. 3 storey blocks (comprised of Duplex Types A1, A2, B1 & B2) and 67 no. 1, 2 & 3 bed apartments in 2 no. blocks (comprised of Block C, being 3 storeys, and Block E, being 2-5 storeys over a basement level car park).

- The development includes a 1-2 storey creche (c.484.6sqm) with associated outdoor space to the rear.
- Access to the development will be via 2 no. vehicular access points from Minister's Road, along with the provision of a roadside footpath and cycle path along the front of the site at Minister's Road.
- The proposed development also provides for: (i) all associated site development works above and below ground, (ii) public open spaces (c. 0.99 ha / 9,999m²), (iii) communal open spaces (c. 1,849m²), (iv) hard & soft landscaping & boundary treatments, (v) basement & surface car parking (Total: 583 no. car parking spaces, including EV parking), (vi) basement & surface bicycle parking (Total: 498 no. bicycle parking spaces), (vii) bin & bicycle storage, (viii) public lighting, and (ix) 2 no. ESB sub-stations

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 settlement area for Lusk in an area zoned for residential (Objective RA – Residential Area, where residential (and childcare) is permitted in principle.);

(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) The nature, scale and design of the proposed development and the accessibility of the site to surrounding facilities and feasibility of connection to water services infrastructure;
- (i) The pattern of existing and permitted development in the area;
- (j) The planning history of the area;
- (k) The submissions and observations received;
- (l) The Chief Executive Report from the Planning Authority; and
- (m) 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, 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 Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening documentation and the Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Inspector and that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have an effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment Screening

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environment Report submitted by the applicant, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to: -

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

(b) the location of the site on lands zoned under the Fingal County Development Plan 2017-2023 as residential.

(c) The pattern of development and planning approvals in surrounding area.

(d) The availability of mains water and wastewater services to serve the proposed development.

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

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

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

(h) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Ecological Impact Assessment, Construction and Demolition Waste Management Plan and Outline Construction Management Plan.

The Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

Conclusions on Proper Planning and Sustainable Development

Having regard to the zoning objective for the site as set out in the Fingal County Development Plan 2017-2023, the pattern of existing and approved development in the immediate vicinity of the site, the AA Screening Report submitted with the application, the location in the existing settlement area for Lusk and a reasonable walking distance to the town centre and public transport links, it is considered that with the incorporation of amendment and mitigation described in conditions, the proposed development would not seriously injure the residential or visual amenities of the area or of property/land in the vicinity, would be consistent with national and local planning policy and would be acceptable in terms of design, scale, height, mix and quantum of development, and in terms of pedestrian and traffic safety. It was also concluded that the development would not subject future occupiers to flood risk or increase the risk of flood elsewhere. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) Revise apartment block E to a maximum four storey height, with the removal of the third floor to preserve the recess from the main elevations at the top storey level.
 - (b) Omit apartment block C.
 - (c) Revised treatment to the boundary of Minister's Road to allow greater preservation of hedgerow, with the extent of any removal to be agreed with the Planning Authority.
 - (d) Revised parking layout to the Creche to avoid the need for reverse parking.
 - (e) Where residential property boundaries directly adjoin public open space (including along the south-eastern boundary adjacent to the GAA pitch) a wall shall be incorporated instead of a fence.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. As a result of these amendments, the total number of units in the scheme is reduced to 291.

Reason: In the interests of visual and residential amenity.

3. The mitigation measures contained in the Ecological Impact Assessment (EclA) which was submitted with the application shall be implemented in full. Clearance of vegetation from the development site shall only be carried out between September and February outside main bird breeding season.

Reason: In the interest of clarity and proper planning and sustainable development of the area and to ensure ecological best practice.

4. The development shall be carried out on a phased basis, in accordance with a phasing scheme submitted with the planning application, (unless otherwise agreed in writing with the planning authority/An Bord Pleanála prior to commencement of any development.)

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

5. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Rainwater butts shall be installed to each house. 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.

6. 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.

7. The site shall be landscaped (and earthworks carried out) in accordance with the detailed comprehensive scheme of landscaping (including specification of tree planting, playspace and boundary treatments throughout the site, as well as the incorporation of a biodiversity pond to serve amphibians), to be submitted and agreed in writing with the planning authority prior to commencement of development. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development [or until the development is taken in charge by the local authority, whichever is the sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority. 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.

Reason: In the interest of residential and visual amenity

8. (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 and hedges to be retained, as submitted with the application or subsequently agreed with the Planning Authority in accordance with conditions under this consent, 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 or hedging which are to be retained on the site.

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

9. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the hedges/trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the

planning authority to apply such security, or part thereof, to the satisfactory protection of any hedges/trees on the site or the replacement of any such hedges/trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To secure the protection of the hedges/trees on the site.

10. The cycleway and footpath along the frontage of the site on Minister's Road shall be provided prior to occupation of the development. Details of such provision, including construction and demarcation, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

11. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, access road and the underground car park (including access ramp with segregated provision for cyclists) shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. Details shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

12. A minimum of 10% of all communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

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

13. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

14. 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.

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

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

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

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

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

16. A Hedgerow Management Plan for the development site to set out measures to maintain the biodiversity value of retained hedgerows, including their usage by yellowhammers, shall be submitted to the planning authority for its written agreement prior to the commencement of development on the site, and shall be implemented in full.

Reason: To maintain the biodiversity value of retained hedgerows and conserve bird species.

17. Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development/installation of the lighting. The proposed lighting should be signed off by a bat specialist prior to submission to the planning authority. The agreed lighting system shall be fully implemented and operational, before the proposed development is made available for occupation.

Reason: In the interest of public safety and visual amenity.

18. Bat roosts/boxes shall be incorporated into the site and the recommendation of the EclA report in relation to bats shall be carried out on the site to the written satisfaction of the planning authority and in accordance with the details submitted to An Bord Pleanála with this application unless otherwise agreed in writing with the planning authority.

Reason: To ensure the protection of the natural heritage on the site.

19. 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/An Bord Pleanála prior to commencement of development. Samples of materials shall be presented to the Planning Authority on site. In default of agreement the matters in dispute shall be referred to An Bord Pleanála for

determination.

Reason: In the interest of visual amenity.

20. 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:

- Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- Location of areas for construction site offices and staff facilities;
- Details of site security fencing and hoardings;
- Details of on-site car parking facilities for site workers during the course of construction;
- Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- Measures to obviate queuing of construction traffic on the adjoining road network;
- Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- Provision of parking for existing properties at [specify locations] during the construction period;
- Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.
- Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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

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

22. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

23. The proportion of residential units to be made available for occupation before completion and operation of the childcare facility, shall be agreed in writing with the Planning Authority, prior to commencement of the development.

Reason: To ensure that childcare facilities are provided in association with residential units, in the interest of residential amenity.

24. Prior to any additional development taking place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, details to be submitted to the Planning Authority for approval in writing.

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

25. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority

prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. 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].

26. 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.

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

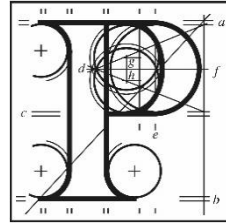
Reason: To comply with the requirements of Part V of the Planning and

Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

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

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

18.0 Appendix A: EIA Screening



An
Bord
Pleanála

EIA - Screening Determination for Strategic Housing Development Applications

A. CASE DETAILS

An Bord Pleanála Case Reference		ABP-313144-22
Development Summary		312 no. residential units (205 no. houses, 107 no. apartments), childcare facility and associated site works.
	Yes / No / N/A	
1. Has an AA screening report or NIS been submitted?	Yes	An AA Screening Report was submitted with the application

2. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?

No

3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA

Yes

SEA undertaken in respect of the Fingal County Development Plan 2017-2023. An AA Screening Report and Ecological Impact Assessment (EclA) under the Habitats Directive and with reference to the Water Framework Directive. The submitted EIA Screening Statement also refers to the Habitats Directive. A Statement in accordance with Article 299B(1)(b)(ii)(II)(C) of the Planning and Development Regulations 2001 as amended was also submitted, providing an assessment of relevant EU legislation in relation to the proposed development and identifying the consideration of relevant EU legislation in the preparation of plans / reports.

B. EXAMINATION	Yes/ No/ Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant) (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
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		Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)			
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	No	The residential use proposed and the size and design of the proposed development would not be unusual for this part of Fingal. While the height is a maximum 5 storeys as proposed (4 storeys recommended amendment), and the height of adjacent buildings in the Dun Emer Estates is 2 storey, the proposed scale is not exceptional, relative to the established urban context which includes the Lusk town centre.	No
1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	The works will involve levelling out in some areas, but with no significant change to topography. Changes in land use and form are not considered to be out of character with the pattern of development in the surrounding area, and the site is situated in an existing urban area.	No
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	Yes	Construction materials will be typical of such development. While the development will result in the intensity of land coverage by buildings, this is not on a significant scale at either national or county level. The proposed landscape	No

		works also incorporate mitigation measures through landscape planting.	
1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	Yes	Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction Environmental Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.	No

<p>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction Environmental Management Plan will satisfactorily mitigate potential impacts.</p> <p>Construction waste can be managed via a Construction Waste Management Plan to obviate potential environmental impacts. Other significant operational impacts are not anticipated.</p>	<p>No</p>
<p>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>No</p>	<p>Surface water management systems as required of a project of this scale will prevent the escape of potential pollutants from the site.</p>	<p>No</p>

<p>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</p>	<p>Yes</p>	<p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction and Environmental Management Plan. Permanent operation of new lighting and use of energy throughout the development will also result, but would not be to a significant level and would reflect established residential use in the area.</p>	<p>No</p>
<p>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p>No</p>	<p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction and Environmental Management Plan to include traffic movements, would satisfactorily address potential impacts on human health. No significant operational impacts are anticipated.</p>	<p>No</p>
<p>1.9 Will there be any risk of major accidents that could affect human health or the environment?</p>	<p>No</p>	<p>No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature.</p>	<p>No</p>

<p>1.10 Will the project affect the social environment (population, employment)</p>	<p>Yes</p>	<p>Redevelopment of this site as proposed will result in a change of use and an increased population at this location. This is not regarded as significant given the scale of the development, its situation in an existing urban area and the surrounding pattern of land uses.</p>	<p>No</p>
<p>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p>No</p>	<p>This is a stand-alone development, comprising renewal of a site. The Fingal County Development Plan 2017-2023 plans for the expansion of the County and has been subject to SEA. This application and those developments in the vicinity are catered for in the plan through land use zoning. Other developments in the wider area alongside the proposed development, are not considered to give rise to significant cumulative effects.</p>	<p>No</p>
<p>2. Location of proposed development</p>			
<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <p style="padding-left: 40px;">1. European site (SAC/ SPA/ pSAC/ pSPA)</p>	<p>No</p>	<p>An AA Screening Assessment Report and Ecological Impact Assessment are submitted with the application. Having regard to the nature and scale of the proposed development on serviced lands,</p>	<p>No</p>

<p>2. NHA/ pNHA 3. Designated Nature Reserve 4. Designated refuge for flora or fauna 5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</p>		<p>the nature of the receiving environment, the distances to the nearest European sites and pNHAs, the lack of hydrological or any other pathway and/or the dilution effect that would occur to any discharges from the site, it is reasonable to conclude that the proposed development, individually or in combination with other plans or projects would not be likely to have any potential impact.</p>	
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	<p>Yes</p>	<p>Existing habitats have been surveyed in the submitted Ecological Impact Assessment and AA Screening Assessment Report. Surveys support a conclusion that the site does not form an ex-situ area for European sites. Surveys also demonstrate that while bats utilise the site, mitigation is necessary to reduce impact on bats. Mitigation is also outlined in the submitted EclA, including in relation to vegetation clearance and lighting.</p>	<p>No</p>
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>No</p>	<p>The submitted Archaeological Report demonstrates that no adverse impact is anticipated. Conditions are recommended and described in the Archaeological Report.</p>	<p>No</p>

<p>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>	<p>Yes</p>	<p>The subject site is formed of agricultural land. However the site is zoned for residential development and its change of use would not represent a significant loss of agricultural land given the size of the site and existence of other agricultural land in the surrounds.</p>	<p>No</p>
<p>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</p>	<p>No</p>	<p>The site is separated to watercourses and no risk to groundwater bodies is identified.</p>	<p>No</p>
<p>2.6 Is the location susceptible to subsidence, landslides or erosion?</p>	<p>No</p>	<p>There is no evidence in the submitted documentation that the lands proposed for development are susceptible to landslides or erosion and the topography of the area is flat.</p>	<p>No</p>
<p>2.7 Are there any key transport routes (eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</p>	<p>Yes.</p>	<p>The site is adjacent to Minister's Road a primary route into Lusk. The submitted Traffic and Transport Report demonstrates that there would be no significant negative impact upon the capacity of surrounding junctions in the</p>	<p>No</p>

		post development condition, with future growth in the area accounted for.	
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?	Yes	The subject site is situated opposite a creche. No significant adverse impact upon the creche is anticipated.	No

3. Any other factors that should be considered which could lead to environmental impacts			
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No	Developments have been identified in the vicinity, however these are all of a scale and nature that would be anticipated under the Fingal County Development Plan 2017-2023 and would not give rise to significant cumulative environmental effects alongside this development.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No trans boundary considerations arise	No
3.3 Are there any other relevant considerations?	No		No

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

Real likelihood of significant effects on the environment.	No		
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D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

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

(b) the location of the site on lands zoned under the Fingal County Development Plan 2017-2023 as residential.

(c) The pattern of development and planning approvals in surrounding area.

(d) The availability of mains water and wastewater services to serve the proposed development.

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

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

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

(h) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Ecological Impact Assessment, Construction and Demolition Waste Management Plan and Outline Construction Management Plan.

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

Rachel Gleave O'Connor
Senior Planning Inspector

18th January 2023