



An
Bord
Pleanála

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

Inspector's Report ABP-313222-22

Strategic Housing Development

Construction of 1,007 no. apartments,
creche and associated siteworks.

Location

In the townland of Stapolin, Baldoyle,
Dublin 13.

Planning Authority

Fingal County Council

Applicant

Lismore Homes Limited

Prescribed Bodies

1. Irish Water
2. Dublin Airport Authority
3. Department of Education
4. Inland Fisheries Ireland
5. National Transport Authority
6. Transport Infrastructure Ireland

Observers

1. Abbey Park and District Residents
Association & Others
2. Elaine Toomey
3. Kieran Dargan

4. Maire T. Cummins

5. Monobrio DAC

Date of Site Inspection

15th February 2023

Inspector

Stephen Ward

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1.0 Introduction

- 1.1. This is an assessment of a proposed strategic housing development application submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. I am satisfied that the proposed development comes within the definition of 'Strategic Housing Development' as set out in Section 3 of the Act.

2.0 Site Location and Description

- 2.1. The subject site has a stated area of 6.1 hectares and is located on the southern fringes of the Fingal County Council administrative area, approximately 9km north-east of Dublin city centre. It is located to the northwest of Baldoyle village and is approximately 6km southeast of Dublin airport. The Dublin-Belfast railway line (including Clongriffin DART station) runs in a north-south direction approximately 250 metres to the west. To the east, the site is within c. 500 metres of the Baldoyle Estuary area, while the Mayne River flows c. 200 metres to the north of the site.
- 2.2. The site is bound to the north and east by the lands known as Racecourse Park. The Board has granted permission for comprehensive redevelopment of these lands to provide improved parks facilities (see section 4 of this report for details). To the south of the site is the proposed Stapolin Haggard public open space and the Red Arches residential development of houses and apartments, as well as the wider residential area known as 'The Coast'.
- 2.3. To the southwest and west of the site are the lands identified as Growth Areas 1 & 3 in the Baldoyle-Stapolin Local Area Plan 2013. The Board has made decisions to grant permission for other SHD applications in Growth Areas 1 & 3, as is detailed in section 4 of this report. The GA1 site is partially developed (on foot of an earlier permission) but GA3 remains undeveloped. The application site is identified as Growth Area 2 in the same LAP.
- 2.4. The site levels generally fall from south to north and the surface generally consists of rough ground. There is limited vegetation apart from some short tree stands. The site has been partially developed with the installation of roads and drainage services etc. on foot of a previous planning permission.

3.0 Proposed Strategic Housing Development

3.1. The development involves the construction of 1,007 apartments in 16 blocks. The housing mix is proposed as follows:

| Apartment Type | No. of Units | Percentage of Units |
|----------------|---|--|
| Studio | 58 | 5.75 |
| 1 bed | 247 | 24.5 |
| 2 bed | 657 (94 no. 3-person, 563 no. 4-person) | 65.25 (9.3% 3-person, 55.95% 4-person) |
| 3 bed | 45 | 4.5 |
| Total | 1007 | 100 |

3.2. The development has a height ranging from 4-12 storeys over basement level. The 16 blocks are grouped within 6 development sectors identified in the Baldoyle-Stapolin LAP. The building heights within each sector are as follows:

| Sector | Building Heights | No. of Units |
|--------------------|------------------|--------------|
| 6A & 6B | 5-6 | 335 |
| 7 | 5-12 | 333 |
| 8A | 5-7, & 11 | 144 |
| 8B | 5-7, & 11 | 125 |
| 8C | 4, 5, & 8 | 70 |
| Totals | 4-12 | 1007 |

3.3. In addition to the proposed apartments, the development also includes:

- 6 no. communal rooms/facilities (c. 515m²) located at ground floor level in Block 7 (sector 6A/6B), Block 2 (sector 7), Block 2 (sector 8A), and Block 1 (sector 8B).

- External communal amenity space of c. 1.35 ha. provided at ground level throughout the scheme.
- A ground floor crèche (gross floor area of 800 sq.m.) with dedicated outdoor play area of c. 208 sq.m. is proposed at Block 1, Sector 8A with 14 no. dedicated crèche car parking spaces.
- A total of 743 no. car parking spaces are proposed (605 spaces at basement level and 138 no. spaces at surface level, including the 14 no. crèche car parking spaces).
- 1,754 no. bicycle parking spaces for residents and 500 no. bicycle spaces for visitors are proposed in covered and secure parking facilities at ground level throughout the scheme.
- Upgrade of the public watermain for c. 170 metres along Red Arches Park to connect to the existing watermain at Red Arches Road as required by Irish Water.
- Pedestrian, cyclist, and vehicular access will be provided at Red Arches Park, Stapolin Avenue, Ireland's Eye Avenue, and Stapolin Way.
- The development will also provide for all associated ancillary site development infrastructure including: ESB sub-stations, bin stores, plant rooms, public lighting, new watermain connection to the south at Red Arches Road, foul drainage to the existing pumping station at Stapolin Haggard, and surface water drainage to the west; roads and footpaths; landscaping; new boundary treatment to proposed Racecourse Park (ABP ref. JP06F.311315) and remove existing boundary to Red Arches Drive; and all associated site development works necessary to facilitate the proposed development.

3.4. The proposed development will integrate with the permitted Strategic Housing Developments at the Growth Area 1 lands to the south (ABP ref. 310418) and Growth Area 3 lands to the west (ABP ref. 311016), for which an overall total of 2,202 residential units were approved by An Bord Pleanála.

3.5. The application proposes Class 1 and Class 2 Open Space to serve the proposed development. These lands are not within the applicant's ownership or the red line boundary of the subject site. However, the application submits that legally binding

provisions that run with the land include the provision of Class 1 and Class 2 Open Space for the application site.

- 3.6. The key figures relating to the proposed development are summarised in the table below.

Key Figures for the Proposed Development

| | |
|-------------------------------|---|
| Site Area | 6.1 ha |
| No. of apartments | 1007 units |
| Other Uses | Crèche: 800m ² (238 childcare spaces) 6 no. communal rooms (c. 515m ²) |
| Gross Floor Area | 96,168 m ² (above ground level) |
| Density | 165 units per ha (gross) |
| Plot Ratio | 1 : 1.57 |
| Site Coverage | 30.6% |
| Height | 4-12 storeys |
| Dual Aspect | 544 units (54%) |
| Car Parking | 743 spaces (605 at basement level and 138 at surface level) |
| Bicycle parking | 2,254 spaces (1,754 for residents and 500 for visitors) |
| Communal Amenity Space | 10,350m ² at ground level |
| Public Open Space | C. 6 ha (c. 5.1 ha for Class 1 open space at Mayne Road, c. 1.03 ha for Class 2 open space within the site and at Stapolin Haggard.) See section 3.5 above. |
| Part V | 200 units within the scheme |

3.7. In addition to the standard plans and particulars, the application is accompanied by the following documents and reports:

- Environmental Impact Assessment Report (EIAR)
- Appropriate Assessment Screening and Natura Impact Statement (NIS)
- Operational Waste Management Plan
- Outline Construction Environmental Management Plan
- Construction and Demolition Waste Management Plan
- Community Audit
- School Demand Assessment
- Response to Statement of Opinion (pre-application)
- Material Contravention Statement
- Statements of Consistency
- Planning Report
- Property Management Strategy Report
- Design Statement
- Roads Infrastructure Report
- Building Life Cycle Report
- Flood Risk Assessment
- Traffic and Transport Assessment
- Residential Travel Plan
- Stage 1 Road Safety Audit
- Verified Photomontages
- Daylight & Sunlight Assessment
- Wind Microclimate Study
- Sustainability & Energy Statements
- Site Lighting Analysis

- Electrical Luminaire Schedule
- Water Services Report
- Glint and Glare Assessment
- Arboricultural Report, Arboricultural Inventory and Impact Assessment incorporating a Tree Protection Strategy
- Landscape Architect's Report
- Housing Quality Statements.

4.0 Planning History

4.1. The following planning history applies to the application site itself:

- 4.1.1. **ABP Ref. PL06F.208508 (P.A. Ref F03A/1529)**: In May 2005, the Board amended the conditions of the FCC decision to grant permission for infrastructural development consisting of internal roads infrastructure and associated piped services infrastructure on lands at Grange and Stapolin Townlands, Baldoyle, Dublin. The purpose of the infrastructural development was to serve lands subject of the Baldoyle Area Action Plan prepared by Fingal County Council in 2001. This permission was implemented but it is now proposed to replace/alter the infrastructure as part of the current application.
- 4.1.2. **ABP Ref. PL06F.228026 (P.A. Ref F07A/1561)**: In August 2008, the Board upheld the FCC decision to refuse permission for a mixed-use development containing 422 no. residential units, a crèche, 6 no. retail units, carparking and all ancillary development works. In summary, the decision outlined that the proposed development would be of excessive density, scale and height, would be out of character with the emerging pattern of development, would not provide a residential environment of appropriate amenity levels, and would be visually obtrusive.
- 4.1.3. **ABP Ref. PL06F.239732 (P.A. Ref F11A/0290)**: In April 2013, the Board overturned the FCC decision to refuse permission and granted permission for the construction of 400 dwelling units in 15 buildings, a three-storey crèche, three number retail units, and ancillary site development works. Condition No. 1 reduced the no. of approved units from 400 to 371.

- 4.1.4. **P.A. Ref F11A/0290/E1:** In March 2018, an application to extend the duration of planning permission F11A/0290 was submitted to Fingal County Council. By order dated 10th May 2018, the Council issued a decision to extend the duration of the planning permission up to 25th May 2023.
- 4.2. The following is the main history that applies to the lands adjoining the application site:
- 4.2.1. **ABP Ref. PL06F.248970 (P.A. Ref F16A/0412):** In November 2017, the Board upheld the FCC decision to grant permission on a site to the southwest (i.e. Growth Area 1) for a ten-year planning permission for the construction of 550 number residential units (379 number apartments and 171 number houses) and a village centre comprising circa 1,585 square metres of commercial floorspace laid out in 13 number blocks ranging in height from two-storeys to six-storeys. This approved development is currently under construction, and it includes surface water drainage infrastructure that would also drain the current application site.
- 4.2.2. **ABP Ref. No. 310418:** In September 2021, the Board granted an SHD permission for alterations to previously permitted Fingal County Council Register Reference number F16A/0412 (An Bord Pleanála Reference Number PL06F.248970) as amended by F20A/0258 and F221A0046) for the construction of 882 no. residential units (135 no. houses and 747 no. apartments), creche and associated site works. The Board's decision is now the subject of a Judicial Review.
- 4.2.3. On the lands to the west of the application site (i.e. Growth Area 3), the Board granted an SHD permission (**ABP Ref. No. 311016**) in November 2021 for the construction of 1,221 no. apartments, crèche and associated site works over 11 blocks ranging from 2 to 15 storeys in height. The Board's decision is now the subject of a Judicial Review.
- 4.2.4. On the lands to the north and east of the application site (i.e. Racecourse Park), the Board granted a permission (**ABP Ref. No. 311315**) in September 2022 for a park development project on a c. 84 hectare site consisting of walking and cycling routes, lighting, car parking, playgrounds and recreation areas, playing pitches, etc.

5.0 Section 5 Pre-Application Consultation

5.1. Pre-Application Consultation ABP-309599-21

5.1.1. The pre-application consultation related to a proposal for 1,007 units in 16 no. 4 to 9 storey buildings, including a ground floor creche and associated works at the application site (smaller site area of 5.9ha).

5.1.2. A section 5 consultation meeting took place on the 20th of May 2021, via Microsoft Teams. Representatives of the prospective applicant, the planning authority and ABP were in attendance. An agenda was issued by ABP prior to the meeting and the main issues raised for discussion at the tripartite meeting were as follows:

1. Public Open Space provision
2. Core Strategy
3. Design and layout, *inter alia*, scale and massing
4. Social and Physical Infrastructure
5. Drainage Issues
6. Any other business.

5.1.3. Following consideration of the issues raised during the pre-application consultation process and, having regard to the consultation meeting and the opinion of the planning authority, ABP was of the opinion that the documentation submitted required further consideration and amendment to constitute a reasonable basis for an application for Strategic Housing Development. The applicant was advised to address the following issues (as summarised) in the documents submitted that could result in them constituting a reasonable basis for an application for Strategic Housing Development.

1. Open Space

Further consideration and/or justification of the documents as they relate to the provision and delivery of Public and Communal Open Space required to serve the development having regard to, *inter alia*, the provisions of the Sustainable Urban Housing: Design Standards for New Apartments (2020), the Fingal County Development Plan 2017-2023 and the Baldoyle-Stapolin Local Area Plan.

2. Development Strategy

Further consideration and/or justification of the documents as they relate to the design approach of the proposed development and the potential for any negative visual impact to the adjoining sites and surrounding environs. The further consideration/ justification should address the proposed design and massing, inter alia the visual impact along the former Racecourse to the north and the Coast Road to the east and relate specifically to the justification for any material contravention of the height strategy in the development plan and compliance with Section 3.2 of the Urban Development and Building Heights: Guidelines for Planning Authorities (2018).

5.1.4. Furthermore, Pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant was notified that, in addition to the requirements as specified in articles 297 and 298 of the Planning and Development (Strategic Housing Development) Regulations 2017, the following information (as summarised) should be submitted with any application for permission:

1. A Materials Strategy that specifically addresses the proposed materials and finishes for buildings, open spaces, paved areas and boundaries, having regard to the requirement to provide high quality and sustainable finishes and details..
2. A report which addresses existing and future residential amenity and which includes matters such as daylight/sunlight analysis, micro-climate/wind impacts and noise impacts, together with proposals to address any such impacts, if necessary.
3. A housing quality assessment which provides specific information regarding the proposed apartments, and which demonstrates compliance with the various requirements of the 2020 Guidelines on Design Standards for New Apartments, including its specific planning policy requirements.
4. A Traffic and Transport Assessment including, inter alia, a rationale for the proposed car parking provision should be prepared, to include details of car parking management, car share schemes and a mobility management plan.
5. A report that addresses and provides a justification for the proposed housing mix.

6. A Community Audit.
 7. School Demand Report, which identifies demand for school places likely to be generated by the proposal and the capacity of existing schools in the vicinity to cater for such demand.
 8. A phasing plan for the proposed development, includes the phasing arrangements for the delivery of the public open spaces, Part V provision and or any other physical or social infrastructure required for the proposed development. A report which addresses the phasing requirement in the Baldoyle-Stapolin Local Area Plan 2013 shall accompany the phasing plan.
 9. A site layout plan indicating what areas, if any, are to be taken in charge by the planning authority, and the phased delivery of such public open spaces.
 10. Response to issues raised in Appendix C of Planning Authority Report, which includes the internal reports of the Drainage Dept. relating to the SUDS hierarchy, and the Park Department relating, inter alia, design approach and protection of trees.
 11. A Construction Management Plan.
 12. A Flood Risk Assessment.
 13. Where the applicant considers that the proposed strategic housing development would materially contravene the relevant development plan or local area plan, other than in relation to the zoning of the land, a statement and public notices indicating the plan objective(s) concerned and why permission should, nonetheless, be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act 2000.
- 5.1.5. Finally, a list of authorities that should be notified in the event of the making of an application were advised to the applicant and included:
1. Irish Water
 2. Transport Infrastructure Ireland
 3. National Transport Authority
 4. The relevant Childcare Committee

5. Department of Education and Skills.

5.2. Applicant's Response to Pre-Application Opinion

5.2.1. The application includes a 'Response to Statement of Opinion', as provided for under Article 297(3) of the Planning & Development (Strategic Housing Development) Regulations, 2017. The response is summarised in the following sections.

5.2.2. 1. Open Space

- In accordance with the Fingal Development Plan 2017 – 2023, there is a requirement for 4 hectares of Class 1 and 2 public open space to serve the proposed development.
- The applicant has identified c. 5.1 hectares for Class 1 public open space at Mayne Road and 1.03 hectares for Class 2 public open space within the Coast development.
- The land identified for Class 1 public open space is within Fingal County Council's application for approval to An Bord Pleanála to carry out a park development project at the Racecourse Park (ref. ABP JP06F.311315).
- The Class 2 public open space is shown within the site and within Stapolin Haggard. The Haggard space was approved under planning permission Reg. Ref. F16A/0412 and 0.65 hectares of it was assigned to the GA3 application as part of its proposed Class 2 open space. The remaining 0.85 hectares has not been assigned to any extant permissions at Stapolin-Baldoyle.
- In terms of delivery, the applicant refers the Board to the legal obligations that run with the land and which *inter alia* require Helsingor Limited to provide Class 1 and 2 open space for the proposed development. This is the identical arrangement for the provision of Class 1 and Class 2 open space as previously proposed and approved at this site in Reg. Ref. F11A/0290 and ABP PL 06F.239732, and as previously proposed in Reg. Ref. F07A/1561 and ABP 06F.228026. In both of those applications, a letter dated 2nd November 2007 from Helsingor Limited confirmed that Helsingor agreed to make available the Class 1 and 2 open space which may be required by the local authority for the development of the lands.

- The SHD applications TA06F.310418 and TA06F.311016, for Growth Areas GA1 and GA3 respectively, show that neither application included the Class 1 open space within the red line boundary of either site. The GA1 scheme included its Class 2 open space provision within its application site whereas the GA3 scheme showed some within its site and 0.65 hectares at Stapolin Haggard (which was not within the application site). Neither the Board nor Fingal County Council raised any objection to the provision and delivery of Class 1 and 2 open space for the GA1 and GA3 schemes. This GA2 proposal is consistent with that accepted approach.
- In accordance with the Sustainable Urban Housing: Design Standards for New Apartments (2020) guidelines, this scheme requires 6,377 sq.m. of communal open space. The scheme layout provides a cumulative total of 1.35 ha., which is just over 2.1 times the required provision. High quality communal open space will be provided in the form of landscaped courtyards.
- The green infrastructure provisions from the Baldoyle Stapolin Local Area Plan 2013 (as extended) are addressed in the Landscape Architect's Report that accompanies this application.

5.2.3. 2. Development Strategy

- The site includes three distinct development blocks as established by the implementation of the infrastructure planning application. This is further influenced by roads and view corridors. As a result, five distinct development areas or sectors are created within the application site (sectors 6A/6B, 7, 8A, 8B, and 8C).
- This approach is unchanged from the pre-application consultation because these existing physical parameters cannot be amended by the applicant and regard must be had to the view corridor provisions of the LAP. However, the draft scheme has been reviewed and amended with particular emphasis on the scheme's potential visual impact to the proposed Racecourse Park.
- Height has been added to the boundary to Racecourse Park; the separation between apartment buildings has been increased along the northern boundary of Sector 7; and an enhanced palette of materials and finishes is included. These changes will provide further articulation and variation to the overall Coast

residential scheme as viewed from Racecourse Park and deliver a cohesive development edge to this strategically important site. The additional building height will emphasise the view corridors from within the proposed development and the overall Coast scheme to proposed Racecourse Park.

- Design and massing to Racecourse Park is also addressed by the amendments to Sector 7 and revisions to the proposed materials and finishes. These changes significantly alter and reduce the mass of the buildings and create internal vistas from the two courtyards to Racecourse Park. A contemporary palette of high quality and durable materials is now proposed to appropriately integrate, both within the scheme and externally.
- The building edges to Sectors 6B, 8A, 8B, and 8C will frame the public realm to Stapolin Haggard Class 2 open space. The four, five, and six storey building heights to the Haggard, which are unchanged, are more appropriate in scale relative to the smaller area of public open space within the Haggard.
- A landscape and visual impact assessment (LVIA) has been prepared and it confirms the proposed development in conjunction with the approved schemes for GA1 and GA3 will create a strong urban edge, which is part of a planned urban framework in the LAP, forming a defined urban edge to the proposed Racecourse Park (greenbelt). The juxtaposition of the built edge with the parkland is a deliberate contrast and is a significant positive impact.
- A design statement is included, and it addresses the 12 criteria set out in the Urban Design Manual which accompanies the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (May 2009) and the requirement to provide a sense of place.
- The issue of building height and compliance with Section 3.2 of the Urban Development and Building Heights: Guidelines for Planning Authorities (2018) is conclusively addressed in Section 4.7 of the Planning Report and a justification for the material contravention of the building heights as set out in the LAP is addressed in the accompanying Material Contravention Statement.

5.2.4. With regard to the 'specific information' requested by the Board, the applicant outlines that the following has been included:

1. The Architects Design Statement and the Landscape Architect's set out the rationale and justification for the proposed materials and finishes. A Building Lifecycle Report and Property Management Strategy Report have been included which address long-term running, maintenance, and management.
2. Separate reports are enclosed with the application in respect of daylight/sunlight analysis and wind/micro-climate, which are also addressed in Chapters 10 and 11 of the Environmental Impact Assessment Report (EIAR). The potential for noise impacts is addressed in Chapter 12 of the EIAR.
3. A Housing Quality Statement has been prepared by CCH Architects and it demonstrates full compliance with the various requirements of the 2020 Guidelines on Design Standards for New Apartments.
4. A Traffic and Transport Assessment (TTA) and Residential Travel Plan (mobility management plan for residential development) have been included.
5. The response outlines that there is a broad mix and variation of apartment types which is compliant with the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (December 2020).
6. A Community Audit has been included with the application.
7. A School Demand Report has been included with the application.
8. It is envisaged that there will be 5 residential phases of development commencing at sector 8C, 8B, 8A, 6A and B, and 7 i.e. working westwards around Stapolin Haggard. The communal open space within each sector will be delivered in conjunction with the development of the respective sectors and Part V housing will be delivered in tandem.
9. The areas proposed to be taken in charge by the planning authority have been identified within the Architects drawings.
10. Response to issues raised in Appendix C of the Planning Authority Report are addressed in the Water Services Report included with the application.
11. An Outline Construction Environmental Management Plan has been included with the application.
12. A Flood Risk Assessment has been included with the application.

13.A Material Contravention Statement has been included with the application. It set outs the planning justification for the material contraventions of the Fingal County Development Plan 2017-2023 and the Baldoyle-Stapolin Local Area Plan 2013. See section 7 of this report for further details.

6.0 Relevant Planning Policy

6.1. National Policy

6.1.1. Having considered the nature of the proposal, the receiving environment, and the documentation on file, including the 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 (2020, updated in 2022) (the 'Apartment Guidelines')
- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the 'Building Height Guidelines')
- Childcare Facilities – Guidelines for Planning Authorities 2001 and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme
- Regulation of Commercial Institutional Investment in Housing – Guidelines for Planning Authorities (May 2021).

Other relevant national guidelines include:

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

- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, (Department of Housing, Local Government and Heritage) (August 2018).
- Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities (Department of Environment, Heritage and Local Government, 2009).

6.1.2. 'Housing for All - a New Housing Plan for Ireland (September 2021)' is the government's housing plan to 2030. It is a multi-annual, multi-billion-euro plan which aims to improve Ireland's housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes:

- To purchase or rent at an affordable price
- Built to a high standard in the right place
- Offering a high quality of life.

6.1.3. 'Project Ireland 2040 – The National Planning Framework (NPF)' is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains several policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints.
- NPO 4 promotes attractive, well-designed liveable communities.
- NPO 6 aims to regenerate cities with increased housing and employment.
- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards.
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking.
- NPO 27 seeks to integrate alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility.

- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location.
- NPO 35 seeks to increase densities through a range of measures including site-based regeneration and increased building heights.

6.1.4. The Climate Action Plan 2023 implements carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050. By 2030, the plan calls for a 40% reduction in emissions from residential buildings and a 50% reduction in transport emissions. The reduction in transport emissions includes a 20% reduction in total vehicle kilometres, a reduction in fuel usage, significant increases in sustainable transport trips, and improved modal share.

6.2. Regional Policy

6.2.1. The primary statutory objective of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031 (RSES) is to support implementation of Project Ireland 2040 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. The site is located within the 'Dublin Metropolitan Area'. The Metropolitan Area Strategic Plan (MASP) seeks to focus on several strategic development areas/corridors that will deliver significant development in an integrated and sustainable fashion. The 'North-South Corridor' is based on the DART Expansion Programme and includes the 'North Fringe' where large scale urban expansion would create new communities at Clongriffin-Belmayne and Baldoyle-Stapolin.

6.3. Local Policy

Fingal County Development Plan 2017-2023

6.3.1. The subject site is zoned RA 'Residential Area' under the statutory development plan. The objective of RA zoned lands is to '*provide for new residential communities subject to the provision of the necessary social and physical infrastructure.*' The zoning map also indicates that the site is subject to Local Objective Point '95', which is to '*Ensure that the visual impact of any development on the Greenbelt will be*

minimised by its siting, design and planting'. The lands to the south and west have similar RA residential zonings. The adjoining lands to the north and east are zoned HA 'High Amenity', where the objective is to protect and enhance high amenity areas.

- 6.3.2. In terms of Green Infrastructure, the site is within the southern margins of a designated 'Highly Sensitive Landscape'. The Racecourse Park lands to the north and east are designated as an 'Ecological Buffer Zone', including 'Ecological Corridors' along the Mayne River.
- 6.3.3. Variation No. 2 of the Development Plan (Alignment with the NPF and RSES) identifies Baldoyle/Sutton as part of the Dublin City and Suburbs Consolidation Area. Having regard to the ongoing delivery of housing and phasing, it considers that 8% population growth is appropriate. Table 2.4 outlines the Total Residential Capacity provided under the Development Plan. In total, this amounts to 1,519 ha or 43,104 residential units, including 29 hectares at Baldoyle/Sutton with the capacity for 1,498 residential units.
- 6.3.4. Chapter 3 'Placemaking' supports the development of a hierarchy of high quality, vibrant, consolidated and attractive urban settlements, as well as the protection of the open countryside and greenbelt lands that separate the urban areas. It outlines a range of policies and objectives aimed at achieving sustainable communities, including housing, public realm, open space, and community facilities. Design criteria for residential development also addresses dwelling mix/type, density etc.
- 6.3.5. Chapter 4 'Urban Fingal' outlines that Baldoyle has community infrastructure and limited retail and commercial facilities. The wider area hosts a range of urban services and community facilities, as well as a dedicated employment base in the form of the Baldoyle Industrial Estate and lands around the rail line. The Development Strategy is to improve, strengthen and consolidate the community, residential, retail and commercial offer through the provision of a range of facilities to support the existing and new populations making full use of sustainable transport practices. Relevant objectives are as follows:

Objective BALDOYLE 1 Protect the visual break and open character of lands between Baldoyle and Portmarnock by maintaining the greenbelt lands and

appropriate recreational uses on Racecourse Park which respect the character, sensitivity and natural heritage designations of the existing landscape.

Objective BALDOYLE 3 Prepare and/or implement a Local Area Plan for lands at Baldoyle / Stapolin to provide for the strategic development of the area as a planned sustainable mixed use residential development subject to the delivery of the necessary infrastructure. (Refer to Map Sheet No. 10, LAP 10.A)

6.3.6. Chapter 7 deals with Movement and Infrastructure and outlines a range of policies and objectives based on integrating land use with a high quality, sustainable transport system.

6.3.7. Chapter 8 deals with Green Infrastructure and aims to ensure that areas and networks of green infrastructure are identified, protected, enhanced, managed and created to provide a wide range of environmental, social and economic benefits to communities.

6.3.8. Chapter 9 deals with Natural Heritage and highlights the importance of biodiversity and landscapes in terms of health, well-being, quality of life, and climate change. It outlines a range of policies and objectives, including the protection of the value of Baldoyle Bay/Estuary. Other objectives can be summarised as follows:

NH36 Ensure that new development does not impinge in any significant way on the character, integrity and distinctiveness of highly sensitive areas and does not detract from the scenic value of the area.

NH51 Protect High Amenity areas from inappropriate development and reinforce their character, distinctiveness and sense of place.

NH52 Ensure that development reflects and reinforces the distinctiveness and sense of place of High Amenity areas.

NH59 Protect the special character of the coast by preventing inappropriate development.

6.3.9. Chapter 12 sets out Development Management Standards and criteria to ensure development occurs in an orderly and efficient manner. It outlines *inter alia* common principles for all applications; design criteria for urban and residential development; as well as standards and guidance relating to open space, community infrastructure, and movement and infrastructure.

6.3.10. The vision for Baldoyle-Stapolin is to create a place to live that is appealing, distinctive and sustainable, with minimal impact on the surrounding environment and the coast. This is underpinned by four inter-linked thematic objectives, which should guide any accompanying detailed design plans and planning applications. The thematic objectives are:

1. Sustainable Development
2. High Quality Places for all
3. A new Heart for Baldoyle-Stapolin
4. Homes for the Future.

6.3.11. Section 4A, Green Infrastructure, sets out objectives in relation to the development and management of a functioning ecological network and an open space network. The Landscape Masterplan identifies pedestrian/cycle greenroutes and primary view lines/corridors between Stapolin Haggard and Racecourse Park (Ecological Buffer Zone), which are aligned with Stapolin Avenue and Ireland's Eye Avenue. Racecourse Park is defined as a Regional Park (Class 1 Public Open Space), while Stapolin Haggard is a 'Local/small park' (Class 2 Public Open Space).

6.3.12. Section 4B, Transportation and Movement, includes a set of objectives which seek to maximise the location of the site adjacent to a key rail corridor and to encourage smarter travel patterns through more compact development. Relevant objectives include the following:

TM25: As development progresses, require that car parking standards are reviewed with the aim of implementing reduced levels of car parking.

TM26: In Growth Areas 2 and 3, particularly along the Parkland edge to the north, car parking to be mainly provided off-street.

TM28: Seek the preparation of car park management plans for Growth Areas 2 and 3 that would promote shared use to encourage modal shift.

6.3.13. Section 4D, Residential Development and Density, sets out key objectives in relation to density and building heights within the Plan lands. Relevant objectives include the following:

RS2: Minimise one-bedroom dwellings, including a maximum of 5% of units in any application or over the whole development.

RS7: Seek to achieve the densities provided for in the Preferred Density Masterplan (Area A – 38-42 uph, Area B – 42-50+ uph, Area C 50-80+ uph).

RS12: Require buildings to conform to the heights set out in Figure 4D.2, which indicates 4-4.5 storey along the northeastern site boundary with Racecourse Park, 3-4 storey along the northern side of Stapolin Way, and 2-4 storey in the remaining southwestern portion of the application site.

- 6.3.14. Specific objectives in relation to the provision of community and educational uses are set out in Section 4E. It aims to ensure that the increased demand for the provision of services and amenities are provided in tandem with new development.
- 6.3.15. Section 4G sets out a Sustainable Development Framework that seeks to promote the use of sustainable urban design principles and design and construction techniques. It includes guidance in relation to daylight, sunlight, and climatic factors.
- 6.3.16. Section 5 deals with Urban Design and identifies several character areas within the application site including, 'The Haggard Area' to the northeast of Stapolin Haggard, the 'Northern Residential Area' to the west of Stapolin Haggard, and the 'Racecourse Park' area adjoining the proposed park. It outlines guidance in relation to the design and layout of such areas, as well as the associated hierarchy of spaces, corridors and routes.
- 6.3.17. Section 6 deals with Sequencing and Phasing and confirms that the application site represents 'Growth Area 2', the second 'medium term' phase. However, a certain element of phasing flexibility will be allowed based on clearly demonstrated socio-economic reasons. It is stated that phasing within Growth Area 2 shall commence from the southern sectors (6A-6B) and work north (sectors 7-8C). Tables 6.6 to 6.9 outline requirements and phasing in relation to the provision of infrastructure and interim site development.

7.0 Statement of Consistency / Material Contravention

7.1. The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which contends that the proposal is consistent with the relevant national and regional planning policy, guidelines issued under Section 28 of the Planning and Development Act 2000 (as amended), and with local planning policy. I have had regard to same in my assessment.

7.2. A Material Contravention Statement has also been prepared as required under Section 8 of the Act of 2016. It addresses the issue of material contraventions of the Fingal County Development Plan 2017-2023 (Development Plan), and the Baldoyle-Stapolin Local Area Plan 2013 (LAP) and contends that there is a robust planning basis for the Board to justify material contravention in relation to the issues as outlined below.

7.3. Development Plan Core Strategy

The Development Plan identifies a residential capacity of 1,498 units for Baldoyle/Sutton. The maximum number of approved units on GA1 and GA3 sites is 2,202 residential units. The current proposal (1,007 units on GA2 site) would result in 3,209 no. residential units, which would exceed the 1,498 figure in the Core Strategy. Notwithstanding that the two SHD permissions for the GA1 and GA3 sites are subject to judicial review, the proposed 1,007 no. units added to the permitted 544 no. units in F16A/0412, would also exceed the 1,498 figure. Either way, the applicant accepts that the proposal would materially contravene the Core Strategy. However, it is submitted that the proposal is justified by reference to compliance with the national and regional planning policies and objectives as follows:

- The stated core objective of 'Rebuilding Ireland: Action Plan for Housing and Homelessness (2016)' by significantly ramping up delivery of housing.
- 'Housing For All: A New Housing Plan for Ireland' through increased no. of permitted units on site from 371 units to 1,007 units, including an increased no. of Part V units to 200 no. units.
- The NPO's (3b, 11, and 35) of the NPF through the delivery of compact development and housing delivery linked to existing infrastructure.

- RPO 4.3 of the RSES through consolidation and re-intensification of infill/brownfield sites within the existing built-up area of Dublin City and suburbs.
- Compliance with the guiding principles for the MASP as set out in the RSES, including compact growth, housing delivery, integrated transport and land use.
- The increased residential yield would facilitate a strategic residential development area at Baldoyle-Stapolin as expressly identified in the RSES.
- If the GA3 site approval is not overturned by judicial review and is determined prior to the determination of this application, the Board can rely on that decision and section 37(2)(b)(iv) of the Act of 2000 (as amended) to further justify a material contravention.

7.4. **Car Parking**

The proposal includes 0.6 car parking spaces per residential unit (605 spaces), which is a material contravention of the standards as per section 12.10 of the Development Plan (1,380.5 spaces). The proposal is justified by reference to paragraph 4.19 of the Apartment Guidelines (2020) and the following factors:

- The site is very well located adjacent to existing high quality public transport services. Clongriffin DART station is just over 230 metres from the site and caters for all DART services between Malahide and Greystones and a number of commuter services north to Dundalk and south to Gorey.
- There are a number of existing Dublin Bus services nearby that inter alia provide access to Malahide, UCD, Dublin city centre, and Dublin Airport. Furthermore, the Bus Connects proposal identifies proposed new routes in the immediate vicinity of the application site with three routes connecting with Clongriffin DART station and the Malahide to Dublin City Centre route also serving the area.
- The car parking provision is consistent with recent planning permissions, particularly the permissions issued by the Board for GA1 and GA3 that provided 0.54 car parking spaces per apartment unit.

7.5. **Density**

The LAP identifies medium to high density (42-50+ units per hectare) and high density (50-80+ units per hectare) on the application site, while the proposed density

is c. 165 units per hectare. The following reasons set out the justification for the density of the proposed development:

- The Sustainable Residential Development Guidelines promote higher density development on brownfield sites and sites within walking distance of a railway station and town centre. Section 5.6, 5.7 and 5.8 of those Guidelines specify that there is no general upper limit on the density within any town or city centre sites, they encourage higher densities and the potential for car-free developments at brownfield locations that can be provided in town centres, and increased densities should be promoted within 1 km of a rail station.
- The Apartment Guidelines state that such central and or accessible urban locations are generally suitable for small to large scale higher density development. The application site is within 230 metres walking distance of Clongriffin DART station, permission has been granted for a local town centre, and it is also proposed to be serviced with BUS Connects routes.
- The residential density of the permissions at growth area 1 (97 uph) and 3 (177 uph) exceed the density ranges in the LAP. The Board's assessment of both applications determined that neither constituted a material contravention of the LAP's density provisions.
- The objectives in the LAP are not clearly stated in that both ranges do not include an upper limit by virtue of the "+" sign in each range.
- Objectives RS7 and RS8 in the LAP reference "minimum" densities, which would imply that the LAP is more concerned that densities do not fall below a certain level as opposed to exceeding the ranges shown.
- Objective RS10 in the LAP requires proposals are in accordance with the 'Sustainable Residential Development Guidelines'.
- While it is open to the Board to conclude that the density does not constitute a material contravention, it is the applicant's position that it does, and that permission can be granted as per section 37(2)(b) of the Planning Act.

7.6. % of 1-Bed Units (Mix of Units)

The proposed mix of units (including 5.8% studio and 24.5% 1-beds) materially contravenes objective RS2 of the LAP which allows a maximum of 5%. The Board has three reasons to justify a material contravention as follows:

- The Apartment Guidelines supersede the LAP, and the proposed development complies with SPPR1. The Council has not prepared a Housing Need and Demand Assessment as part of the current development plan.
- Section 12.4 of the development plan appears to conflict with the LAP by promoting a range of dwelling types.
- Planning permission has been granted for two schemes at GA1 and GA3 which also materially contravene the LAP. The GA1 scheme has 28% one-bed units whereas the GA3 scheme has 41%.

7.7. Heights

The LAP (objective RS12) requires building heights ranging from 2 – 4.5 storeys. It is proposed to construct buildings with heights ranging from 4 to 12 storeys, which would materially contravene the LAP. Permission can be granted having regard to the following:

- The extant planning permission on the site (ABP ref. PL06F.239732) approved 3 to 7 storeys. The two approved SHD developments (TA06F.310418 and TA06F.311016 on GA1 and GA3) have building heights ranging from 2 to 15 storeys and planning permission on the Dublin City Council side of Clongriffin DART Station approved between 6 and 16 floors (see PL29N.248713). Therefore, there is justification to approve this proposal as per Section 37(2)(b)(iv) of the Act.
- Following on from the NPF, the Building Height Guidelines support the principle of additional height at this location and the proposal complies with the four SPPRs set out in the Guidelines.
- The scheme provides punctuation nodes at two of the three locations suggested in the LAP. It is not accepted that the scheme materially contravenes the LAP in this regard. In any event, the Board is entitled to grant planning permission as per section 37(2)(b)(iii) and (iv) of the Act.

7.8. Construction Phasing

An alternative phasing arrangement is proposed to section 6.4.2 of the LAP, which is 8C, 8B, 8A, followed by Sectors 6A/6B and finally Sector 7. Permission can be granted having regard to the following:

- Planning permission Reg. Ref. F16A/0412 (ABP Ref. PL06F.248970) is currently being implemented on site. That construction pertains to sectors 2C, 2D, 3A, and 3D, which is not following the “phasing priorities or unit numbers” as set out in the LAP.
- The current phasing proposal is based on the location of the new haul route at Mayne Road as opposed to the now defunct haul route at Coast Road. As a result, it is no longer practical to construct the proposed development in strict compliance with the LAP.
- The applicant does not consider this variation to constitute a material contravention because *inter alia* the LAP identifies “phasing priorities” and planning permission has also been granted for the subsequent GA3 phase.
- In any event, it is submitted that permission can be granted having regard to the granted permissions and existing construction which does not follow the phasing priorities in the LAP.

8.0 Third Party Submissions

8.1. Five third-party submissions have been received, including one group submission on behalf of Abbey Park and District Residents Association and 27 others. The submissions raise many common issues and objections which can be summarised under the following headings.

8.2. Wastewater and Water Services

- Ringsend’s latest Annual Environmental Report (AER) from December 2020 confirms that it is in breach of the licence and plant capacity, i.e. 638,000 PE over capacity at 2.27 million. Irish Water plans to upgrade the PE to 2.4 million by 2025. However, additional housing permissions are likely to have already taken up the remaining maximum achievable capacity of 130,000 PE.

- The LAP (sections 4.10.3, 4.10.7, and 7.3.7) is very clear that capacity issues at Ringsend and associated environmental considerations must be considered. The applicant has not attempted in any way to address this material breach of the LAP/Development Plan, nor has the impact been identified in the EIAR.
- A multi-disciplinary report by JP Barry (March 2019) identified major issues with Sutton Pumping Station. Many issues are ongoing and will be exasperated by the increased housing density in GA1, GA2, and GA3. Under the Habitats Directive and the EIA Directive, the Board's decision must be based on current capacity and cannot rely on future capacity as mitigation.
- The Board should either refuse the application or grant permission subject to reduction of all buildings to 2-4 storeys as per the LAP. If not, the Board must give reasons and considerations and a legal basis for doing so in light of Ringsend being seriously over capacity.
- A water management and conservation plan must be submitted.

8.3. Community / Commercial Infrastructure

- The school demand assessment is insufficient and does not acknowledge the Department of Education's school planning map and catchment area. It refers to schools outside the catchment area and fails to adequately assess current or future capacity of schools for different age groups.
- The area does not have enough shops to accommodate the scale of development. Plans for a hotel, nursing home, and leisure centre have expired and are unlikely to ever be built.
- Planned retail and recreational facilities have been significantly reduced while the scale of residential units has significantly increased.
- There are concerns about the reliance on Class 1 and 2 open spaces in other developments, particularly the use of the racecourse park playing pitches.

8.4. Building Height / Density

- The LAP strategy is site-specific and cannot be superseded by national policy.
- The applicant's reports continuously refer to the location being urban/suburban, which is completely incorrect and misleading.

- The LAP/Development Plan restricts development on the site due to ecological significance and the proposal has no regard to the existing flight paths of protected species such as Brent Geese. Therefore, the proposed development height directly impacts on the integrity of the Natura 2000 network.
- The application makes no provision for bird strikes on glass or light pollution in the higher buildings on the skyline.
- The daylight/sunlight analysis shows that very few apartments get more than 2 hours of daylight and courtyards are predominantly in shadow due to the building design/height. It does not indicate the impact on adjacent developments or communities living in the site, and overshadowing will severely impact on the amenity and biodiversity value of Racecourse Park. The application should be refused as a material contravention, notwithstanding the invoking of the SPPR.
- Building heights are excessive in relation to adjoining properties.

8.5. Visual Impact

- The visual impact would be in violation of the LAP. It would be out of character with existing residential developments and would adversely affect Baldoyle greenway and the ecological buffer zone for both residents and visitors.
- The development is not in any way in keeping with the character and form of the existing Baldoyle community and surrounding rural farmland/coastland.
- High quality brick finishes are required because of the proximity to the sea and in the interest of visual amenity.

8.6. Traffic and Transport

- The area is under severe traffic pressure with congestion on roads and junctions.
- The two previous SHD applications (GA1 and GA3) did not submit a Stage 2 Road Safety Audit (RSA) contrary to TII recommendations. The current application's RSA should identify possible interactions with the other two SHDs.
- Peak hours trains are filled to capacity and there are no plans to increase capacity in the foreseeable future to cater for planned/permitted development along this route. Recent changes to the Howth feeder system may also make this issue worse.

- Car transport is still predominant, and this proposal would only add to car-parking and road safety issues. There has been no cumulative assessment of other developments.
- Local roads are very busy during good weather and cannot handle the level of traffic, including emergency vehicles.
- Bus services have not been provided as planned in the earlier phases of development and residents have an excessive walk to reach bus services.
- The temporary train station at Baldoyle is unmanned, unmaintained, and inaccessible.

8.7. Appropriate Assessment

- The bird survey is deficient as it is outdated (2019/2020), only covers the winter period, and does not include a breeding bird survey.
- Under the Water Framework Directive, the Balydoyle Bay SAC/SPA and the Mayne Estuary was given a 'moderate' status by the EPA. That status is rejected.
- The application has not demonstrated how the attenuation pond will prevent contaminants from reaching the 'poor' status Mayne River. Under the current monitoring regime, the Board is not legally able to grant permission.
- In light of the capacity limitations at Ringsend, the Board is not legally able to grant permission under the Habitats Directive.
- Due to impacts on SCIs of Baldoyle SPA and lack of mitigation of these impacts, the Board is not legally able to grant permission.

8.8. SUDs Attenuation and Flooding

- The attenuation pond is commonly filled to capacity in wet weather.
- The combined density of sites GA1, GA2, and GA3 requires a new cumulative assessment of SUDs mitigation requirements to confirm that the pond has adequate capacity.
- The recommendations of the Royal Haskoning report in relation to Baldoyle and coast road, Mayne River have not been carried out and these flood risks are still an issue. The climate change section does not adequately deal with this.

- There is an ongoing issue with the tidal flap at the Mayne outfall.
- The impacts on otters and otter sets between the development and the tidal flap in the event of heavy SUDs run-off have not been identified or mitigated.

8.9. Noise and disturbance

- The wind noise impacts should be assessed in the context of the proposal for up to 12 storeys at this coastal location with strong winds.
- The wind and microclimate modelling is incorrectly based on an urban location and uses lower inland wind speed data from Dublin Airport.
- Wind tunnelling will also have an impact and a cumulative assessment is required in relation to the permissions granted on GA1 and GA3.
- Construction work will result in adverse noise and disturbance and will affect those who work from home.

8.10. Nature of the development

- All properties will be built to rent.
- Properties being offered for social housing are priced considerably higher than market value.
- There are too many small apartments included, which will adversely change the nature of the community.
- Own door apartments would be more successful and there is a total lack of appropriate housing mix, size, type, and tenure.

8.11. Procedural Issues

- The NPWS should have been included as a Prescribed Body having regard to the proximity and pathways to SACs/SPAs, as well as the flight paths of protected bird species including overwintering Brent Geese.
- An Taisce should have been included as a Prescribed Body having regard to the proposals' environmental/natural heritage sensitivity and its location and impact within the Dublin UNESCO Biosphere.
- The EPA should have been included as a Prescribed Body to assess wind-induced noise impacts; embodied carbon construction impacts; SUDs discharge

impacts on Mayne River and Baldoyle Bay protected sites; and the capacity at Ringsend and Sutton pumping station and potential breached on WWDL D0034-01 and the 1.9 million PE limit for Ringsend.

- It is questioned whether the EIA and AA adequately reflect the combined impact of all three proposed developments (GA1, GA2, GA3).
- Legality is questioned in terms of the absence of public consultation at the earliest opportunity.
- Public participation on the environmental impacts of building height/density has been removed by the SPPR and other ministerial directions, which is contrary to the Aarhus convention. This has a material bearing on public participation regarding height/density and the cumulative impact of other developments.
- There is an entitlement to a clean, healthy, and sustainable environment.
- Judicial reviews are currently underway for the two adjoining SHD permissions, and the multiple objections therein are shared. These and the current application should be assessed as one single development for impacts on the community, services, and infrastructure.
- A submission on behalf of Monobrio DAC states that it owns the lands adjoining the application site. It has not granted any consent to include its lands within the application and does not accept that the applicant has any right to include any such lands. The application has not been made with the consent of Monobrio DAC and the execution of any permission on its lands would require agreement.

8.12. EIAR

- The EIAR does not mention or address the high-risk unregulated landfill area that the Greater Dublin Drainage route selection team identified.
- Under the Climate Action and Low Carbon Development Acts (2015 and 2021) and Climate Action Plan 2021, carbon emissions must be quantified and reduced, including embodied energy in buildings. This has not been adequately addressed in the EIAR.

9.0 Planning Authority Submission

9.1. The planning authority has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016. It summarises observer comments as per section 8(5)(a)(i) and the views of the elected members (summarised below), as expressed at the area committee meeting of the 12th April 2022. The planning and technical analysis in accordance with the requirements of section 8(5)(a)(ii) and 8(5)(b)(i) is also summarised below.

9.1.1. Views of the Elected Members Area Committee

The committee put forward a motion to recommend refusal due to its conflict with the provisions of the LAP. In summary, concerns are raised in the relation to the following:

- The need to consult several bodies given the proximity to Protected Sites and potential impacts on the paths of wintering birds.
- Unsustainable surface water and wastewater infrastructure.
- Pollution and potential impacts on biodiversity are contrary to the Water Framework Directive.
- Impacts relating to wind-induced noise and lighting.
- Building heights and non-compliance with the LAP
- The proposal would create a dense dormitory area which, combined with Dart+, will still be a bottleneck into the city centre.
- There is an excess of 1 & 2-bedroom units.
- Families are restricted and cannot move.
- The provision of social housing is positive.
- The extent of rental units is questioned.
- The area is a fringe of Dublin City, not the city.
- Concerns were raised about the SHD process and how it can easily and materially contravene a Development Plan.
- There are concerns about a 'one size fits all' approach to the housing crisis.

9.1.2. PA Comment on Material Contravention

While the PA supports the principle of a deviation in density and height from the surrounding area, in addition to phasing, some aspects require further consideration as outlined below.

9.1.3. PA Comment on Density, Layout and Height

- Save for the development recently permitted by the Board and a minor breach of permitted heights under Reg. Ref. F16A/0412, the area comprises mid-to-low density development with heights of 2-6 storeys. This 3rd SHD application proposes to significantly deviate from the LAP and the surrounding area.
- The proposal does not adequately achieve permeability for the following reasons:
 - It omits a 'quiet street' between sector 7 & 8 in favour of a 6-storey block.
 - The proposal fails to demonstrate how the Greenroute would be achieved providing clear access to the park.
 - Significant surface parking between Sector 7 and 8 fails to recognise the importance of Stapolin Avenue as a linked boulevard.
 - The space between Sector 8A and 8B is compromised by an access road to basement car parking.
 - The interface with Racecourse Park is not duly considered due to changes in levels, design, and punctuation. The Water Services Report highlights the need to raise levels by 1.5m and there are ambiguities about the achievement of access.
- The design would create a hard urban edge to Racecourse Park and a monotonous architectural expression, which would not be consistent with the high-quality development approved on lands to the west.
- The building heights appear ad hoc and monolithic and fail to achieve appropriate graduation in height/mass at this prominent location, including the LAP punctuation nodes. The massing of the higher blocks would benefit from greater design consideration and revised materials. The visual concern is noted across the entire northern elevation, as well as specific concerns relating to the southern

elevation of Sector 7 and the maintenance of vistas at Irelands Eye Avenue and Stapolin Avenue.

- The layout seeks to maximise residential yield with 3rd party reliance for open space, a lack of connectivity/permeability, the absence of any retail element.
- Having regard to the intense scale, it is difficult to identify character areas or a sense of place.
- If the Board is minded to grant permission, it is recommended that Block 4 (Sector 6) and Block 2 (Sector 7) be omitted.

9.1.4. PA Comment on Unit Typologies and Mix

- There is a concern about the extent of 1-bedroom units and a greater mix should be considered to create sustainable communities.

9.1.5. PA Comment on Residential Amenity (Proposed Development)

- The Board is requested to ensure that all rooms are provided with sufficient light, specifically in the case of combined kitchen/dining/living areas where it is known that the balcony causes obstruction of light.
- While sunlight availability to the internal courtyards is noted, the Board is requested to consider Figs. 4, 6, 8, 10, and 12 of the applicant's Daylight and Sunlight Assessment, which demonstrate sunlight to ground floor levels.
- There are concerns about the placement of Block 4 within the central courtyard of Sector 6A-6B and overbearing impacts on adjoining properties.
- Consideration should be given to the potential noise and nuisance impacts associated with the outdoor area of the creche and where apartments adjoin communal rooms, spaces, or facilities.
- The Board is requested to ensure suitable separation distances.

9.1.6. PA Comment on Surrounding Residential Amenity

- The Board is requested to ensure that the development does not unduly impact on the amenities of surrounding residential properties.

9.1.7. PA Comment on Green Infrastructure, Open Space, Tree Protection, Landscaping

- The proposal would generate an overall open space requirement of 4.17ha based on occupancy.
- The applicant's proposals for open space are outside its control with no indication of 3rd party agreement.
- The Haggard is not acceptable for inclusion as Class 2 open space and should not be included in any calculation for other applications.
- The open space proposals would materially contravene objectives DMS57A and DMS57B of the Development Plan, which are also reflected in the LAP.
- If the Board is minded to grant permission, the shortfall in open space (40,512m²) should be dealt with as a financial contribution towards Class 1 open space in Racecourse Park.
- A bond of €50,000 should be included for the protection of trees.
- Conditions should be included for the landscaping of the site. Areas to the front of Sector 8A Block 2 are unsuitable for Taking in Charge.

9.1.8. PA Comment on Infrastructure and Services

- The Flood Risk Assessment has been reviewed and the level of flood risk to the development is acceptable.
- Surface water drainage and SUDs measures have been reviewed. The four pillars of surface water design are adequately addressed.
- It is noted that the feasibility of water connection has been confirmed by Irish Water, subject to required upgrades.
- It is noted that upgrade works to the existing foul sewer pumping station in Stapolin Haggard are required and would be agreed with Irish Water at Connection Agreement Stage.
- Development Plan standards require 1523 car parking spaces, with the minimum demand being 994 spaces.
- The creche does not include staff parking and control measures should be put in place to ensure that setdown and staff parking spaces are suitably reserved.

- Some level of visitor bicycle parking should be provided at appropriate locations.
- Basement parking should be designed in accordance with the latest design recommendations (Istructe) and there are concerns about the adequacy of the swept path analysis, ramp clearance heights, and road widths.
- The Traffic and Transport Assessment uses the 'flats' category from the TRICS database and the TTA should be robust enough to ensure impacts on the road network are not underestimated. The impact on the roundabout junction of the R139 with the Hole in the Wall Road, Grange Road East, and Grange Road South is noted.

9.1.9. PA Comment on other matters

- In the event of a grant of permission, a condition should be included to require archaeological monitoring.
- All finishes should comply with the Council's standard for Taking in Charge or alternatively such areas should be excluded by condition.
- Part V units are largely confined to a standalone block and improved dispersal would be beneficial. A Part V condition should be included in any permission.
- The Board is the competent authority for assessment of the NIS and EIAR.

9.1.10. PA Departmental Reports

- Architects Department: Recommends greater design consideration is required regarding the interface with Racecourse Park; the massing of higher blocks within Block 7; the proximity of blocks and effects on privacy and wind tunnelling; elevational treatment; the external expression of external entrances to the blocks; and the quality of roof space/scape design.
- Transportation Planning: The report accepts that high-density is appropriate but raises concerns in relation to Junction 1 of the TTA and the surrounding road network; the swept path analysis; and the low level of car-parking. Refusal is recommended. In the event of a grant, a condition should apply regarding the allocation of car parking.
- Water Services: Confirms that proposals are generally acceptable subject to conditions.

- Arts/Culture: A piece of public art shall be provided in agreement with FCC.
- Parks and Green Infrastructure: Raises issues in relation to open space, tree protection, and landscaping as outlined in the Chief Executive's Report (above).
- Environmental Health, Air, & Noise: No objections subject to conditions.

9.1.11. PA Conclusion

The proposal would be of similar scale to recent Board permissions in the vicinity. However, the design and layout would not achieve the desired potential of the LAP to create sustainable communities with a sense of place. The development cannot be considered to be of high-quality architectural merit with specific reference to the interface with Racecourse Park to justify significant departures from the LAP. A more robust approach to the building height strategy is required.

9.1.12. PA Recommendation

The Planning Authority recommends that planning permission be refused for the following reason:

1. *The proposed development by reason of its inappropriate layout, bulk, mass and scale, its deficiency in quality architectural design and lack of public open space, car parking provision and substandard basement design with poor permeability would cumulatively result in an inappropriate overdevelopment of the site which fails to provide a successful urban structure which would 'Achieve a high standard of design through development that creates a real sense of place through the juxtaposition and provision of buildings, streets, spaces, features and facilities of high quality design, layout and materials' and in the manner set out would be contrary to the overarching RA Zoning Objective which seeks to Provide for new residential communities subject to the provision of the necessary social and physical infrastructure. The proposed development would be incongruous, visually dominant and imposing both in this designated Sensitive Landscape and when viewed from the south within the wider LAP lands, the development as such would not be consistent with the proper planning and sustainable development of the area.*

The recommendation also includes 32 no. conditions for the event that the Board is minded to grant permission. Notable conditions can be summarised as follows:

2. Block 4 (Sector 6) and Block 2 (Sector 7) shall be omitted.
3. The application permits 835 no. units.
7. Noise insulation to be provided, if required.
14. The shortfall in public open space shall be addressed by means of a financial contribution.
23. The requirements of Inland Fisheries Ireland shall be complied with in full.
25. The NIS mitigation measures shall be undertaken.
26. The EIAR mitigation measures shall be implemented.
32. A financial contribution shall be paid in accordance with Section 48 of the Act of 2000 (as amended).

10.0 **Prescribed Bodies**

10.1. **Transport Infrastructure Ireland**

TII states that it has no observations to make on the application.

10.2. **Dublin Airport Authority**

Notes the location of the site within Noise Zone C (as per Fingal Development Plan 2017-2023) and that Policy SI25 of the Dublin City Development Plan 2016-2022 (sic) aims to preserve and maintain noise quality within the Dublin City Council area, including the protection and prevention of residential and other noise sensitive uses within the noise zones of Dublin Airport identified in the Fingal Development Plan.

The DAA requests that a condition be attached to any permission requiring noise insulation to an appropriate standard.

10.3. **Inland Fisheries Ireland (IFI)**

The observations can be summarised as follows:

- The development is within the catchment of the Mayne River. IFI are considering the viability of a salmonoid reintroduction programme and the Mayne system does contain populations of European Eel and other fish species.
- Pollution of adjacent freshwaters from poor on-site construction practices could have a significantly negative impact on flora and fauna.

- Pre-construction drainage measures are required to protect local watercourses, including any impacts relating to dewatering of ground water or excessive turbid run-off.
- Excavated material should be managed to prevent pollution of watercourses.
- All works to be completed in line with a site-specific Construction Management Plan to ensure compliance with environmental legislation and statutory consents.

10.4. **Department of Education**

The submission notes the proposal for 1,007 units, together with the two previous SHD applications for 882 units (ABP Ref. 310418, GA1) 1,221 units (ABP Ref. 311016, GA3). In the 2 previous SHD applications, the Department submitted that permission should not be granted until a suitable school site is identified to meet post-primary needs.

The site is within the Donaghmede Howth School Planning area and the applicant's assessment lists all these schools. However, this is a large area encompassing Howth, Sutton, Baldoyle, Donaghmede, parts of Malahide and Portmarnock, as well as rapidly growing high-density areas at Belmayne and Clongriffin. Therefore, it is too crude an instrument to reliably gauge school place requirements for Baldoyle/Stapolin and the localised context needs to be considered.

The Department requests that approval should not be given as it would further compound the projected pressure to meet school place requirements unless a suitable school site is identified.

10.5. **National Transport Authority**

The submission is supportive in principle of development of the lands adjoining Clongriffin Station, providing a high-capacity rail link. It highlights pertinent aspects of the following policy documents:

- The planning principles relating to the NTA Transport Strategy for the Greater Dublin Area, the NTA National Cycle Manual, and the Greater Dublin Area Cycle Network Plan.
- The objectives of the LAP which promote sustainable transport modes.

Regarding Public Transport Infrastructure, it states that:

- The 'DART+ Coastal North' project will provide a sustainable, electrified, reliable and more frequent rail service, improving capacity on the rail line to the city centre and Greystones. The project is at an early stage with assessment of options currently being undertaken.
- 'BusConnects Dublin' will significantly improve the capacity and frequency of services. The 'H Spine' serves Clongriffin and Baldoyle and commenced in June 2021. The H1 service will enter the lands at Red Arches Road to serve the resident population and provide a connection to Clongriffin Station.

The submission highlights the importance of pedestrian/cycle links to train/bus services and that the planned north-south cycle route to the east of Stapolin Avenue should be a requirement of the development in accordance with Objective TM16 of the LAP. Priority cyclist/pedestrian crossing points should also be delivered along the north-south road in accordance with Objective TM17 of the LAP.

10.6. **Irish Water**

Water connection: Feasible subject to infrastructure upgrades, namely a c. 200m network extension will be required to connect to the existing 300mm MOPVC main in Red Arches Rd./Castlerosse Crescent. The connection main should be 200mm ID pipe with a bulk meter and associated telemetry system.

Wastewater connection: Feasible without infrastructure upgrade by Irish Water. Connection details to the adjacent 1600mm sewer, including surcharging effects, to be agreed.

Design: The applicant is entirely responsible for the design and construction of any infrastructure within the site boundary.

Recommendation: Any grant of permission should include conditions requiring connection agreement prior to commencement of works; protection of IW assets; and compliance with IW standards, codes, and practices.

11.0 Assessment

11.1. I have considered all of the documentation and drawings on file, the FCC Chief Executive's Report, the submissions from prescribed bodies and third-party submissions, the statutory Development Plan and Local Area Plan, as well as relevant national policy, regional policy and section 28 guidelines. Having regard to the foregoing, I consider that the main planning issues arising from the proposed SHD development can be addressed under the following headings:

- Principle of Development
- Building Height and Quantum of Development
- The Standard of Residential Amenity Proposed
- Impacts on Surrounding Properties
- Daylight and Sunlight
- Design, Layout and Visual Amenity
- Neighbourhood Facilities and Public Open Space
- Traffic and Transport
- Drainage, Flood Risk and Water Services
- Other Matters
- Material Contravention
- The Local Authority recommendation.

At the outset, I wish to again acknowledge that the Board decisions to grant the two previous SHD applications on adjoining lands (i.e. ABP Ref. 310418 on GA1, and ABP Ref. 311016 on GA3) are currently subject to Judicial Review. These proposals are referenced regularly by various parties in this case, particularly in the context of the need for cumulative assessment. Therefore, I consider it appropriate to consider the proposals as part of my assessment. However, for the avoidance of doubt, any reference should be taken in the context that these are Board decisions to grant permission which may not be ultimately upheld by the courts.

11.2. Principle of Development

- 11.2.1. The application site is zoned RA 'Residential Area' under the Fingal Development Plan 2017-2023. The objective of RA zoned lands is to '*provide for new residential communities subject to the provision of the necessary social and physical infrastructure.*' Residential use is 'permitted in principle' in the RA zone in accordance with section 11.8 of the Development Plan and I would consider that this includes the ancillary communal residential facilities proposed. The proposal incorporates a childcare facility which is also 'permitted in principle' in the RA zone.
- 11.2.2. The site also lies within the boundaries of the Baldoyle-Stapolin Local Area Plan (LAP) 2013 (Extended to 2023). The application site comprises 'Growth Area 2' and, together with the other SHD applications for Growth Areas 1 and 3, the proposed development would largely complete the residential element of the LAP. The proposed layout aims to address the LAP masterplan and to create character areas as outlined in section 5 of the LAP. Furthermore, it aims to address the main development themes and objectives outlined in the LAP.
- 11.2.3. The applicant has highlighted that the proposed development materially contravenes some aspects of the Development Plan and LAP, as outlined in the Material Contravention Statement. However, the Planning Authority has stated support for the principle of some such deviations from the surrounding area in relation to density, height and phasing, albeit that it has highlighted concerns in relation to other aspects of the development including design and layout. Similarly, it is noted that the observers do not generally object to the principle of the development, but rather mainly to its design and scale and other implications for infrastructure and the environment.
- 11.2.4. I note that some observers have questioned the nature of the proposal and suggest that the units would be for rental purposes. In the interests of clarity, I would confirm that this is not a Build-to-Rent (BTR) proposal as defined in the Apartments Guidelines (2020) and it shall not be assessed as such. Accordingly, there is no indication that the proposal would not would provide a suitable mix of tenure for prospective occupants.
- 11.2.5. In relation to phasing, I note that the LAP allows for the parallel development of Growth Areas 2 and 3, subject to commencement of construction on the GA 3 village

centre. It may also overlap with the delivery of residential development in GA 1 subject to the phased delivery of the two boulevards (Ireland's Eye Avenue and Stapolin Avenue) and The Haggard. The development of GA 1 has already commenced, and I am satisfied that any permission for GA 2 could be conditioned to proceed in accordance with phasing arrangements outlined above. Furthermore, section 6.3 of the LAP allows flexibility in the delivery of Growth Areas and, accordingly, I do not consider that the principle of the proposal would materially contravene the LAP.

11.2.6. Within GA 2 itself, it is proposed to alter the LAP phasing arrangements which aim to commence from Sectors 6A-6B to Sectors 7-8C (i.e. south to north). The application proposes to commence with Sector 8, followed by Sector 6, and finally Sector 7. In my opinion, the main aim of the LAP phasing is to facilitate orderly development and to maintain connectivity with existing development/infrastructure. In this regard, I am satisfied that the proposed phasing arrangement would generally progress in a south to north direction as envisioned in the LAP; would prioritise development around The Haggard open space; and would maintain connectivity with existing development to the south of the site. Therefore, I would have no objection in principle to the proposed phasing arrangements.

11.2.7. Having regard to the foregoing, I am satisfied that the proposed development accords with the land use objectives for the area as detailed in the County Development Plan and Local Area Plan. It is my view that the principle of residential development at this location is acceptable subject to the further assessment of normal parameters, including those relating to social and physical infrastructure as referenced in the RA zoning objective. I am of the opinion that the proposed development cannot be considered to materially contravene the Development Plan in relation to the zoning of the land and permission could be granted subject to the further considerations and assessments outlined in the following sections.

11.3. **Building Height and Quantum of Development**

11.3.1. The development has a height of up to 12 storeys and contains 1,007 no. apartments at a density of 165 units per hectare. This would significantly exceed that of the previous permission on the site (ABP Ref. PL06F.239732, P.A. Ref F11A/0290), which permitted 371 units up to 7 storeys at a density of c. 74 units per

hectare, and that of the earlier constructed phases of the LAP. However, it should be noted that the SHD development on GA 3 (ABP Ref. No. 311016) involves a greater height and density of 15 storeys and 177 UPH respectively, albeit that this Board decision is now the subject of Judicial Review.

Density / Height Policy

- 11.3.2. In terms of national policy and guidance, I note that the 2009 Guidelines on 'Sustainable Residential Development in Urban Areas' recommend that increased densities should be promoted in 'public transport corridors'. This includes locations within 500 metres walking distance of a bus stop, or within 1km of a light rail stop/rail station. It also states that the capacity of public transport (e.g. no. of train services during peak hours) should be taken into consideration. In general, minimum net densities of 50 dwellings per hectare should be applied and specified in LAPs, with the highest densities being located at rail stations / bus stops.
- 11.3.3. Following on from the above, Chapter 3 of the *Building Height Guidelines* outlines a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility. It outlines broad principles for the consideration of proposals which exceed prevailing building heights, including the extent to which proposals positively assist in securing National Planning Framework objectives of focusing development in key urban centres, and the extent to which the Development Plan/LAP comply with Chapter 2 of the Guidelines and the NPF. SPPR 3 outlines that, subject to compliance with the criteria outlined in section 3.2 of the Guidelines, the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.
- 11.3.4. Section 2.4 of the Apartments Guidelines states that 'Central and/or Accessible Urban Locations' are generally suitable for higher density development. Such areas are stated to include:
- Sites within walking distance (i.e. up to 15 minutes or 1,000-1,500m), of principal city centres, or significant employment locations, that may include hospitals and third-level institutions;
 - Sites within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m) to/from high capacity urban public transport stops (such as DART or Luas); and

- Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) to/from high frequency (i.e. min 10 minute peak hour frequency) urban bus services.

11.3.5. By reference to Objective RS 7 and Fig. 4D.1 of the LAP, I note that the Preferred Density Masterplan seeks to achieve densities of 42-50+ UPH in Sectors 6A and 6B, and 50-80+ UPH for the remainder of the site. I consider that these are 'preferred' minimum densities and that the inclusion of the '+' symbol for the ranges indicates that there is no upper limit on density. Therefore, in principle, the proposed development would be consistent with the LAP approach to density.

11.3.6. Regarding building height, the LAP approach is more confined. Objective RS 12 outlines that buildings are required to conform to the heights set out in Fig. 4D.2 of the LAP. This effectively limits building height to 4-4.5 storey along the northeastern site boundary with Racecourse Park; 3-4 storey along the northern side of Stapolin Way, and 2-4 storey in the remaining southwestern portion of the application site. The proposed development would involve building heights ranging from 4 to 12 storeys, which would clearly materially contravene these LAP provisions.

Public Transport

11.3.7. Having regard to the foregoing policy provisions, it is clear that national policy and guidelines outline clear support for increased height/density in public transport corridors. In this regard, I note that the application site is currently within 1km walking distance of Clongiffin DART station and this distance would be significantly reduced to c. 250m when future connections would be provided via GA 3. It is, therefore, suitable for increased density in accordance with the Sustainable Residential Development Guidelines and the definition of 'central and/or accessible urban locations' as per the Apartment Guidelines.

11.3.8. The issue of transport capacity should also be considered, and I note in the first instance that the Apartment Guidelines effectively confirm that DART stations are high-capacity urban public transport stops. The Sustainable Residential Development Guidelines also refer to capacity in the context of the number of trains during peak hours and I note that Clongriffin station offers 4-5 trains per hour during peak periods. In addition to the train services, the site is within 1km of bus stops on the H1 Bus Connects route, which offers services at a day-time frequency of approximately every 15 mins. The NTA submission confirms that the H1 route will

enter the lands at Red Arches Road as per the BusConnects Dublin Area Network redesign in order to serve the resident population and provide a connection to Clongriffin Station. Additional bus services include the H2 Malahide-City Centre service (every 30 mins); the No.15 Clongriffin-City centre route which runs every 8 mins during peak hours; and the No. 102 Airport-Sutton Station route which runs every 30 mins.

11.3.9. I note that observers have questioned the capacity of train services at Clongriffin station. As previously outlined, I consider that the Apartments Guidelines effectively classify all DART stations as 'high capacity' stops. In addition to this, I have reviewed the results of the latest NTA National Rail Census Report (2021). The census took place on 21st November 2021 under normal operating conditions and after public transport had returned to full capacity following the removal of COVID-19 restrictions (on the 21st September 2021). The census shows that the total number of daily boardings/alightings at Clongriffin Station was 1,606 in 2021, which was significantly reduced (c. -52%) from the 3,346 recorded in 2019.

11.3.10. Despite the return to full public transport capacity at the time, I acknowledge that the 2021 figures would still have been affected by the implications of COVID-19. In particular, the census report refers to a CSO study which reported that 65% of those in employment were working remotely all or some of the time in November 2021. I would accept that there has been a gradual return to the workplace in the intervening period, although some element of remote working appears to have commonly become a permanent arrangement. Therefore, I consider it reasonable to assume that the practice of remote working continues to ease the pressure on the capacity of public transport to a significant extent.

11.3.11. In this case, the NTA has made a submission supporting the principle of the development of the lands and confirms that the Clongriffin Station provides a 'high-capacity rail link to Dublin city centre and other destinations'. It also outlines the planned public transport infrastructure for the area, including the DART+ Coastal North and BusConnects, which would significantly improve public transport capacity and frequency, albeit that the DART+ project is still at an early stage. Notwithstanding these planned improvements, I am satisfied that, having regard to the foregoing and the NTA submission, the proposed development should not be constrained by the capacity of Clongriffin Station or other public transport services.

Core Strategy

- 11.3.12. The quantum of development proposed also requires consideration in the context of the Development Plan Core Strategy, which identifies a residential capacity of 1,498 units for the area. Taken together with GA1 and GA3 Board decisions, the proposed development would result in a total of 3,209 no. residential units. However, given that the SHD decisions for the GA1 and GA3 sites are subject to judicial review, I consider that they cannot be definitively included in the 'pipeline' capacity. Notwithstanding this, I accept that the proposed 1,007 no. units added to the already permitted 544 no. units (in F16A/0412, ABP Ref. PL06F.248970) would also exceed the 1,498 figure, albeit to a minor extent (c. 3.5%). In any case, the applicant contends that the proposal would materially contravene the Core Strategy.
- 11.3.13. The Development Plan Core Strategy was updated in June 2020 through Variation No. 2 in order to align with the NPF and RSES. The variation did not include a Housing Need and Demand Assessment (HNDA) in accordance with NPO 37 of the NPF. In the meantime, the Housing Supply Target Methodology for Development Planning Guidelines for Planning Authorities (Department of Housing, Local Government and Heritage, 2020) has recognised that varying approaches have been taken by different local authorities in the interpretation and application of NPF/RSES population projections. The Department commissioned the ESRI to provide a nationally integrated and standardised evidence base for local authorities to estimate overall housing demand and the resulting ESRI research paper is based on an updated econometric and demographic projection model.
- 11.3.14. In support of these guidelines the Minister has informed planning authorities of the requirement to substantially increase national housing output (estimated at 18,000-20,000 in 2020) to 33,000 homes per annum between 2020-2031. Appendix 1 out the Guidelines outlines Housing Supply Targets for each local authority over the period 2020-2031, including a total of 20,608 households in Fingal CC (1,717 per annum). The requirement for 33,000 homes up to 2030 and the associated approach involving Housing Supply Targets is incorporated into 'Housing For All', the government's housing plan, and will be reflected in the HNDA of the forthcoming Fingal County Development Plan 2023-2029.

11.3.15. Ultimately, the currently stated housing capacity (1,498 units) would be exceeded in this case as a result of increased height/density, rather than any additional or excess land development. I have already outlined the national policy context, as expressed by the Sustainable Residential Development Guidelines, the Apartments Guidelines, and the Building Height Guidelines, which support increased density in areas such as this. In addition, the proposal would be consistent with NPF objectives which aim to deliver 50% of such housing within the existing built-up footprint (NPO 3b); to prioritise new homes that support sustainable development at an appropriate scale relative to location (NPO 33); and to increase densities through a range of measures including site-based regeneration and increased building heights (NPO 35). Therefore, I am satisfied that, in principle, the proposed density would be consistent with national policy and guidance to increase density on public transport corridors, notwithstanding that the total number of housing units may exceed the Development Plan Core Strategy.

Conclusion

11.3.16. Regarding the building height, density, and quantum of development proposed, I have outlined that the proposed height would significantly exceed LAP provisions, even if the LAP does not place a limit on density for the site. I acknowledge that the higher density proposed may ultimately result in an exceedance of Core Strategy residential capacity for the area (i.e. 1,498 units). However, I would highlight that the potential residential yield for GA 1 and GA 3 (2,202 units) cannot be confirmed given that the relevant permissions are subject to Judicial Review. In the absence of these permissions, the proposed development would result in only a minor exceedance of capacity by c. 3.5% (i.e. a total of 1,551 units). In any case, I am satisfied, in principle, that the increased height and density is acceptable in accordance with national policy and guidance which seeks to promote compact development, particularly in public transport corridors such as this location. Of course, the proposed height and density requires further assessment of its suitability, with particular regard to design and layout and its impact on the surrounding environment, infrastructural capacity, and neighbouring properties. These issues will be addressed in the following sections of my report.

11.4. The Standard of Residential Amenity Proposed

- 11.4.1. The standard of residential development is considered in this section, particularly with regard to the quantitative and qualitative standards outlined in the Development Plan and the 2020 Apartments Guidelines.

Housing Mix

- 11.4.2. The development proposes a mix of apartments including studios (5.8%), 1-beds (24.5%), 2-bed 3-person (9.3%), 2-bed 4-person (55.9%), and 3-bed (4.5%). The Development Plan does not include any inflexible requirements for the mix of housing units, but rather generally requires an appropriate/balanced mix as outlined under zoning objective 'RA', section 12.4, and objective PM40. This flexible approach is also reflected in the LAP, with the exception of Objective RS 2 which states that no more than 5% of units in any application or over the whole development, shall be one-bedroom units.
- 11.4.3. The Apartments Guidelines highlight the need for greater flexibility, including removing restrictions in relation to apartment mix. SPPR 1 outlines that developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios), and that there shall be no minimum requirement for apartments with three or more bedrooms. It allows for statutory plans to specify an apartment mix, but only further to an evidence-based Housing Need and Demand Assessment (HNDA).
- 11.4.4. With a total of 30.3% studio/1-bed units and only 5.8% studio units, the proposed development would comply with SPPR 1. Furthermore, as previously outlined, the Development Plan or LAP has not been prepared with the benefit of an evidence-based HNDA. Therefore, I consider that the proposed housing mix is acceptable in accordance with SPPR 1 of the Apartments Guidelines.
- 11.4.5. The application includes a proposal for the provision of 200 no. Part V units and it has been confirmed that Part V discussions have been held with the local authority. However, I appreciate that valid concerns have been raised in the Chief Executive's Report regarding the proposed concentration of Part V units. This includes entire blocks being devoted to Part V at Sector 6A/B (Block 4) and Sector 8 (3 x Block no. 2). I would agree that a more varied dispersal of units would be desirable, and I note that the Chief Executive's report indicates that Part V requirements should be subject

to agreement by a condition of any permission. Similarly, regarding the observers' concerns about the cost of the Part V units, I am satisfied that this matter can be agreed with the planning authority by condition. Accordingly, I have no objections in this regard.

Floor Areas and Dimensions

- 11.4.6. The Development Plan requirements in this regard are consistent with the standards outlined in the Apartment Guidelines. The application includes a Housing Quality Statement (HQS) for each sector of the proposed development. It outlines that all proposed units exceed the minimum overall apartment floor areas as set out in SPPR 3 of the Apartment Guidelines. Furthermore, with regard to 'Safeguarding Higher Standards', the Guidelines requires that the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1-, 2- or 3-bedroom unit types, by a minimum of 10%. The HQS outlines that 90% of all units would exceed the minimum floor areas by at least 10%. I note that the HQS incorrectly states that 4 no. units (nos. 26, 48, 70, and 92) in Block 1 of Sector 8A would not meet the 10% requirement, and I am satisfied that this would not negatively impact on the quality of the scheme.
- 11.4.7. The Guidelines allow for the inclusion of a 2-bed 3-person unit with a floor area of 63m², as long as no more than 10% of the total number of units in any private residential development comprises this category of apartment. A total of 9.3% of the units are of this category, which complies with the Guidelines.
- 11.4.8. I have also considered the other requirements of Appendix 1 of the Apartment Guidelines, including the areas/dimensions for living/kitchen/dining areas, bedrooms and storage. Having reviewed the applicant's HQS and the floor plans submitted, I am satisfied that the room widths and areas are satisfactorily provided in accordance with the flexibility allowable under the Guidelines.

Aspect

- 11.4.9. Section 5.13.1 of the LAP outlines guidance on 'possible house types' and states that all dwellings must be dual aspect. However, the LAP also outlines the need for apartment buildings to comply with the standards contained in the Development Plan and the Apartments Guidelines. In this regard, the Development Plan requirements

are generally consistent with SPPR 4 of the Apartment Guidelines, which requires a minimum of 33% dual aspect units in more central and accessible urban locations, and at least 50% in suburban or intermediate locations. I have previously outlined my opinion that this is an accessible urban location as per the Apartments Guidelines definitions and, therefore, the 33% requirement applies.

- 11.4.10. The applicant's HQS outlines that the proposed development includes 550 no. dual-aspect units (or 54%), with none of the sectors having less than 48%. All but just one of the 3-bed units are dual-aspect. I note that some single-aspect units would face in a northern direction, but I am satisfied that these units would generally overlook significant amenity features such as Racecourse Park or the proposed communal spaces, which would be acceptable as per section 3.18 of the Guidelines. Accordingly, I consider that the dual aspect requirements of the Guidelines would be satisfactorily addressed.

Ceiling Heights

- 11.4.11. The proposed ceiling heights exceed 2.7m at ground floor levels and upper floors, which meets the requirements of the Guidelines (i.e. at least 2.7m at ground floor (as per SPPR 5) and 2.4m at upper floor levels). This is also consistent with Development Plan and LAP requirements.

Lift and Stair Cores

- 11.4.12. The Development Plan (Objective DMS23) permits up to 8 apartments per floor per individual stair/lift core, and states that applicants should maximise the number of apartments per floor per stair/lift core where this is not possible. However, SPPR 6 of the Apartments Guidelines allows a maximum of 12 apartments per floor per core. The proposed development would not exceed these relevant standards.

Private Amenity Space

- 11.4.13. Appendix 1 of the Guidelines also sets out minimum requirements for the provision of private open space, which is consistent with Development Plan standards. The Guidelines state that such space should be provided in the form of gardens or patios/terraces for ground floor apartments (with appropriate privacy and security) and balconies at upper levels. Private amenity space should be located to optimise solar orientation and designed to minimise overshadowing and overlooking.

Balconies should adjoin and have a functional relationship with the main living areas of the apartment and have a minimum depth of 1.5 metres.

- 11.4.14. Having reviewed the applicant's HQS and the submitted floor plans, I note that there are a minimal number of cases where the width of the balconies would marginally fail to meet the 1.5m standard. However, I do not consider that this marginal failure would have any significant impact on the overall quality of the spaces. Otherwise, all spaces meet the width/area standards and are suitably accessed off the main living areas. The privacy/security treatment around the ground level spaces has not been detailed and I would advise that this be agreed by condition in the event of any grant of permission.

Security

- 11.4.15. The proposed apartments generally overlook the public realm to provide for natural/passive surveillance of streets, open spaces, play areas and any surface parking areas. Entrance points would be clearly distinguished and overlooked, including the ground floor apartments and access to internal and external communal areas. The ground floor units are also adequately setback from the surrounding public realm so as to maintain a sense of privacy and security.

Communal Facilities

- 11.4.16. I am satisfied that the access and services within the proposed development have been appropriately designed to ensure universal access for people of all ages and abilities.
- 11.4.17. Although not a mandatory requirement of the Apartments Guidelines, the proposal includes 6 no. communal rooms with a total floor area of 515m². The rooms are distributed through the site at convenient ground floor locations and are intended for use as social/recreation spaces, community information, or remote working. In accordance with section 4.6 of the Apartments Guidelines, I acknowledge that such communal facilities should not generally be imposed in the absence of proposals and/or agreement by the applicant. However, given that they are currently proposed I am satisfied that the proposals will adequately meet the on-site communal requirements of the occupants.
- 11.4.18. The Guidelines also state that notwithstanding the Planning Guidelines for Childcare Facilities (2001), the threshold for provision of any such facilities should be

established having regard to the scale and unit mix of the proposed development; the existing geographical distribution of childcare facilities; and the emerging demographic profile of the area.

- 11.4.19. I note that 305 of the proposed units are 1-bed/studio units which do not generally contribute to a requirement for any childcare provision, resulting in a requirement to serve 702 units. The vast majority of those remaining units are 2-bed apartments (657 no. units) and the Apartment Guidelines acknowledge that childcare requirements may not even apply to those. Using the standards outlined in the Childcare Guidelines (i.e. 20 spaces for every 75 houses), the proposed development would require a capacity of 187 spaces. The applicant has included a childcare facility with a capacity of 161 creche spaces or up to 238 pre-school places. It is stated that the facility may provide a mix of childcare services. Having regard to the low proportion of units with more than 2 bedrooms, I consider that the proposed facility is adequate to serve the proposed apartments.
- 11.4.20. The application includes an Operational Waste Management Plan. It estimates the waste volumes generated by the proposed development and outlines that waste storage areas have been provided at basement level for each residential sector. The application confirms that storage receptacles will be provided in accordance with estimated volumes and that building management will avail of a mini-compactor to significantly reduce waste volumes. Waste will be collected by licensed contractors at designated collection points. I am satisfied that the waste strategy is in accordance with the relevant waste policy and legislation, and that it will provide a suitable service for the residential amenity of the occupants.
- 11.4.21. Regarding the provision of communal open space, the Development Plan standards are also consistent with those outlined in Appendix 1 of the Apartments Guidelines. Based on those standards, the proposed development requires 6,377m² of communal open space. Based on the proposed courtyards, the proposed development includes a total of c. 13,488m² of communal space distributed throughout the site. The spaces are accessible, usable and secure, and the Landscape Masterplan outlines a planting strategy and a range of play areas to cater for the needs of children. Accordingly, I am satisfied that the proposal includes a high quality of communal space which would significantly exceed the quantitative requirements of the Apartments Guidelines.

Separation Distances

- 11.4.22. The Development Plan (including Objective DMS28) outlines that a minimum distance of 22 metres between opposing windows will generally apply in the case of apartments up to three storeys in height. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable.
- 11.4.23. In recognition of the NPF preference for performance-based standards appropriate to location, the Apartments Guidelines advise against blanket restrictions on building separation distance. The Guidelines highlight a need for greater flexibility in order to achieve significantly increased apartment development in Ireland's cities and points to separate guidance to planning authorities as outlined in the Building Height Guidelines.
- 11.4.24. The main front/rear elements of the proposed blocks exceed the stated 22m separation distances, and significantly so in many cases. A notable exception to this occurs in Sector 6A/B, where the sides of Block 4 would be within c. 10 metres of Blocks 2 and 7. I acknowledge that the north/south side elevations of Block 4 contain only limited glazing and, therefore, direct overlooking of windows is unlikely to be significant. However, I would concur with the concerns of the Local Authority regarding the scale and proximity of Block 4 to Blocks 2 & 7, particularly given that several living rooms and balconies would be directly opposed by the side elevations of Block 4 within c. 10 metres. I consider that this would result in a substandard, overbearing outlook for the relevant units within Blocks 2 and 7 and, accordingly, I recommend that Block 4 should be omitted by condition in the event of a grant of permission.
- 11.4.25. Otherwise, I acknowledge that there are incidences throughout the scheme where the separation distances between blocks is less than 22 metres. However, this predominantly relates to secondary openings on the sides of blocks and involves small/obscured windows. I am satisfied that any such windows have been appropriately distanced/located to avoid any unacceptable overlooking impacts. The Development Plan objective DMS28 only 'generally' requires 22m for directly opposing rear first floor windows (which appears to relate to houses) and does not

prescribe a definitive requirement for apartment developments. Furthermore, the supporting Development Plan text acknowledges that reduced separation distances (i.e. less than 22m) may be acceptable in certain instances. Having regard to the previously established need to accommodate increased density on sites such as this, I consider that, with the exception of Block 4 (Sector 6A/B), the proposed separation distances are acceptable and would not result in any unacceptable impacts on residential amenity.

Wind, Noise and Disturbance

- 11.4.26. Chapter 10 of the EIAR assesses the potential effects on the pedestrian level wind microclimate around the proposed buildings, open spaces, and in the areas immediately surrounding the site. It is a desk-based study which is based upon a Wind Microclimate Technical Report and a set of comfort criteria developed by Lawson. It is based on the wind conditions measured at the nearby Dublin Airport meteorological station which, despite the observers concerns, I consider to be an appropriate source given that it is the nearest official Met Eireann observing station.
- 11.4.27. The study outlines that the wind microclimate is expected to be generally suitable for the intended pedestrian activities and there are not expected to be any significant adverse impacts. Some buildings of Sectors 7 and 8 will be exposed to northerly and easterly winds, although this would be infrequent and of low intensity. It concludes that the general massing and graduated height of the blocks will provide natural wind mitigation by minimising exposure to the prevailing south-westerly wind. This will cause the wind to blow up and over the blocks thereby minimising downwash and adverse ground level wind effects. The proposed landscaping will provide effective additional ground level wind mitigation. I would concur with the findings of this study. Having regard to the baseline conditions, I am satisfied that the design and layout of the proposed development will not result in any unacceptable wind conditions for occupants. I acknowledge that observers have also raised concerns about wind-related noise. However, given that the proposed development would not result in an unacceptable wind micro-climate, I am satisfied that no unacceptable wind-related noise impacts would occur.
- 11.4.28. On the question of noise, I note that Variation No. 1 of the Development Plan 2017-2023 outlines revised Noise Zones and policy objectives in relation to aircraft noise

from Dublin Airport. Four noise zones (Zone A to D) are now indicated representing potential noise exposure during airport operations. The application site is within Zone C, where it is an objective to manage noise sensitive development in areas where aircraft noise may give rise to annoyance and sleep disturbance, and to ensure, where appropriate, noise insulation is incorporated within the development. It is stated that a noise assessment must be undertaken in order to demonstrate good acoustic design has been followed in accordance with 'ProPG: Planning & Noise – New Residential Development, May 2017' and BS8233:2014 'Guidance on sound insulation and noise reduction for buildings'.

11.4.29. The EIAR contains a noise assessment (Chapter 12) which considers the impact of airport noise. It outlines that good acoustic design will be applied through select construction types with good sound insulation, including glazing and ventilation design, to achieve the good level of internal noise specified within ProPG. The assessment acknowledges that external amenity areas would not comply with ProPG recommendations, and that no mitigation is available in this respect. However, it contends that ProPG criteria can be relaxed given that the site is zoned for residential uses. The assessment demonstrates that the proposal is in full compliance with the recommendations of ProPG and, accordingly, I am satisfied that the proposal would be acceptable in accordance with the Development Plan policy for airport noise Zone C. I note that the local authority did not raise any objection in relation to airport-related noise and the DAA requests that a condition be attached to any permission requiring noise insulation to an appropriate standard.

11.4.30. I note that the Chief Executive's Report raises some concerns about the potential for noise/disturbance as a result of the proximity of some apartments to communal facilities, including the creche, bicycle stores etc. However, I consider that there are limited instances of such relationships and that such supporting communal facilities are an integral part of residential development. Accordingly, I do not consider that this would significantly detract from the quality of residential amenity.

Conclusion on Residential Amenity

11.4.31. As outlined in the foregoing, I have considered the nature, scale, design and layout of the proposed development. I have reviewed the applicant's Housing Quality Statement and the associated plans and particulars, and I am satisfied that the

information provided regarding floor areas, dimensions, and aspect is accurate. Subject to conditions, most notably including the removal of Block 4 from Sector 6, I am satisfied that the proposed development would provide a suitable mix of units that would provide an acceptable level of residential amenity for the prospective occupants. The development would also be supported by an appropriate level of communal services and facilities. Accordingly, I would have no objections in this regard. Residential amenity impacts in relation to daylight/sunlight and traffic/transport will be dealt with separately in later sections of this report.

11.5. Impacts on Surrounding Properties

- 11.5.1. The proposed development would bound onto the Racecourse Park lands to the north and east where the extent of development will be limited to recreational uses. The impacts on these lands are largely limited to daylight/sunlight impacts and visual impacts, which will be addressed in later sections of this report.
- 11.5.2. To the southeast of the proposed development is the existing Red Arches residential development. This comprises a mixture of 2 to 5-storey residential development on the southern side of Red Arches Drive. The majority of these existing properties would be significantly buffered from the proposed development by the Haggard open space and I am satisfied that there is no potential for significant impacts given the significant separation distance that would remain. At the southeast corner of the site, Block 2 of Sector 8C is proposed as a mainly 4-storey (but up to 5-storey) building. It would be consistent with the height and scale of the existing 5-storey development along Red Arches Drive and would be set back to achieve a separation distance of at least 26 metres.
- 11.5.3. To the south and west of the application site, the proposed development would bound onto the developments proposed on the adjoining GA1 and GA3 sites. To the south, Blocks 6 and 7 (Sector 6) would be 5-6 storey and would have a separation of at least 29 metres from the proposed development (GA 1), with the proposed 6-storey element set back further to c. 55 metres. To the west the proposed development would gradually rise from 5-storey (Sector 6) to 5-12 storey (Sector 7). This increase in height and scale would be generally consistent with the proposed development to the west (GA 3 – ABP Ref. 311016) and would generally maintain a separation distance of at least 22 metres.

- 11.5.4. Having regard to the forgoing, I consider that the height and scale of the proposed development would largely be consistent with that of existing and proposed development on the adjoining lands. In section 11.4 of this report, I have previously outlined the policy context for separation distances, which does not prescribe a definitive requirement for apartment developments. Therefore, having regard to the previously established need to accommodate increased density in areas such as this, I consider that the proposed development would form an appropriate interface with surrounding development and would not result in any unacceptable overlooking or overbearing impacts.
- 11.5.5. In relation to the observers concerns about wind noise, section 11.4 of this report has already established my opinion that the proposed development would not generate an unacceptable micro-climate in relation to wind. And in the absence of any such excessive wind environment, I do not consider that there would be any related or unacceptable wind noise impacts for surrounding properties.
- 11.5.6. The observers have also raised concerns about the impact of noise and other disturbances at the construction stage of the development. As outlined in the applicant's EIAR, I acknowledge that there would be construction stage noise impacts due to the operation of various plant machinery and HGV movement. Based on worst-case scenario activity and the installation of boundary attenuation, the EIAR calculates that maximum permissible daytime noise levels could be exceeded at distances up to 30m from the works. The nearest noise sensitive location is within this distance at 25m. However, construction stage mitigation will be achieved through the application of best practice operational and control measures for noise and vibration based on BS 5228 (2009 +A1 2014) Code of Practice for Noise and Vibration Control on Construction and Open Sites Parts 1 and 2.
- 11.5.7. Consistent with the EIAR findings, I would acknowledge that some of the nearest noise sensitive locations may experience significant and temporary construction stage effects associated with the worst-case scenario. However, the majority of noise sensitive locations would be at greater distances and only moderate effects are likely. I consider that the predicted impacts would be acceptable as an inevitable aspect of any significant urban development project. The impacts would be temporary, and I do not consider that they would result in any unacceptable impacts on residential amenity.

11.5.8. As well as noise mitigation, the application includes an Outline Construction Environmental Management Plan which incorporates measures to address impacts relating to construction traffic, site logistics, lighting, and any emissions to air, water, etc. These measures should be conditioned as part of any permission, and I am satisfied that this will comprehensively protect the amenities of surrounding properties.

11.5.9. Having regard to the foregoing, I do not consider that the proposed development would unacceptably detract from the privacy or amenity of surrounding properties by reason of overlooking or overbearing impacts. Furthermore, I am satisfied that construction impacts would be consistent with standard urban development of this scale and subject to mitigating conditions, would not result in any unacceptable disturbance to the local population. Other potential impacts on surrounding residents/properties, including those relating to daylight/sunlight and traffic, will be addressed in later sections of this report.

11.6. Daylight and Sunlight

11.6.1. As previously outlined in sections 11.4 and 11.5 of this report, this section now assesses the impact of daylight and sunlight, both within the proposed development and for surrounding property.

Policy

11.6.2. It has been established that the proposed building height would materially contravene the provisions of the LAP. In this regard, SPPR 3 and section 3.2 of the Building Height Guidelines outline that, that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that '*appropriate and reasonable regard*' should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE (BR 209) 'Site Layout Planning for Daylight and Sunlight' (2nd edition, 2011) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning

authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution.

- 11.6.3. The Sustainable Urban Housing Design Standards for New Apartments Guidelines (2020) also highlight the importance of provision of acceptable levels of natural light in new apartment developments, which should be weighed up in the context of the overall quality of the design and layout of the scheme and the need to ensure an appropriate scale of urban residential development. It states that planning authorities '*should have regard*' to the BRE (BR 209, (2011)) or BS (8206-2 (2008)) standards when quantitative performance approaches are undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision. Again, where an applicant cannot fully meet these daylight provisions, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, which planning authorities should apply their discretion in accepting.
- 11.6.4. The Development Plan (Objective DMS30) and the LAP also acknowledge the importance of good levels of sunlight and daylight. They outline that proposals should demonstrate compliance with the recommendations of BRE (BR 209, (2011)) and BS (8206-2 (2008)) or as documents are otherwise updated.

Information & Assessment

- 11.6.5. The application is accompanied by a 'Daylight and Sunlight Assessment' report. It has been prepared by Building Research Establishment Ltd. (BRE), i.e. the authors of the BR 209 (2011) guidance referenced above. The results are compared to the guidelines in the BR 209 document (Second Edition, 2011) and the standard EN17037:2018 'Daylight in buildings'. The older standard BS (8206-2 (2008)) is also considered.
- 11.6.6. Since the making of the application in March 2022, I note the publication of a new (3rd) edition of the BRE Guide in June 2022. I also note that the updated British Standard (BS EN 17037:2018 'Daylight in Buildings) replaced the 2008 BS in May 2019 (in the UK). Accordingly, I acknowledge that the standards and guidance are

going through a transition period. However, I am satisfied that the applicant's assessment appropriately addresses BR 209 (2011) and BS 8206-2 (2008), which remain as the standards and guidance referred to in the relevant national guidance documents such as the Building Heights Guidelines and the Apartments Guidelines. I also consider it reasonable to consider the updated standard EN17037:2018 in these circumstances. In conclusion, I am satisfied that the applicant's methodology for the assessment of daylight and sunlight is robust and is based on documents that are considered authoritative on the issues of daylight and sunlight. Therefore, I consider it appropriate to apply these standards in my assessment.

- 11.6.7. At the outset, I would also highlight that the standards described in the BRE (BR 209) guidelines allow for flexibility in terms of their application, with paragraph 1.6 stating that '*Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design*'. It notes that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc., and states that 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. Indeed, this is confirmed in the current application wherein the authors (BRE) outline that it is advisory in nature and intended to assist with good design.
- 11.6.8. In this assessment I have considered the report submitted by the applicant and have had regard to BRE 2009 (2011), BS 8206-2 (2008), and BS EN17037:2018. I have carried out a site inspection and had regard to the interface between the proposed development and its surroundings, as well as the submissions from 3rd parties and the local authority which have raised issues in relation to daylight and sunlight.

Daylight to existing dwellings

- 11.6.9. Based on the BRE Report (2nd edition, 2011), loss of daylight to existing dwellings is assessed by calculating Vertical Sky Component (VSC), which is the ratio of the direct sky illuminance falling on the outside of a window, to the simultaneous horizontal illuminance under an unobstructed sky. The BRE Report sets out that a VSC of 27% should achieve enough sky light, but that electric lighting will be needed

for more of the time if VSC is both less than 27% and less than 0.8 times its former value.

- 11.6.10. For the Willow, Birch, Sycamore and Beech apartments to the south of Sector 8C, west and north facing windows have been analysed. The results outline that 46 (or 29%) out of 155 windows would be below the BRE VSC guidelines, although the design of the existing building has enclosed balconies and overhangs which restrict daylight. In accordance with the BRE Report guidance, windows affected by balcony overhangs were reassessed without them in place. In such a case, only 8 (5%) of the windows would still be below the BRE guidelines, which is still largely attributed to the setback design of the windows themselves. When the setback enclosure is also omitted, all of the windows would retain a VSC greater than 27%. The applicant's report concludes that the impact is primarily due to the design of the existing building and highlights that permission already exists for a building of similar scale at this location. Therefore, the applicant's report classifies the impact as minor adverse.
- 11.6.11. For the properties at Red Arches Drive / Red Arches Park, all windows would meet the BRE vertical sky component guidelines since they would have values greater than 27% or more than 0.8 times their former value.
- 11.6.12. For the proposed GA1 development to the south, the worst-case ground floor windows facing Sectors 6A/6B have been analysed and all windows would receive at least 27% VSC.
- 11.6.13. For the proposed GA3 development to the west, all east-facing ground and first-floor windows have been analysed. With balconies in place, 3% of windows would have VSC values greater than 27%, 60% would have values between 15% and 27%, 36% would have values between 5% and 15%, and 1% would have values less than 5%. With balconies removed, 33% would have values greater than 27% and 66% would have values between 15% and 27%, which suggests that the balconies are responsible for some of the restriction in daylight.
- 11.6.14. As per BRE guidance for VSC ranging from 15%-27%, the results suggest that special measures would be needed in the design of GA3. This has been recognised through large floor to ceiling windows in the recent application for GA3. The proposal for GA3 also contained a daylight and sunlight assessment, which suggested that the daylight provision for worst-case windows facing GA2 (including estimated

obstruction) would be adequate. The applicant's report acknowledges that when compared to the existing empty site there would be a significant impact to daylight to the east facing façade of GA3. However, it contends that this would only be the case if future residents of GA3 experienced conditions with the empty GA2 site. It states that the development has been designed knowing GA2 would be the site of future development, that special measures of larger windows are in place in the design of GA3, and that any reduced values of VSC may be at least partly due to the balconies. The applicant highlights that the BRE Report guidelines should be interpreted flexibly and that a higher degree of obstruction may be unavoidable if new developments are to match the height and proportions of existing buildings.

- 11.6.15. In conclusion, I have acknowledged that the proposed development would have some adverse impacts on the existing properties to the south of Sector 8C and the planned development to the west of the site (i.e. GA3). However, I would accept that these impacts are largely attributable to the design of the existing/planned properties and that the proposed development would be consistent with the emerging scale and pattern of development at this location. Accordingly, having regard to the flexibility in the application of the BRE guidelines, I do not consider that the proposed development would result in any unacceptable daylight impacts for existing/planned properties.

Sunlight to existing dwellings

- 11.6.16. The BRE Report recommends that loss of sunlight should be checked for main living rooms of dwellings, and conservatories, if they have a window facing within 90° of due south. If the centre of the window can receive more than one quarter of annual probable sunlight hours, including at least 5% of annual probable sunlight hours in the winter months between 21 September and 21 March, then the room should still receive enough sunlight. If the window already receives less than this, a reduction to less than 0.8 times its current value and a reduction of more than 4% of annual probable sunlight hours over the year may lead to the room it serves appearing colder and less cheerful and pleasant. Existing buildings on Red Arches Drive and the GA1 development would be to the south of the development site and therefore loss of sunlight would not be an issue.

- 11.6.17. In GA3, the east facades of Blocks F1, F2 and G5 face just south of due east and, therefore, potential sunlight impact has been assessed by the applicant's report. With balconies in place, it states that 36% of windows on the ground and first floor would be able to receive at least 25% annual probable hours, including at least 5% in the winter months, thereby meeting the BRE guidelines. When balconies are removed, it states that 94% of the windows would be able to meet these targets. The report concludes that adequate sunlight at GA3 is therefore achievable, and any restriction appears predominately due to the balconies rather than the proposed development.
- 11.6.18. Consistent with the applicant's report and the BRE guide, I would accept that the sunlight impacts on GA3 are largely attributable to its own design (including balconies) rather than the proposed development. Furthermore, I am satisfied that the proposed development would be consistent with the scale and pattern of development planned at GA3. Accordingly, having regard to the flexibility in the application of the BRE guidelines, I do not consider that the proposed development would result in any unacceptable sunlight impacts for existing/planned properties.

Loss of sunlight to existing gardens and open spaces

- 11.6.19. For existing outdoor amenity areas, the BRE Report recommends that at least half of the space should receive at least two hours of sunlight on 21st March. If, as a result of new development, the area which can receive 2 hours of sunshine on the 21st March is reduced to less than 0.8 times its former value, then the loss of sunlight is likely to be noticeable.
- 11.6.20. The applicant's report acknowledges that there are large areas of open space to the north and east of the site. However, it states that only spaces close to proposed buildings may lose some sun, and that there are no existing garden areas with the potential to be impacted. Shadow plots have also been created for a comprehensive range of dates/times to allow for a full understanding of the year-round level of overshadowing. The report acknowledges that the shadow of the proposed buildings would reach neighbouring areas in the Spring/Autumn equinoxes and Summer Solstice, but that it would mostly be confined to roadways and areas close to the buildings. The shadow plots for the Winter Solstice show that all buildings, either proposed, existing or potential future developments, would cast longer shadows.

11.6.21. I note that observers have raised concerns that overshadowing will severely impact on the amenity and biodiversity value of Racecourse Park. I have reviewed the predicted shadow plotting and I acknowledge that the proposed development would have some overshadowing impacts on the adjoining racecourse lands to the north. However, the area affected would be a marginal and minimal portion of the overall park lands. The affected area is not within the Baldoyle Bay SAC/SPA sites and the applicant's Winter Bird Survey Report has not identified any use of the area by SCIs associated with the SPA. The applicant's EIAR has not identified any significant biodiversity value on the affected lands. Furthermore, I note that the adjoining lands to the north are primarily envisaged as a greenway corridor in the racecourse masterplan, whereby the primary function would be movement rather than any biodiversity or inactive amenity purpose. Having regard to the foregoing and the limited, temporary overshadowing impacts predicted, I do not consider that the proposed development would unacceptably detract from the biodiversity or amenity value of the racecourse park.

Daylight to proposed habitable rooms

11.6.22. The applicant's report outlines that guidance on daylight to new dwellings is given in EN17037:2018 "Daylight in buildings", which (in the UK) supersedes and is generally more ambitious than 'BS8206 Part 2:2008 Lighting for Buildings, Code of Practice for Daylighting'. The recommendations of EN17037 were intended for internal areas of all types and the target values would be very difficult to achieve for domestic rooms in an urban environment. A UK National Annex recognises this and sets alternative targets to be achieved over half the reference plane, i.e. 100 lux in bedrooms, 150 lux in living rooms and 200 lux in kitchens. For Dublin, the applicant's report states that these would correspond to recommended equivalent median daylight factors, over at least 50% of the calculation plane, of 0.7% for a bedroom, 1.0% for a living room and 1.3% for a kitchen. For a room of combined use, it is stated that the higher value should apply, but that for combined living/dining/kitchen rooms, local authorities may in practice accept the living room value. The results are compared to the UK National Annex equivalent targets, along with reference to the older average daylight factor (ADF) methodology in BS8206 Part 2, i.e. an ADF of 1.0% in bedrooms, 1.5% in living rooms and 2.0% in kitchens. The assessment has been undertaken by analysing a selection of representative rooms on the lowest floor of

each sector, including worst-case areas, as well as equivalent rooms on higher floors where relevant.

- 11.6.23. The applicant's report estimates that 93% of rooms would meet the recommendations in the UK National Annex of EN17037 using the bedroom target and living room target for combined living/dining/kitchen or studio areas. An estimated 83% of rooms meet these recommendations with the higher kitchen target used for the combined spaces. Overall results are similar using the older BS8206 recommendations (92% using the bedroom target and living room target for combined living rooms and 81% using the kitchen target for combined rooms). The vast majority of bedrooms would appear likely to meet the bedroom recommendations in either standard.
- 11.6.24. The applicant's assessment acknowledges that a low number of units would be below the recommended standards, and that the Apartments Guidelines (2020) provide for alternative, compensatory design solutions and discretion based on context and wider planning objectives. The report suggests that balcony areas could be removed to improve daylight, although it acknowledges that this would result in the loss of valuable private amenity space.
- 11.6.25. I have already outlined that the Building Height Guidelines provide for similar discretion in the context of SPPR3 and the section 3.2 criteria. In this regard, I am satisfied that the application has clearly identified where the proposal does not meet the daylight provisions of 'BS 8206-2: 2008'. I am satisfied that the lower 'living room' target (i.e. 1.5% ADF) can be applied for combined rooms. The higher 2% ADF target is more appropriate in a traditional house layout. In apartment developments, it is a significant challenge for large open plan kitchen/living/dining rooms to achieve 2% ADF, and even more so when higher density and balconies are included. Therefore, there are often challenges in urban schemes in meeting the 2% ADF in all instances. To do so may unduly compromise the design/streetscape quality and an alternate 1.5% ADF target is generally considered to be more appropriate. I acknowledge that some combined spaces (i.e. 8% of rooms) would still not comply with the 1.5% ADF target, but I am satisfied that this would constitute a minor, insignificant portion of the overall development which would be acceptable in the context of a high-density development.

11.6.26. The applicant's 'Planning Report' outlines a rationale for alternative, compensatory design solutions. It highlights that the apartment floor areas are large, with more than 90% of them more than 10% above the minimum standard. It also highlights the high proportion of dual aspect units (54%); the fact that ceiling heights are 2.7m throughout; and that high quality communal space has been included at double the rate required. In addition to this, I note that 6 no. communal rooms are proposed and that many of balconies significantly exceed the minimum private open space requirements.

11.6.27. Having considered where the scheme does not fully meet the relevant daylight provisions, and the alternative compensatory design solutions contained within the overall quality of the scheme, and having regard to local factors and the desirability of achieving wider planning objectives, including the comprehensive redevelopment of this accessible site at a higher density in accordance with the objectives of the NPF and the RSES, I am satisfied that the proposed daylight standards would be acceptable in this case and would not result in a substandard level of residential amenity for the prospective occupants.

Sunlight to proposed dwellings

11.6.28. Minimum, medium and high recommended levels for sunlight exposure are given in EN17037. This is measured via the duration received to a point on the inside of a window on a selected date (21st March) and gives a minimum target of 1.5 hours, medium target of 3 hours, and high target of 4 hours. Using example calculation points, the applicant's assessment includes a diagram showing the areas able to receive the recommendations for the worst-case ground floors. In areas where sunlight provision could increase, example points are also calculated on higher floors and a summary of the number of units in each sector with at least one room able to meet at least the minimum recommendation is shown for each sector.

11.6.29. The analysis states that northerly facing facades would have naturally limited sunlight but would have a view of the park to the north. In general, southerly facing outer facades have the potential to meet the recommendations, although they are impacted by balcony/façade design and proximity to other blocks. Areas facing into courtyards are more obstructed, but provision improves on upper floors. Overall, the analysis suggests that around 70% of proposed units will have at least one habitable

room able to receive at least the minimum 1.5 hours sunlight recommendation in EN 17037.

- 11.6.30. I acknowledge that the criteria are unlikely to be met for all apartments, particularly where rooms face significantly north of due east or west and where higher density schemes are proposed. Notwithstanding this, I consider that a high proportion (70%) of apartments would have at least one habitable room able to receive at least the minimum 1.5 hours sunlight recommendation. I would highlight that the requirements for alternative, compensatory design solutions (as per the Apartments Guidelines and Building Height Guidelines) apply to daylight provisions, not sunlight. Notwithstanding this, I am satisfied that the overall quality of the scheme would satisfactorily mitigate the instances where sunlight provisions are not fully met. Having regard to local factors and the desirability of achieving wider planning objectives, including the comprehensive redevelopment of this accessible site at a higher density in accordance with the objectives of the NPF and the RSES, I am satisfied that the proposed sunlight standards would be acceptable in this case and would not result in a substandard level of residential amenity for the prospective occupants.

Sunlight to proposed open spaces

- 11.6.31. The BRE Guide recommends that at least half of the proposed space should receive at least two hours of sunlight on 21st March. The courtyard areas at each sector have been assessed using this methodology and all areas would comply with the standards on 21st March. A further year-round study has also been carried out. As expected, the courtyards would receive less sunlight in the winter due to the lower angle sun, with some entire courtyards incapable of receiving 2 hours of sunshine in November, December, and January. However, sunlight provision would increase throughout spring and the vast majority of spaces would be able to receive at least two hours of sunlight in summer months.
- 11.6.32. Shadow plots have also been created for a comprehensive range of dates/times to allow for a full understanding of the year-round level of overshadowing. Plots for Spring / Autumn equinoxes suggest that the courtyards would be mostly shaded in the early morning, but large areas would receive sun as the day progresses. The shadow plots for the Summer Solstice show that there would only be significant

shading of the courtyard areas in the early morning and evening. The shadow plots for the Winter Solstice show that all buildings, either proposed, existing or potential future developments, would cast longer shadows, and that some courtyard areas would be able to receive at least some sun in this worst-case condition.

- 11.6.33. I have acknowledged that the courtyards will experience significant overshadowing at the expected times/dates of the year. This is largely due to the height and density of the proposed development, which I consider to be appropriate for the site. However, all the proposed courtyards would comply with the BRE Guide recommendations, and I am satisfied that any overshadowing impacts would be satisfactorily compensated by the generous provision of communal open space at more than double the minimum required rate.

Conclusions on Daylight and Sunlight

- 11.6.34. In conclusion, I would again highlight that the standards described in the BRE guidelines allow for flexibility in terms of their application. And while the Apartments Guidelines and the Building Height Guidelines state that appropriate and reasonable regard should be had to the quantitative approaches as set out in guides like the BRE BR209 (2011) and BS 8206-2: 2008 publications, where it has been identified that a proposal does not fully meet the requirements of the daylight provisions and a rationale for alternative, compensatory design solutions has been set out, the Board can apply discretion having regard to local factors including site constraints and the need to secure wider planning objectives.
- 11.6.35. I have considered the issues raised by 3rd parties and the local authority in carrying out this daylight/sunlight assessment, including concerns about sunlight to ground floor apartments, sunlight to the courtyards, daylight levels to the proposed apartments, and impacts on adjacent developments. I am satisfied that the applicant has carried out a competent assessment of impacts on the proposed development and neighbouring properties in accordance with the BRE/BS guidance and methodology.
- 11.6.36. I have acknowledged the instances where the relevant recommendations and standards are not fully met for both existing/planned properties and the proposed development. However, having regard to the nature and design of the existing/planned surrounding development; the relatively minor scale of non-

compliance with recommendations and standards; the overall quality of amenity for the prospective residents; and the accessible location of the site; I consider that the standard of the proposed development and its impacts on the availability of sunlight and daylight to existing/planned properties would not result in any unacceptable impacts.

11.6.37. I am satisfied that alternative compensatory design solutions have been included which would significantly benefit the proposed development. Furthermore, increased height and density should be encouraged at such locations in order to achieve wider NPF planning objectives relating to compact, sustainable development at such accessible locations. Accordingly, I am satisfied that increased height and scale of development is appropriate at this location and that, on balance, the impacts on the proposed units and surrounding properties are acceptable having regard to the need to achieve wider planning objectives.

11.7. **Design, Layout and Visual Amenity**

11.7.1. I note that the visual sensitivity of this area has been recognised in local planning policy having regard to its proximity to the racecourse park lands and the coast. As per Section 6.3 of this report I have outlined a range of policies and objectives which aim to ensure that the development of these lands minimises the visual impact on the surrounding landscape and 'greenbelt'. The LAP sets out further guidance on the development of the lands, including the layout, building heights, character areas, and view lines/corridors.

11.7.2. In this regard, I have noted that the observers have raised serious concerns about the density and height of the proposed development. In summary, they contend that scale of the proposal is excessive and does not comply with the site-specific objectives of the LAP, and that the design is inappropriate for this area and would be out of character with existing development and the surrounding landscape and green infrastructure.

11.7.3. Some of these concerns are also reflected in the FCC Chief Executive's Report. In particular, concerns are raised about a lack of permeability; the creation of a monotonous 'hard edge' at the interface with Racecourse Park; inappropriate strategy in relation to height, massing, and materials; failure to maintain vistas identified in the LAP; and a lack of character/sense of place. The reason for the local

authority recommendation to refuse permission is largely based on an unacceptable scale/design and its impact on the amenities of the area.

- 11.7.4. The application includes a Design Statement which is largely based on the criteria set out in the 'Urban Design Manual – A Best Practice Guide 2009'. The main considerations relevant to design, layout and visual amenity, other than those issues already addressed in this report, are discussed in the following sections.

Layout & Connections

- 11.7.5. The Design Statement outlines the good level public transport connections in the wider area, which I have already discussed in this report. Within the site itself, it is stated that connections will be provided to surrounding development, the proposed village centre, open spaces and Racecourse Park.

- 11.7.6. In this regard, I note that the application attempts to maintain routes aligned with Stapolin Avenue and Ireland's Eye Avenue, which are identified as 'green routes' in the LAP. However, I would concur with the local authority view that the extent of surface parking between sectors 7 and 8A is excessive and would detract from the attractiveness of the route. The width of the route is only c. 27m (compared to LAP design parameters of 38-47 metres) and when combined with the significant adjoining building heights proposed (5-12 storeys), I consider that the height/width street ratio would be excessive and would result in an overbearing effect. I would also concur with local authority concerns about the Ireland's Avenue route between sector 8B and 8C. It is dominated by the basement car park entrance which would detract from the permeability and attractiveness of the route. The width is again excessively limited to c.24m, and I consider that Block 2 (Sec 8B) is haphazardly located in a manner which obstructs the legibility of the space. In conclusion, I consider that these routes would not acceptably address the LAP design intentions to include linear, planted public open space with pedestrian and cycle routes. I acknowledge that the other existing/permitted sections of these routes may be of varying character/standards. However, I would feel that the route sections between sectors 7 - 8A and sectors 8B - 8C (i.e. at the interface with Racecourse Park) are particularly important as part of the overall movement network and public open space framework for pedestrians and cyclists within the LAP area.

11.7.7. I note that Stapolin Way would be maintained as a 'Secondary Route' in accordance with the LAP. Similarly, the 'quiet streets' would generally be achieved in accordance with the LAP. I note the concerns of the local authority regarding the omission of a 'quiet street' between sectors 6 and 7, which the application attempts to justify based on increased block separation, increased building height, and the non-essential importance of the link. In this regard, I would acknowledge that the 'quiet streets' are at the bottom of the LAP street hierarchy, and their function is simply to give pedestrian priority access to houses and apartments. While no actual street is proposed in this case, I am satisfied that the aim of the street would be achieved through the maintenance of pedestrian access to the units in sectors 6 and 7, and I do not consider that this would significantly detract from circulation quality within the scheme. However, as previously outlined in section 11.4 of this report, I do consider that Block 4 in Sec 6A/6B would be an unacceptable replacement for the planned 'quiet street' at this location.

Variety & Distinctiveness

11.7.8. I note that the local authority has raised concerns about the lack of character areas and sense of place. The application outlines that the site includes 3 'character areas' as set out in the LAP, as well as a 4th character area in the form of the communal courtyards. The Design Statement outlines that variety between the sectors is primarily achieved through the difference in building heights and the number of units proposed. The proposal aims to strike a balance between giving a unique character to each sector while maintaining a uniformity to the overall scheme.

11.7.9. I note that each sector contains differences in terms of form, layout, and materials, which generally enclose a secure landscaped courtyard. However, consistent with my previously outlined concerns about the 'green routes', I have concerns about the lack of adequate separation between sectors. Together with the significant height and density proposed, I consider that this results in an unacceptable visual coalescence which fails to suitably distinguish character areas, particularly having regard to the excessive scale, bulk, and massing of the sector 7 & 8A cluster. The substandard provision of the 'green routes' also fails to appropriately maintain views of Racecourse Park and the surrounding coastal landscape which should be maintained to reinforce the unique character of the site as per LAP requirements.

Public Realm

- 11.7.10. Development around the Haggard is mainly limited to 4-5 storeys, with some node/junction points rising to 6 storeys. In my opinion, this generally consistent height approach will provide a strong sense of enclosure to frame the Haggard open space. The ground floor units facing onto the Haggard will provide active frontage, including communal use in sectors 8A and 8B which will positively add to the vitality of the space. The proposed facades would also contain sufficient variety and visual interest which would add to the presentation and attractiveness of this important space for the public realm. However, the 'green routes' should provide a strong visual and functional link between the Haggard and Racecourse Park, and I am not satisfied that this has been suitably achieved.
- 11.7.11. I note that the planning authority has serious concerns regarding the interface of the proposed development with the Racecourse Park lands. In this regard, I note that this northern elevation has been developed with a variety of building heights. The applicant has proposed 'point towers' intermittently along this elevation. The towers rise to 8-12 storeys, which compare to the lower adjoining 'shoulder' heights of 5-7 storeys. The proposed heights would tie-in with the existing Red Arches development and that of the Board's decision to grant permission for up to 15 storeys on the adjoining site to the west (GA3). While I acknowledge the applicant's attempts to vary the building height strategy, I would concur with the local authority concerns that the building height rhythm is somewhat repetitive, particularly in relation to the blocks adjoining 'green routes' where there is a failure to provide appropriate definition and legibility for these important features.
- 11.7.12. I have previously outlined concerns about the lack of adequate separation between sectors and the resultant visual coalescence. Combined with the height strategy concerns outlined above, I feel that this results in a monolithic appearance and a lack of visual permeability and legibility at the interface with Racecourse Park. The overall bulk and massing of development, particularly in relation to the sector 7/8A cluster, would be excessive and would not provide an appropriate transition to Racecourse Park.

Landscape and Visual Impact Assessment

- 11.7.13. In addition to the applicant's Design Statement, Chapter 13 of the EIAR outlines a 'Landscape and Visual Impact Assessment'. The landscape assessment is based on 12 visually sensitive receptors. Having reviewed the assessment, I would generally concur that redevelopment of this underutilised site has the potential for positive landscape impacts through the deliberate creation of a strong urban edge to Racecourse Park. Additional landscaping growth in the medium to long-term would further help integrate the proposed development within the landscape.
- 11.7.14. The visual impacts of the development are also assessed from 9 specific locations using Verified Photomontages. This includes a cumulative assessment having regard to the planned developments on GA1 and GA3. I am satisfied that development on the GA1 and GA3 sites would effectively screen the proposed development from the south and west, as well as providing a context for the proposed development when viewed from the north and east. However, I would highlight that the current application site (GA2) plays a much more significant role in the interface with the landscape to the north and east. It provides a significantly longer frontage compared to GA3 and it contains two strategic 'green route' links/corridors between the residential lands and Racecourse Park. Therefore, while the similar height/scale etc. is acknowledged in relation to the planned GA3 development where increased height and density would be expected in close proximity to the village centre and the rail station, I consider that the key LAP characteristics and functions of the GA2 site require a softer interface with Racecourse Park. Having reviewed the visual impact assessment I do not consider that this would be appropriately achieved for the reasons previously outlined.

Conclusions

- 11.7.15. In conclusion, I would clarify that I have no objection in principle to the overall density and building height proposed, or to the creation of a strong urban townscape at the interface with the Racecourse Park lands. However, I consider that the proposed design and layout fails to appropriately incorporate and frame the important 'green routes' as envisaged in the LAP. This unacceptably detracts from the permeability and connectivity through the site and the wider public open space network (i.e. Racecourse Park and Stapolin Haggard). It also fails to protect views from both

within the site (outwards) and from the surrounding landscape towards the proposed development, and results in an excessive scale, bulk, and massing of development at the interface with Racecourse Park. Accordingly, I do not consider that the proposed development would satisfactorily integrate with the surrounding landscape or public realm, and I consider that it would seriously detract from the visual amenities of the area.

11.8. Neighbourhood Facilities and Public Open Space

Neighbourhood Services

- 11.8.1. In this report I have outlined concerns raised by observers and the local authority about a lack of commercial/retail and other neighbourhood services, both within the proposed development and in the surrounding area. In response, I would note that the application is accompanied by a 'Community Audit' which outlines the range of existing and proposed community facilities within proximity of the site.
- 11.8.2. The applicant's report outlines that there are 7 medical/health-related service centres and 4 pharmacies within 2kms. Regarding recreational facilities, it highlights the existence of 13 no. sports clubs/gyms and 5 public parks. And in relation to retail services, it states that there are 5 local shops (including 3 convenience shops) within 1km, as well as the larger Donaghmede and Clarehall shopping centres within 2.5km of the site. In addition to these existing facilities, the report highlights that the recent SHD applications (for GA1 and GA3) include approximately 4,000m² of floorspace for a range of commercial, retail, and other supporting neighbourhood services.
- 11.8.3. Having regard to the extent of the above existing and planned developments, I consider that the proposed development would be adequately serviced by commercial/retail and other supporting services. In my opinion, the LAP village centre should be protected as the main commercial/service centre for the area and the inclusion of such services within the proposed development would only dilute the potential for creating a viable and vibrant village centre. Accordingly, I would have no objections in this regard.

School Capacity

- 11.8.4. The issue of school provision has also been raised and the Department of Education submission requests that approval should not be given as it would further compound

the projected pressure to meet post-primary school place requirements. The application includes a 'School Demand Assessment' report. It assesses enrolment numbers in 24 no. primary schools and reports that there has been a minor decrease (2 children) between the 2020-2021 and 2021-2022 periods. I also note that construction has now commenced on the primary school within the LAP area at Grange Road, which will provide a 16-classroom primary school in accordance with P.A. Ref. F19A/0461. I consider that the generally stagnant level of primary school enrolment would also be generally reflective of future post-primary needs.

- 11.8.5. The applicant's report also examines 12 no. post-primary schools in the D13 and D17 areas and notes an increase of 336 pupils from 2020-2021 and 2021-2022, which translates to an increase of c. 5%. For the 2 schools in Baldoyle, I note that there was a net increase of just 12 pupils or just c. 1%. The report also outlines that permission has been granted for post-primary schools at Belmayne and Donaghmede, with a combined capacity of 1600 pupils. According to the latest Department of Education update (26th January 2023), the Belmayne project is currently 'on site', while the Donaghmede school is at 'project brief stage'. The Malahide & Portmarnock ETSS now appears to be effectively complete.
- 11.8.6. Based on population standards set out by the Development Plan and the Department of Education, the report estimates that the proposed development would equate to a demand of 3% of the existing primary school capacity and 2% of the existing post-primary capacity. When spread over the 5-year permission period, this would equate to just 0.6% and 0.4% respectively. If, based on the Apartments Guidelines, the studio/1-bed units are excluded, then the annual demand would reduce further to 0.43% and 0.28% respectively. The report also highlights that the estimated demand associated with the extant permission on site (i.e. 371 no. 2+ bed units) would be higher than the current proposal (excluding studio/1-bed units). In addition to this, I note that under an SHD permission for a site at Main Street, Clongriffin, condition no. 2 requires the omission of a block and its reservation as a school site for five years (ABP-305316-19 refers).
- 11.8.7. Ultimately, I consider that the statutory plan-making process is the preferred instrument to assess and identify school requirements. Under the 'Agreed Actions' of the 'Provision of Schools and the Planning System, A Code of Practice for Planning Authorities, the Department of Education and Science, and the Department of the

Environment, Heritage and Local Government (2008), planning authorities should identify suitable lands, policies and objectives for school requirements under statutory plans in consultation with the Department of Education. In terms of the Development Management process, I acknowledge that the Code of Practice highlights the potential requirement for major housing proposals to be accompanied by school capacity assessments, and I am satisfied that this has been complied with in the current application.

11.8.8. The current LAP includes an objective for a national school site at the Grange Road site which is currently under construction. With regard to secondary schools, the LAP cites DoE advice that there is no additional land requirement for secondary schools within the LAP area. However, the Department of Education now suggests that a secondary school site is required. Their submission suggests that the applicant's assessment is too crude of an instrument to reliably gauge school place requirements, and this view is effectively supported in some 3rd party observer submissions. However, none of these submissions have put forward a comprehensive analysis to demonstrate an unacceptable shortfall in school capacity.

11.8.9. According to the Department's latest update, I note that the proposed 'Baldoyle Stapolin Post Primary School' project is still in the 'Site Acquisition Process'. In this regard, I acknowledge the importance of the planned provision of residential and educational facilities and the inherent difficulties in precisely phasing the delivery of both of these related and important facilities. In this case however, I have had regard to the nature and scale of the proposed development and the existing and planned school capacity in the area; the absence of any specific zoning or policy basis to require a secondary school in the area; as well as the applicant's assessment and the submissions received. In my opinion, the proposed development would not create an excessive or unacceptable demand for school places which would be contrary to the proper planning and sustainable development of the area. Accordingly, I do not consider that refusal of permission would be warranted.

Public Open Space

11.8.10. Section 3.5 of the Development Plan outlines the importance of accessible open space as an integral part of high-quality green infrastructure for communities. In accordance with Objectives PM52 and DMS56, a minimum provision of 2.5 hectares

per 1000 is required, based on an occupancy rate of 3.5 persons for dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms. In addition to these requirements, Objectives DMS57A and DMS57B require a minimum 10% of a proposed development site area be designated for use as public open space, while allowing for discretion for the remaining open space requirements to be provided through the provision, upgrade, or financial contribution towards public open space outside the site development area.

- 11.8.11. In accordance with these quantitative standards, the applicant has acknowledged the need to provide 4 hectares of public open space (75% (3 ha) Class 1 space, and 25% (1 ha) Class 2 space). The applicant's proposals include c. 5.1 hectares for Class 1 public open space at Mayne Road and 1.03 hectares for Class 2 public open space within the overall Coast development. The Class 1 space is within Fingal County Council's application site for Racecourse Park. The Class 2 space is shown within Stapolin Haggard (i.e. 8,500m² outside the site development area); within the site between sectors 8A and 8B (1,200m²); and within the site to the south of sector 8C (c. 300m²).
- 11.8.12. I note that Stapolin Haggard is a proposed public open space of c. 1.5 ha which was permitted on GA1 under Reg. Ref. F16A/0412 (ABP Ref. 248970). It accounted for part of the total public open space (c. 2.4ha or c.15% of the 15.89ha site) included under this permission. Although this permission has commenced, work has not yet started on the Haggard space (permission does not expire until 2028). Amendments to the permission were proposed under ABP Ref 310418, although the Haggard was not included within the site boundary of that application and the permitted development provided public open space (c. 1 hectare or 11% of a 9.1ha site) within the site boundary i.e. independent of the Haggard.
- 11.8.13. Similarly, the application for GA3 (ABP Ref 311016) did not include the Haggard within its site boundaries. And although it did indeed propose to 'assign' 0.65 hectares of the Haggard space towards its public open space provision, I note that it also included c. 0.6 hectares (or c. 9%) public open space within the site boundaries. Based on the Inspector's report, this 0.6 hectares (within the site) appears to be what was relied upon for compliance with open space requirements, rather than any additional 'assigned' open space outside the site boundaries (i.e the Haggard).

- 11.8.14. As outlined in the foregoing planning history, I am satisfied that the SHD applications for the other sites (i.e. GA1 and GA3) are not reliant on the Haggard for public open space. In my opinion, they were considered on the basis that 'on site' public open space provision would not materially contravene the Development Plan requirement for 10%. I would also accept that the Haggard was permitted under Reg. Ref. F16A/0412 (ABP Ref. 248970) as part of a larger public open space (2.4ha or 15%) which would be in excess of the normal 10% 'on site' requirement. Therefore, in principle, I would accept the possibility such excess space may be suitable for apportionment to the requirements of other developments such as the current application. However, I do not consider that a clear and comprehensive argument addressing the entire planning history and open space requirements has been outlined in this regard.
- 11.8.15. Ultimately, the Haggard space is not included within the proposed site development area. And while the Development Plan (Objectives DMS57A and DMS57B) allows flexibility in delivery of total public open space requirements, it is clear is stating that a minimum 10% of the site area shall be designated for use as public open space. According to the applicant's calculations, the omission of the Haggard space (0.85 hectares) would leave a balance of just 0.18 hectares public open space within the site, which amounts to just c. 3% of the site. The local authority has stated that the use of the Haggard as Class 2 open space is unacceptable and that it should not be used in the calculations for any other applications in the LAP lands. The local authority concludes that the proposal materially contravenes Objectives DMS57A and DMS57B of the Development Plan and I would concur with this opinion. Furthermore, the applicant has not included this matter in the Material Contravention Statement in accordance with s.8 (1)(a)(iv)(II) of the Planning and Development (Housing) and Residential Tenancies Act 2016.
- 11.8.16. In addition to the foregoing, I note the submission by Monobrio DAC which outlines that it has not consented to the inclusion or development of adjoining lands as proposed by the applicant. The submission is effectively a rebuttal of the applicant's contention that the legal obligations that run with the land require Helsingor Limited (the former landowner, according to Monobrio DAC) to provide Class 1 and 2 open space for the proposed development. I acknowledge that, as outlined in Section 5.13 of the Development Management Guidelines for Planning Authorities

(DoEHLG, 2007), the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land. These are ultimately matters for resolution in the Courts and the Board should note that, as per section 34(13) of the Planning Act 2000, a person is not entitled solely by reason of a permission to carry out any development. However, I would feel that the apparent absence of agreement on this matter obviously brings no further comfort to the question of the delivery of adequate public open space in conjunction with the proposed development. Similarly, the applicant's phasing proposals have not extended to confirm a timeframe for the delivery of the Haggard space.

11.8.17. I would accept that the question of public open space is quite complicated in this case. These complications cover a range of issues such as the detailed Development Plan provisions; the applicant's proposals for compliance which do not include standard 'on site' provision; the comprehensive planning history of the site and adjoining lands; and the 3rd party ownership objections regarding legal obligations. In principle, I would acknowledge that the applicant's proposals would substantially exceed minimum quantitative requirements. However, in addition to the lack of clarity and agreement regarding these overall open space requirements, it is quite clear that the proposed development does not in any case provide 10% of public open space within the development site area. I would acknowledge that this is a rigid requirement which in some cases may militate against the achievement of appropriate density, layout etc. Nonetheless, the requirement is clearly stated in Objectives DMS57A and DMS57B of the Development Plan and these would be materially contravened by the proposed development.

11.8.18. I have acknowledged the applicant's case, which is largely based on the historical permissions for open space (i.e. the permitted Haggard) and the alleged planning history of the Board in accepting the proposed approach. However, I consider that, without prejudice to its validity, any such argument should have been made as part of a material contravention statement in accordance with the provisions of s. 8 (1)(a)(iv)(II) of the Act of 2016 and s. 37(2)(b) of the P&D Act of 2000. This requirement has not been addressed in the current application and, accordingly, I consider that the Board cannot invoke section 37(2)(b) of the Planning and Development Act 2000 (as amended) in this instance and is precluded from granting permission.

11.9. Traffic and Transport

- 11.9.1. The application is accompanied by a Traffic and Transport Assessment (TTA), a Roads Infrastructure Report (RIR), a Stage 1 Road Safety Audit (RSA), a Residential Travel Plan (RTP), and a Statement of Consistency with the Design Manual for Urban for Urban Roads and Streets (DMURS). The environmental impacts of traffic and transportation are also considered in the EIAR.
- 11.9.2. The TTA outlines the existing and proposed transport infrastructure in the area, including the public transport network. I have already discussed this matter in section 11.3 of this report, and I have concluded that the site is included within a 'central and/or accessible' location as defined in the Apartments Guidelines, and that the proposed development should not be constrained by the capacity of public transport services in the area.

Traffic Impact

- 11.9.3. The TTA outlines historical traffic survey counts for 3 road junctions, which have been factored up to the base year of 2021. The analysis shows that Junction 3 (Coast Road / Red Arches Road) operates within the normal design threshold for the ratio of flow to capacity (i.e. 0.9). Junction 1 (Hole In The Wall / Grange Road / R139) and Junction 2 (Grange Road / Grange Rise / Longfield Road) exceed the threshold but operate within the theoretical capacity of 1.0.
- 11.9.4. Trip generation for the operational phase was derived in the TTA having regard to TRICS, Census data, the car-parking strategy, and the applicable Public Transport Accessibility Level (PTAL), resulting in a modal split of 35% for the private car. Trip distribution and other proposed developments were also considered. The traffic modelling exercise was carried out using three scenarios, i.e. 'without' the proposed development; 'with' the proposed development; and a 'stress test' involving the cumulative impact of GA1, GA2, and GA3.
- 11.9.5. For the opening year (2026) and the design year (2041), the TTA predicts that the normal design threshold and theoretical capacity for Junctions 1 and 2 will be exceeded in the 'with' development, 'without' development, and cumulative 'stress test' scenarios. However, Junction 3 would operate within the normal design threshold in all cases with a high level of residual capacity.

- 11.9.6. I note that observers have raised concerns about traffic pressure and congestion in the area and the need to consider the cumulative impact of this and other proposed developments. However, I am satisfied that the applicant has carried out a comprehensive cumulative assessment through the inclusion of the GA1 and GA3 sites under the 'stress test' scenario.
- 11.9.7. The local authority has also raised concerns that TTA uses the 'flats' category from the TRICS database. It accepts that high-density development is appropriate but raises concerns in relation to Junction 1 of the TTA and the surrounding road network. In response, I would acknowledge that the proposal includes a significant proportion of the smaller studio/1-bed units (c.30%) and only a minimal proportion of 3+bed units (4.5%), and that the TRICS modelling outputs consider a wide range of other factors, including population, car ownership, etc. Accordingly, I am satisfied that the use of 'flats' in this assessment would facilitate an appropriately robust prediction of traffic generation.
- 11.9.8. In the case of Junction 1, I have noted the predictions that junction capacity would be exceeded in 2026 and 2041. However, it is important to note that this would occur in all scenarios, even including the scenario 'without' the proposed development. The junction arms would be below the relevant 0.85 ratio to flow capacity (RFC) in most cases and the theoretical capacity (1.0) would only be exceeded by more than 10% in 5 out of 48 scenarios (mainly on the R136 arm in the PM period). For Junction 2, the junction arms would be below the relevant 0.90 RFC in almost 50% of cases and the theoretical capacity (1.0) would only be exceeded by more than 10% in 3 out of 48 scenarios (only in 2041 and in the AM period).
- 11.9.9. Given that the proposed development has been 'stress tested' and that the instances of exceeding capacity are quite limited, I would consider that the predicted impacts are not uncommon or excessive. I would also accept that the spare capacity in Junction 3 would have the effect of attracting development trips away from Junctions 1 and 2 as the road network flows 'balance out'. I consider that junction capacity is likely to be further improved through a range of planned public transport and pedestrian/cycle improvements, and I would concur that providing more road space to cater for private vehicles would undermine national and local transportation planning policies which aim to promote sustainable transport modes. Accordingly, I

do not consider that refusal of permission would be warranted on grounds of traffic generation and/or road network capacity.

Parking

11.9.10. The proposed development includes a total of 743 car spaces, including 605 at basement level for the residential units. A total of 138 surface level car spaces are provided, including 124 spaces for ‘residential’ visitors and 14 no. creche spaces. The applicant calculates that Development Plan standards for the residential element amount to 1,380.5 spaces. However, the local authority has stated that the residential element requires 1,523 spaces as per the Development Plan, while a ‘minimum practical parking demand’ is also cited as 994 spaces. My interpretation of the Development Plan requirements would be as follows:

| Unit Type | No. of Units | Development Plan Standard | Required Spaces |
|----------------|--------------|---------------------------|-----------------|
| Studio / 1-bed | 305 | 1 space | 305 |
| 2-bed | 657 | 1.5 spaces | 985.5 |
| 3-bed | 45 | 2 spaces | 90 |
| Visitor spaces | 1007 | 1 per 5 units | 201 |
| Total | 1007 | | 1,581.5 |

11.9.11. Notwithstanding the Development Plan standards, Chapter 4 of the Apartments Guidelines addresses car-parking requirements and states that requirements should be minimised, substantially reduced or wholly eliminated in certain circumstances for higher density apartment developments in ‘central and/or accessible urban locations’. Consistent with this approach, NPO13 of the NPF and the Building Height Guidelines of 2018 support a performance-driven approach towards land use and transportation.

11.9.12. In this regard, I have already concluded in section 11.3 of this report that the site is within a central and/or accessible urban location as described in the Apartment Guidelines. Therefore, I have no objection in principle to reduced car parking provision within the proposed development. The proposed residential spaces (729 in

total) would represent a ratio of 0.72 spaces per unit or 0.6 spaces per unit if the visitor spaces (124) are omitted.

- 11.9.13. In cases where reduced parking is accepted, the Apartment Guidelines states that it is necessary to ensure, where possible, the provision of an appropriate number of spaces for drop-off, servicing, visitors, and mobility impaired. Provision is also to be made for alternative mobility solutions including car-sharing and cycle facilities, and specific measures that enable car parking provision to be avoided. In this regard I consider that this large site contains ample provision for drop-off areas. I am also satisfied that adequate visitor parking has been provided and that servicing requirements can be appropriately accommodated as demonstrated in the fire tender and refuse vehicle autotrack drawings. The Residential Travel Plan commits to promoting walking, cycling and public transport, and confirms that a private car-sharing service will be made available. The RTP commits to improving modal splits and the appointment of a Residential Travel Co-ordinator to promote and review the plan. I am satisfied that these measures satisfactorily assist in enabling car-parking provision to be reduced. And together with the proximity of the development to public transport and pedestrian/cycle networks, as well as emerging national policy which seeks to reduce reliance on private car transport, I do not consider that the Development Plan standards are appropriate to apply. I consider that the proposed rate of car-parking is acceptable and that it has been appropriately distributed to serve the proposed apartments.
- 11.9.14. In relation to the proposed creche, I note that Development Plan standards require 0.5 spaces per classroom. The proposed creche appears to include just 4 classrooms, resulting in a requirement for just 2 spaces. However, I would accept that parking requirements, including staff staffing, are likely to be higher. As highlighted by the local authority, I would agree that staff parking and set-down areas for the creche require further detail, but I am satisfied that this could be satisfactorily agreed through a condition of any permission.
- 11.9.15. In relation to cycle parking, I note that 1,754 no. spaces for residents and 500 no. spaces for visitors are proposed in covered and secure parking facilities at ground level throughout the scheme. This represents a total of 2,254 no. spaces which is consistent with the Apartment Guidelines requirements of 1 space per bedroom and 1 visitor space per 2 apartments. The cycle facilities would be appropriately designed

and distributed throughout the proposed development, and I would have no objections in this regard.

Other Traffic/Transport Issues

- 11.9.16. I note that the local authority submission raises a variety of concerns about the detail of basement parking, including swept path analysis, clearance heights, and carriage widths. The concerns are related to car-parking provision, in that the local authority fears that the application of higher standards may result in the further loss of car parking spaces. I have reviewed the basement parking proposals and the specifications used in the application. I consider that the issues of concern are relatively minor, and I am satisfied that these matters could be clarified by condition in the event of a grant or permission. As previously outlined, I do not share the same concerns of the local authority in relation to the extent of car parking proposed and I am satisfied that any further loss of parking would not be likely to significantly affect the suitability of the scheme.
- 11.9.17. I note that the pedestrian and cycle facilities within the scheme have been designed in accordance with the sustainable principles of DMURS. They aim to provide good connections to surrounding amenities, including public transport and the proposed village centre. It is proposed to create safe streets and quality finishes to facilitate and promote freedom of pedestrian and cycle movement. However, as has been referenced in the NTA submission, I do not consider that the proposed layout satisfactorily achieves dedicated routes along Stapolin Avenue and Ireland's Eye Avenue, as required under Objectives TM 16 and TM 17 of the LAP. This is the case particularly at the northern and eastern ends of the site where the green routes should continue to link with Racecourse Park. I have previously raised similar and related concerns regarding the overall layout of the development and the visual impacts at the interface with Racecourse Park.
- 11.9.18. In relation to road safety, I note that a Stage 1 RSA has been submitted with the application. The RSA identifies several items of concern, including matters relating to traffic calming, parking, pedestrian/cycle movement and connections, and restricted visibility. I am satisfied that the proposed scheme adequately responds to the identified issues. I note the observers concerns that the two previous SHD applications (GA1 and GA3) did not submit a Stage 2 RSA and the need to identify

interactions between all applications. In response I would note that the primary purpose of a Road Safety Audit is to identify potential safety hazards within the scheme design or construction. I am satisfied that the scheme would be compatible with the existing/planned adjacent network at tie-ins and I do not consider that any further consideration of the GA1 and GA3 schemes is required at this stage.

Traffic & Transport Conclusion

11.9.19. Having regard to the foregoing, I consider that the proposed development would provide a residential development which would be appropriately designed to promote sustainable transport modes. This would be consistent with local and national transportation planning policy which aims to reduce reliance on the private car and would not unacceptably impact on the safety or capacity of the surrounding road network. However, I do consider that the proposed design fails to satisfactorily provide pedestrian and cycle connections to the Racecourse Park lands as envisaged in the LAP.

11.10. Drainage, Flood Risk and Water Services

11.10.1. In this regard, I note that applicant has prepared a Water Services Report (WSR) and a Flood Risk Assessment (FRA). These documents are supported by an Outline Construction Environmental Management Plan (OCEMP), the EIAR, and the detailed drawings and specifications have all been submitted as part of the application.

Surface Water

11.10.2. It is proposed to remove the existing surface water network and to install a new network which discharges to the permitted wetland in the open space area to the north of the site. The wetland discharges to the Mayne River and ultimately to Baldoyle Estuary through a series of flap valves. The total provided interception storage is 239.37m³, which is 12% more than the minimum requirement. As full interception storage has been provided, it is stated that treatment storage is not required. The proposal includes a range of SuDS measures including source controls, site controls, and the permitted wetland as a regional control. It is stated that all SuDS measures will be designed in accordance with relevant policy and standards, including the LAP and the Greater Dublin Strategic Drainage Study (GDSDS).

- 11.10.3. I note that observers have raised concerns about the capacity of the wetland system to cater for surface water, including concerns regarding the quantity and quality of treatment and the cumulative impacts of the other permitted developments. However, I note that the application relies on Appendix 1 of the LAP in stating that full attenuation for the 100-year return storm is not required and that storm events will be allowed to overflow into the 40-hectare Mayne River flood plain. The application has also addressed the cumulative impacts of GA1 and GA3 and highlights that the capacity of the wetland is based upon providing a treatment volume equal to 15mm of rainfall on the impervious areas (roofs, roads, hardstanding etc) of GA1, GA2 and GA3. The application acknowledges that the proposed number of units has increased compared to that originally envisaged in the LAP. However, this has been achieved by increasing the heights of the proposed developments rather than an increase in impervious areas. Therefore, an increase in the size of the wetland is not proposed.
- 11.10.4. The local authority has reviewed the proposals and considers that the four pillars of surface water design (quality, quantity, biodiversity, and amenity) have been adequately addressed. In addition, I note that the EIAR identifies the potential for construction stage surface water quality impacts. In response, a Surface Water Management Plan is included to protect water quality and a CEMP will ensure that pollution and nuisances are prevented or managed.
- 11.10.5. Having regard to the foregoing, I am satisfied that the measures incorporated into the proposed surface water design and mitigation will adequately protect surface water treatment quantity and quality standards. Accordingly, I have no objections in this regard.

Water and Wastewater

- 11.10.6. It is proposed to remove the existing water network and to connect the new network to the 300mm watermain in Red Arches Road. The WSR calculates the water demand for the residential units and the creche and includes a 'Confirmation of Feasibility' and a 'Confirmation of Design Acceptance' issued by Irish Water. Water conservation measures will be incorporated into the design of the development and through a Water Conservation Plan to be developed by the Management Company. The Irish Water submission on this application has confirmed that proposals are

feasible subject to infrastructure upgrades as proposed. Similarly, I am satisfied that water supply and conservation measures are acceptable subject to conditions.

- 11.10.7. It is proposed to remove the existing foul sewer network on site. A new network will be installed and will discharge to an existing pumping station in Stapolin Haggard, from where it is pumped to the North Fringe Sewer. The WSR calculates the projected foul flow from the residential units and the creche and includes a 'Confirmation of Feasibility' and a 'Confirmation of Design Acceptance' issued by Irish Water. The Irish Water submission on this application has confirmed that proposals are feasible without infrastructure upgrades.
- 11.10.8. I note that observers have raised concerns about the capacity of the wastewater network, including Sutton pumping station and the Ringsend WWTP. In response, I again highlight that Irish Water has no objections in relation to infrastructural capacity. I note that the North Fringe Sewer would be routed to the Ringsend WWTP via Sutton pumping station. Permission has been granted under section 37G of the Planning and Development Act 2000 (Board Order ABP-301798-18) for a 10-year permission comprising revisions and alterations to the existing and permitted development at the Ringsend Wastewater Treatment Plant and for a new Regional Biosolids Storage Facility, being two components of an integrated wastewater treatment facility. These works will bring the capacity of the Wastewater Treatment Plant from its current 1.9 million PE to 2.1 million PE in the second half of 2023 and to 2.4 million PE by 2025, while meeting the required Water Framework Directive standards.
- 11.10.9. The proposed development involves a peak effluent discharge of 32.7 l/s, which would not be significant when equated as a percentage (i.e. 0.29%) of the current licensed discharge at Ringsend WWTP. I note that the observers have raised the need to consider the cumulative impact of other permitted developments on the capacity of Ringsend, including the developments on sites GA1 and GA3. However, there is no certainty that any such developments will ultimately proceed to construction, particularly given that the proposed developments on sites GA1 and GA3 are subject to Judicial Review. In this context, I consider that the capacity of Ringsend WWTP is most suitably and reasonably controlled through the forward planning process and the EPA licensing process. The site has been suitably zoned for residential uses and the applicant has complied with the connection process

requirements of Irish Water, which has confirmed that there are no objections in terms of capacity constraints at this time. Accordingly, I have no objections in relation to the capacity of the wastewater infrastructure.

Flood Risk

- 11.10.10. The applicant's FRA assesses historical and predictive flood information and identifies the potential sources of flooding. The River Mayne and the Racecourse Stream from the south have been identified as the main source of fluvial flood risk. Review of the Fingal East Meath Flood Risk Assessment and Management study (FEMFRAM) fluvial flood extents confirms that the site is within Flood Zone C. To confirm the flood risk to the development from climate change and residual risks, it was necessary to undertake hydraulic modelling. Review of the FEM FRAM tidal flood extents shows the site is not at flood risk from the tidal events. The site was found to be at risk of pluvial flooding during the 10% AEP event, which would correspond with localised depressions. The pluvial flood risk will be managed by the proposed stormwater system. There is no recorded risk of groundwater flooding on site and a lack of karst features indicates an overall low risk from groundwater flooding.
- 11.10.11. A hydrology assessment was carried out to assist in the estimation of potential flood risk to the proposed development from the Mayne River. A hydraulic model was constructed to predict water levels for a range of scenarios. The 'pre-development scenario' confirms that the site is not at flood risk from fluvial or tidal events. In the 'post-development scenario', the site remains in Flood Zone C and is appropriate for residential development. The peak flood levels bordering the site are produced by the climate change (HEFS) scenarios and specifically by the tidal HEFS events. The tidal HEFS levels are not impacted by the River Mayne sluice gates, the Coast Road elevation or flood duration.
- 11.10.12. In addition to the main flood events, the site has also been assessed for the potential impacts of climate change and residual risks. The results confirm that the proposed residential development will not be impacted from any of the modelled flood events up to the 0.1% AEP HEFS tidal scenario. The provided minimum FFL onsite is 6.2mOD which provides a freeboard of 1.79m over the 0.1% AEP HEFS tidal flood event. This FFL also protects the development from all modelled flood events,

including climate change and residual risks. Considering the above, the Flood Risk Assessment concludes that the proposal is in compliance with the principles contained within 'The Planning System and Flood Risk Management' guidelines.

- 11.10.13. The local authority has reviewed the FRA and considers that it has been demonstrated that the proposal is not at risk of inundation and that the level of flood risk is acceptable. I note that observers have raised concerns about the impacts of heavy stormwater run-off on the River Mayne flood plains and the ongoing operation of the tidal flap at the Mayne outfall. However, as outlined in the FRA, I would accept that the volume of the stormwater discharge is minimal in comparison to the predicted floodwaters during a fluvial/tidal flood event, and that there are no sensitive receptors within the wetland that would be impacted by any minimal increase in stormwater flows. I would also note that the maximum flood levels are not impacted by the sluice gates or tidal lock at the Mayne outfall.
- 11.10.14. One of the observations states that the recommendations of the Royal Haskoning report (2005) in relation to Baldoyle and coast road, Mayne River have not been carried out and these flood risks are still an issue. The submission does not clarify the precise nature of the recommendations or how they relate to the proposed development, but it would appear to refer to the Dublin Coastal Flooding Protection Project (Final Report, April 2005). However, I am satisfied that the application includes a comprehensive and robust assessment of coastal flooding and I do not consider that the recommendations of the 2005 report would have any significant bearing on the proposed development.
- 11.10.15. Having regard to the forgoing, I am satisfied that the proposed development would not involve any unacceptable flood risks, whether within the site itself or on adjoining lands.

11.11. Other Matters

Notification to Prescribed Bodies

- 11.11.1. I note that observers raise concerns that the application was not appropriately notified to prescribed bodies, namely the National Parks and Wildlife Service, An Taisce, and the Environmental Protection Agency. The Board should note that as part of the pre-application consultation, the applicant was informed pursuant to

Article 285(5)(a) of the Planning and Development (Strategic Housing Development) Regulations 2017 of which prescribed authorities should be notified. This did not include any of the aforementioned authorities. However, I am satisfied that the applicant has notified the specified authorities in accordance with section 8(1)(b) of the Act of 2016, and that there is sufficient information on the file for the purpose of the Board's decision.

Public participation and the SHD process

11.11.2. The observers have questioned the legality of the process. They contend there is an absence of public participation at the earliest opportunity and concerns are also raised about the principle of SPPRs and the impact of the material contravention of Development Plans. I would state that these are primarily legislative issues which need not concern the Board for the purpose of this decision. Apart from the matter of material contravention regarding public open space provision (as previously outlined), I am satisfied that the application has satisfactorily addressed the procedural and legislative requirements of the SHD process.

Cumulative Impacts

11.11.3. The observers have raised concerns that the application does not include a cumulative assessment of the impact of other developments, particularly the GA1 and GA3 developments. I have previously acknowledged that the GA1 and GA3 proposals are subject to Judicial Review. However, I consider it appropriate to consider the cumulative impact of these developments as they are reflective of the nature and scale of planned development in the area. Where relevant, I am satisfied that the application has identified the cumulative impacts of these developments and this has been addressed in my assessment, including Environmental Impact Assessment and Appropriate Assessment as outlined in later sections of this report.

Regulation of Commercial Institutional Investment in Housing

11.11.4. In May 2021, the Minister published Guidelines for Planning Authorities on the Regulation of Commercial Institutional Investment in Housing. These Guidelines identify planning conditions to which planning authorities and the Board must have regard in granting planning permission for new residential development including housing and/or duplex units. This is intended to ensure that own-door housing units

and duplex units in lower density housing developments are not bulk-purchased for market rental purposes by commercial institutional investors in a manner that displaces individual purchasers and/or social and affordable housing, including cost rental housing. The application of these conditions applies to all housing developments that include 5 or more houses and/or duplex units.

11.11.5. As previously outlined, the current application is not a 'Build To Rent' proposal. It consists solely of apartments and does not include 'own-door' houses or duplex units. Accordingly, I do not consider that a condition to restrict the development to individual purchasers would be applicable in the event of a decision to grant permission.

11.12. **Material Contravention**

Legislative Provisions

11.12.1. Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016 outlines that the Board may grant permission for an SHD even where the proposed development materially contravenes the Development Plan or LAP concerned, except in relation to the zoning of land. In any such case, the Board must be satisfied that the provisions of section 37(2)(b) of the Act of 2000 would apply, which are as follows:

(i) the proposed development is of strategic or national importance,

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned,

or

(iii) permission for the proposed development should be granted having regard to the regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government,

or

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

- 11.12.2. The application includes a 'Material Contravention Statement', the grounds for which have been outlined in section 7 of this report. This statement has been referenced in the public notices for the application. The relevant 'material contravention' issues are now discussed below.

Development Plan Core Strategy

- 11.12.3. The applicant has accepted that the proposed development would exceed the Core Strategy residential capacity of 1,498 units for Baldoyle/Sutton, either with the GA1 and GA3 proposals (a total of 3,209 units) or without (1,551 units). However, it is important to note that the SHD decisions for the GA1 and GA3 sites are subject to Judicial Review. At the time of writing there has been no decisions on these challenges and the Board decisions may not be ultimately upheld. Therefore, I do not consider that they should be included as permitted developments which will contribute to an exceedance of residential capacity. In the absence of these permissions, the proposed development and other permissions (1,551 units) would only exceed the stated residential capacity by c. 3.5%. I consider this to be a minor exceedance which would not materially contravene the Core Strategy. However, for the event that the Board disagrees with this opinion, I will discuss the grounds for a material contravention in the following sections.
- 11.12.4. In relation to s. 37(2)(b)(i), I note the classification of the proposed development as 'strategic housing development' as per the definition in section 3 of the Act of 2016, and its significant scale comprising 1,007 residential units. As part of the Dublin MASP contained in the RSES, it would be within the 'North-South' strategic development corridor and would form a significant part of the 'North Fringe' where large scale urban expansion is intended to create new communities at Clongriffin-Belmayne and Baldoyle-Stapolin. Having regard to this strategic context, together with the current national housing shortage and national policy to substantially increase national housing output as set out in 'Housing For All', I consider that the proposed development would be of strategic and national importance and that the proposed material contravention would comply with the terms of section 37(2)(b)(i) of

the Act of 2000. Furthermore, I consider that this applies to all the material contravention issues and, therefore, I will not repeat this opinion in each case.

- 11.12.5. Regarding s. 37(2)(b)(ii), the applicant has not put forward any argument for material contravention on the grounds of conflicting or unclear objectives. And while I have acknowledged that there is no upper density limit for the site, which is obviously related to residential capacity, I consider that the Development Plan Core Strategy is clear in relation to the overall residential capacity for the area. Accordingly, I do not consider that the provisions of this section apply.
- 11.12.6. In relation to s. 37(2)(b)(iii), the applicant contends that the proposal complies with 'Housing For All'; NPO's (3b, 11, and 35) of the NPF; and RPO 4.3 and the guiding principles for the MASP (as set out in the RSES) which facilitate a strategic residential development area at Baldoyle-Stapolin. I have already addressed this matter in section 11.3 of this report. I have concluded that the proposed density would be consistent with national/regional policy and guidance to increase density on public transport corridors, notwithstanding that the total number of housing units may exceed the Development Plan Core Strategy. Accordingly, I am satisfied that the proposed material contravention would comply with the terms of section 37(2)(b)(iii) of the Act of 2000.
- 11.12.7. In addition to the above, the application argues that the Board can rely on section 37(2)(b)(iv) if the GA3 site approval is not overturned by judicial review and is determined prior to the determination of this application. As previously outlined, I do not consider that the Board can rely on the GA1 or GA3 decisions given that they are subject to Judicial Review and have not yet been determined. Furthermore, I consider that this applies to all the material contravention issues and, therefore, I will not repeat this opinion in each case.

Car Parking

- 11.12.8. In section 11.9 of this report, I have outlined my opinion that the Development Plan requires 1,581.5 car spaces for the residential element of the development. A total of 729 residential spaces are proposed and I am satisfied that this materially contravenes the Development Plan.
- 11.12.9. The applicant has not put forward any argument for material contravention under s. 37(2)(b)(ii) on the grounds of conflicting or unclear objectives. I consider that the

Development Plan standards are clear in this regard, and I do not consider that the provisions of this section apply.

11.12.10. In relation to s. 37(2)(b)(iii), the applicant contends that the proposal complies with car-parking guidance as set out in the Apartments Guidelines. I have already addressed this matter in section 11.9 of this report and I would conclude that the proposed car-parking is acceptable in accordance with the Apartment Guidelines, as well as NPO13 of the NPF and the Building Height Guidelines (2018) which support a performance-driven approach towards land use and transportation. Accordingly, I am satisfied that the proposed material contravention would comply with the terms of section 37(2)(b)(iii) of the Act of 2000.

Density

11.12.11. The applicant's Material Contravention Statement outlines an opinion that the proposed development does materially contravene the LAP. However, in section 11.3 of this report I have outlined my opinion that the LAP outlines preferred minimum densities with no upper limit. Accordingly, I do not consider that the proposed development would materially contravene the LAP. For the event that the Board disagrees with this opinion, I will discuss the grounds for a material contravention in the following sections.

11.12.12. Under s. 37(2)(b)(ii) the applicant contends that LAP density objectives (RS7 and RS8) are unclear because of references to 'minimum' densities and the absence of upper limits through the use of the '+' sign for each density range. While I have interpreted this as a clear absence of an upper limit on density, it is open to the Board to consider whether there are conflicting or unclear objectives as per s. 37(2)(b)(ii).

11.12.13. In relation to s. 37(2)(b)(iii), the applicant contends that the proposal complies with the promotion of higher densities as set out in the Sustainable Residential Development Guidelines and the Apartments Guidelines. I have already addressed this matter in section 11.3 of this report. I have concluded that the increased density would be acceptable in accordance with national policy and guidance which seeks to promote compact development, particularly in public transport corridors such as this location. Accordingly, I am satisfied that the proposed material contravention would comply with the terms of section 37(2)(b)(iii) of the Act of 2000.

% of 1-bed Units

- 11.12.14. The proposed development includes a portion of studio apartments (5.8%) and 1-bed apartments (24.5%). This would materially contravene LAP Objective RS 2 which states that no more than 5% of units in any application or over the whole development, shall be one-bedroom units.
- 11.12.15. Under s. 37(2)(b)(ii), the applicant contends that section 12.4 of the Development Plan appears to conflict with the LAP by promoting a balanced range of dwelling types. However, I consider that s. 12.4 of the Development Plan sets out only general guidance rather than a specific objective. I do not consider that it is prescriptive enough to cause any significant conflict or uncertainty in relation to LAP Objective RS2. Accordingly, I do not consider that the proposed material contravention would comply with the terms of s. 37(2)(b)(ii) of the Act of 2000.
- 11.12.16. Regarding s. 37(2)(b)(iii), the applicant contends that the proposal complies with SPPR1 of the Apartments Guidelines. I have already addressed this matter in section 11.4 of this report. I have concluded that the proposed housing mix is acceptable in accordance with SPPR 1. Accordingly, I am satisfied that the proposed material contravention would comply with the terms of section 37(2)(b)(iii) of the Act.

Building Height

- 11.12.17. The LAP (objective RS12) requires building heights on the site ranging from 2 – 4.5 storeys. It is proposed to construct buildings with heights ranging from 4 to 12 storeys, which would clearly materially contravene the LAP.
- 11.12.18. The applicant has not put forward any argument for material contravention under s. 37(2)(b)(ii) on the grounds of conflicting or unclear objectives. I consider that the LAP objectives are clear in this regard, and I do not consider that the provisions of this section apply.
- 11.12.19. Under s. 37(2)(b)(iii) the applicant contends that the Building Height Guidelines support the principle of additional height at this location and the Material Contravention Statement outlines a detailed analysis of how the proposal complies with the SPPRs set out in the Guidelines. I consider that SPPR 1 and SPPR 2 of the Guidelines relate to the preparation of Development Plans and are not, therefore, directly applicable to the assessment of this case. Section 3 of the Guidelines deals

with building height and the assessment of individual applications and appeals. SPPR 4 of the Guidelines deals with ‘greenfield or edge of city/town locations’. And while I acknowledge the ‘edge’ location of the site, I do not consider it appropriate to apply SPPR4 as the site is more accurately described as a ‘central and/or accessible urban location’. Therefore, SPPR 3 of the Guidelines is the key consideration.

11.12.20. In relation to the broad principles outlined in section 3.1 of the Guidelines, I have already outlined that I am satisfied that the proposal would positively assist in securing NPF objectives of focusing development in key urban centres. I have acknowledged that the proposed height is not in line with the LAP objectives to limit heights to 4.5 storeys. However, while variation no. 2 of the Development Plan (Objective PM42) aims to implement the policies and objectives of the Building Height Guidelines, the LAP predates the Guidelines and I do not consider that the LAP building height limitations align with the NPF.

11.12.21. SPPR 3 outlines that development may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise, subject to the application demonstrating compliance with section 3.2 criteria and the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and the Guidelines. Having considered the applicant’s ‘Material Contravention Statement’, together with the documentation and submissions relating to the application, my assessment of compliance with SPPR 3 and Section 3.2 of the Building Height Guidelines is summarised in the table below. My conclusions should be read in conjunction with section 11.7 and the other referenced sections of this report.

| At the scale of the relevant city/town | |
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| Section 3.2 Criteria | Assessment |
| The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport. | Having regard to the details outlined in sections 11.3 and 11.9 of this report, I have no objections in this regard. |
| Development proposals incorporating increased building height, including | I consider that the proposed development does not successfully integrate with or |

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| <p>proposals within architecturally sensitive areas, should successfully integrate into/ enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views.</p> | <p>enhance the character and public realm of the area as a result of the inappropriate design and layout and the lack of appropriate connectivity and interface between Racecourse Park and Stapolin Haggard.</p> |
| <p>Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.</p> | <p>Landscape and visual assessments have been submitted. The excessive scale, bulk, and massing of the proposed development would not successfully integrate with the landscape character to the north and east of the site and would be seriously injurious to the visual amenities of the area.</p> |
| <p>On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.</p> | <p>As outlined in sections 11.7 and 11.8 of this report, the proposal fails to successfully integrate the 'green routes' and to provide 10% public open space within the site. The density and height of development along the 'green routes' and along Racecourse Park fails to create an appropriate interface with these important public spaces and does not make an acceptable contribution to place-making.</p> |
| <p>At the scale of district/ neighbourhood/ street</p> | |
| <p>The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape</p> | <p>For the reasons outlined above, particularly the inappropriate interface with the 'green routes' and Racecourse Park, the proposal does not appropriately respond to the natural and built environment or make a positive contribution to the urban neighbourhood and streetscape.</p> |
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| <p>The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered</p> | <p>The proposal fails to appropriately distinguish character areas and results in an unacceptable visual coalescence of excessive scale, bulk, and mass, particularly when viewed from Racecourse Park to the north and east of the site.</p> |
| <p>The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/ marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of “The Planning System and Flood Risk Management – Guidelines for Planning Authorities” (2009).</p> | <p>As previously outlined, the proposal would result in an excessive, dominant, and overbearing scale along key public spaces and thoroughfares such as the ‘green routes’ and Racecourse Park.</p> <p>The provisions of ‘The Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009)’ have been complied with.</p> |
| <p>The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner</p> | <p>The proposal fails to provide appropriate connections through the site, particularly between Stapolin Haggard and Racecourse Park. Together with the inappropriate density and height strategy along the ‘green routes’ and Racecourse Park, the proposal fails to provide adequate legibility and integration with the wider urban area.</p> |
| <p>The proposal positively contributes to the mix of uses and/ or building/ dwelling typologies available in the neighbourhood.</p> | <p>As outlined in sections 11.4 and 11.8 of this report, I am satisfied that the proposal includes an appropriate mix of uses and building/dwelling typologies.</p> |
| <p>At the scale of the site/building</p> | |
| <p>The form, massing and height of proposed developments should be carefully</p> | <p>As outlined in sections 11.4, 11.5, and 11.6 of this report, I am satisfied that the</p> |

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| <p>modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.</p> | <p>proposed development is consistent with this approach.</p> |
| <p>Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'</p> | <p>As outlined in section 11.6 of this report, the assessment has had appropriate and reasonable regard to these approaches.</p> |
| <p>Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.</p> | <p>As per section 11.6, I have identified the instances where the proposal would not meet the relevant daylight provisions. I am satisfied that alternative compensatory design solutions have been included which would significantly benefit the proposed development. Furthermore, increased height and density should be encouraged at such locations in order to achieve wider NPF planning objectives relating to compact, sustainable development at such accessible locations. Accordingly, I am satisfied that increased height and scale of development is appropriate at this location and that, on balance, the standards for the proposed units are acceptable having regard to the need to achieve wider planning objectives.</p> |
| <p>Specific Assessments</p> | |
| <p>Specific impact assessment of the micro-climatic effects such as downdraft. Such assessments shall include measures to</p> | <p>The application includes a Wind Microclimate Study which considers the cumulative impact of the GA1 and GA3 sites. As outlined in</p> |

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| <p>avoid/ mitigate such micro-climatic effects and, where appropriate, shall include an assessment of the cumulative micro-climatic effects where taller buildings are clustered.</p> | <p>section 11.4 of this report, I am satisfied that there would be no unacceptable impacts in this regard.</p> |
| <p>In development locations in proximity to sensitive bird and / or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight lines and / or collision</p> | <p>The application includes a Site Lighting Analysis report. Ecological considerations have been incorporated into the lighting design and light levels would be within the limitations for environmental zone classification. The lighting impacts have also been considered in the EIA and AA sections of this report. Having regard to the limited extent of bird/bat activity on site and the ability of species to adapt to this emerging urban environment, I do not consider that there would be any unacceptable lighting impacts.</p> |
| <p>An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links</p> | <p>The application states that this is not applicable. Chapter 17 of the EIAR addresses telecommunications impacts but does not specifically address channels such as microwave links.</p> |
| <p>An assessment that the proposal maintains safe air navigation.</p> | <p>The application includes a 'Glint and Glare Assessment' which concludes that there will be no hazardous effects on aviation as a result of the proposed roof-mounted solar PV panels. The DAA submission does not raise any objections in this regard.</p> |
| <p>An urban design statement including, as appropriate, impact on the historic built environment.</p> | <p>A Design Statement has been included and there are no historic built environment features in the immediate area.</p> |

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| <p>Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate.</p> | <p>An EIAR and an NIS have been submitted. Impacts on ecology and biodiversity have also been covered in the EIAR.</p> |
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11.12.22. Having regard to the table above, and while taking into account the wider strategic and national policy parameters set out in the NPF and the *Building Height Guidelines*, I do not consider that the proposal complies with the criteria set out in section 3.2 of the Guidelines. I consider that the design and layout of the proposed development, including its excessive scale, bulk and massing at key locations, fails to successfully integrate with or enhance the character and public realm of the area, particularly in relation to the inadequate provision of ‘green routes’ and the inadequate connectivity and interface between the proposed development and Racecourse Park. Therefore, notwithstanding the desirability of achieving wider planning objectives to develop sites such as this, I do not consider that the provisions of section 37(2)(b)(iii) of the Act of 2000 apply in this case.

11.12.23. Under section 37(2)(b)(iv) the applicant refers to the GA1 and GA3 permissions and I have previously outlined that these permissions cannot be relied upon given the outstanding Judicial Review challenges. Regarding the extant permission on site (ABP Ref. 239732), I acknowledge that the permitted development of up to 7 storeys would materially contravene the LAP height provisions. However, it would still be significantly lower than the 12 storeys currently proposed, and I do not consider that it can be reasonably used to justify the current proposal. I also acknowledge the permitted development on the opposite side of the rail station (ABP Ref. 248713) involving up to 16 storeys. However, that case involved a different LAP, a different Development Plan, a site that was designated for a landmark building (up to 14 storeys) adjoining the rail station, and the Board concluded that it did not amount to a material contravention. Accordingly, I do not consider that it can be reasonably used to justify the current proposal. Having regard to the above, I do not consider that the proposed material contravention would comply with the provisions of section 37(2)(b)(iv) of the Act of 2000.

Construction Phasing

- 11.12.24. It is proposed to alter the LAP phasing arrangements for GA2 which aim to commence from Sectors 6A-6B to Sectors 7-8C (i.e. south to north). The application proposes to commence with Sector 8, followed by Sector 6, and finally Sector 7. I note that this does not relate to an actual LAP objective, but rather the supporting commentary of section 6.4, which refers to 'phasing priorities'. In my opinion, the main aim of the LAP phasing is to facilitate orderly development and to maintain connectivity with existing development/infrastructure. In this regard, I am satisfied that the proposed phasing arrangement would generally progress in a south to north direction as envisioned in the LAP; would prioritise development around 'The Haggard' open space; and would maintain connectivity with existing development to the south of the site. Therefore, I do not consider that it would materially contravene the phasing arrangements of the LAP.
- 11.12.25. For the event that the Board does not agree with this opinion, I would consider that these phasing provisions are not clearly stated objectives of the LAP. Accordingly, section 37(2)(b)(ii) could be invoked to support a material contravention.
- 11.12.26. Under section 37(2)(b)(iv) the applicant refers to other granted permissions at Stapolin since the adoption of the LAP. I have previously outlined that the GA1 and GA3 SHD permissions cannot be relied upon given the outstanding Judicial Review challenges. However, I would acknowledge that the construction of the parent permission on GA1 (ABP Ref. PL06F.248970) has not followed the LAP phasing arrangements. Accordingly, section 37(2)(b)(iv) of the Act could be involved to support a material contravention.

Public Open Space

- 11.12.27. As outlined in section 11.8 of this report, I consider that a minimum 10% of the site development area has not been designated for use as public open space and that this would materially contravene Objectives DMS57A and DMS57B of the Development Plan. However, this has not been addressed by the applicant in accordance with the requirements of s.8 (1)(a)(iv)(II) of the Act of 2016. Accordingly, I consider that the Board cannot invoke section 37(2)(b) of the Planning and Development Act 2000 (as amended) in this instance and is precluded from granting permission.

Conclusions on Material Contravention

11.12.28. In conclusion, I consider that the proposed development would materially contravene the Development Plan or LAP in relation to car-parking, the percentage of 1-bed units included, building height, and public open space. I do not consider that a material contravention arises in relation to the Development Plan Core Strategy, density, or construction phasing.

11.12.29. I again highlight that the provisions of section 37(2)(b) of the Act of 2000 cannot be invoked in relation to public open space as the application has not complied with the requirements of s. 8 (1)(a)(iv)(II) of the Act of 2016.

11.12.30. Regarding the remaining material contravention issues (as identified in the applicant's Material Contravention Statement), I consider that the terms of section 37(2)(b)(i) can be applied to all issues. Section 37(2)(b)(ii) can be applied to the issues of density and construction phasing. Section 37(2)(b)(iii) can be applied to the issues of the core strategy, car parking, density, and the percentage of 1-bed units included. Finally, section 37(2)(b)(ii) can be applied to the issue of construction phasing.

11.13. Local Authority Recommendation

11.13.1. Section 9.1.12 of this report outlines the Planning Authority's recommendation that the proposed development should be refused. The recommended reason for refusal is based on overdevelopment of the site and a substandard urban structure which would be contrary to the RA zoning objective. The recommendation raises several factors which can be summarised as follows:

- Inappropriate layout, bulk, mass, scale, and deficiency in architectural design,
- Lack of public open space,
- Car parking provision and substandard basement design,
- Poor permeability,
- Incongruous, dominant, and imposing appearance both in this designated Sensitive Landscape and when viewed from the wider LAP lands.

11.13.2. I have considered these issues in the foregoing assessment, and I have outlined that I would generally concur with the planning authority concerns in relation to the design, layout, and visual impact of the proposed development. However, I do not consider that car parking provision is substandard, and I do not consider that refusal would be warranted on any outstanding traffic/transport issues, including the basement design.

11.14. Planning Assessment Conclusion

11.14.1. As outlined in the foregoing assessment, I consider that a high-density residential development would be acceptable in principle having regard to the zoning of the site and its location in close proximity to public transport infrastructure and a wide range of other facilities and services. Subject to the removal of Block 4 (Sec 6A/6B) the proposed apartments would provide an acceptable level of residential amenity and would not seriously detract from the residential amenities of existing and planned developments in the surrounding area. Furthermore, I am satisfied that the standard of physical and social infrastructure in the area would not justify a refusal of the proposed development.

11.14.2. I would have no fundamental objection to the overall density level or the ultimate building heights proposed. However, I consider that the design and layout of the proposed development fails to adequately address the requirements of the LAP and the Development Plan. It would not appropriately incorporate the LAP 'green routes', which are important corridors linking Stapolin Haggard and Racecourse Park within the overall open space network. And combined with other design factors, this contributes to an excessive scale, bulk, and massing of development, which fails to provide appropriate levels of transition, legibility, and permeability at the interface with Racecourse Park. Accordingly, the proposed development would have an unacceptable visual impact on the Racecourse 'greenbelt' lands and having regard to SPPR3 of the Building Height Guidelines, I do not consider that a material contravention of the LAP building height guidelines can be justified in this context.

11.14.3. Furthermore, the proposed development would not provide a minimum 10% of the site development area as public open space, which would materially contravene Objectives DMS57A and DMS57B of the Development Plan. This has not been addressed by the applicant in accordance with the requirements of s.8 (1)(a)(iv)(II) of

the Act of 2016. Accordingly, I consider that the Board cannot invoke section 37(2)(b) of the Planning and Development Act 2000 (as amended) in this instance and is precluded from granting permission.

- 11.14.4. I have considered the possibility of amending the proposal to address the above concerns. However, I consider that any required amendments would have significant implications for the overall design and layout of the scheme and that the range and multiplicity of issues involved would require a comprehensive reassessment. Furthermore, the material contravention relating to public open space is a procedural matter which cannot be altered at this stage of the process. Accordingly, I do not propose to address these matters through an amending condition(s).
- 11.14.5. Furthermore, in my opinion there is sufficient information on file to allow for a proper and full assessment of the case and I do not consider that there is a compelling case for an oral hearing in this instance. Having regard to the information on file, to the nature of the proposed development and to the location of the development site, I do not recommend that an oral hearing should be held.

12.0 Environmental Impact Assessment (EIA)

12.1. Introduction

- 12.1.1. This section sets out an Environmental Impact Assessment (EIA) of the proposed project and should be read in conjunction with the planning assessment above. The development provides for 1,007 residential units, a childcare facility, 6 no. communal rooms, and associated works/services on a site area of 6.1 ha. A number of the topics and issues addressed in the planning assessment (above) concern environmental matters. However, where relevant, I have cross-referenced between sections to avoid unnecessary repetition.
- 12.1.2. Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:

i) Construction of more than 500 dwelling units

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

- 12.1.3. The current proposal is an urban development project that would be in the built-up area of a city but not in a business district. Therefore, the site area of 6.1ha does not exceed the 10ha threshold outlined in sub-section (iv) above. However, it is within the class of development described at 10(b) (i) of Part 2 of Schedule 5 of the planning regulations and would exceed the scale/threshold of development (i.e. more than 500 units) to require an environmental impact assessment. Accordingly, an EIAR has been submitted with this application.
- 12.1.4. The EIAR contains a Non-Technical Summary (Vol. 1), the EIAR (Vol. 2), and supporting appendices (Vol. 3). Chapters 1-3 inclusive set out an introduction and description of the proposed development, as well as the planning and development context. Chapter 4 considers the issue of 'Alternatives', while Chapters 5 to 18 describe and assess the likely significant direct, indirect and cumulative effects of the proposed development in accordance with the relevant headings listed in Article 3(1) of the 2014 EIA Directive, including the interactions between relevant effects. The proposed mitigation measures are outlined in each of Chapters 5-17.
- 12.1.5. This section of my report evaluates the information in the EIAR and carries out an independent and objective environmental impact assessment (EIA) of the proposed project in accordance with the requirements of relevant legislation. In carrying out an independent assessment, I have examined the information submitted by the applicant, including the EIAR, as well as the written submissions made to the Board as set out in Sections 8 to 10 of this report.
- 12.1.6. I am satisfied that the information contained in the EIAR has been prepared by competent experts (as outlined in Section 1.3.2. of the EIAR) to ensure its completeness and quality; that the information contained in the EIAR and supplementary information adequately identifies and describes the direct, indirect and cumulative effects of the proposed development on the environment; and that it complies with article 94 of the Planning and Development Regulations 2001 (as amended) and the provisions of Article 5 of the EIA Directive 2014.

- 12.1.7. I am satisfied that the participation of the public has been effective, and that the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions.
- 12.1.8. I note that some observers have raised concerns that the EIAR has not adequately addressed wastewater capacity issues; that prescribed bodies have not been adequately consulted; whether the EIAR adequately reflects the combined effect of all three SHD applications (i.e GA1, GA2, GA3); that public participation on the environmental impacts of building height/density has been removed by SPPRs; that the EIAR does not address the high-risk unregulated landfill area; and that carbon emissions have not been quantified and reduced in accordance with climate action requirements. However, for the purposes of EIA, I am satisfied that the EIAR is suitably robust and contains the relevant levels of information, as is demonstrated throughout my overall assessment.

12.2. **Consideration of Alternatives**

- 12.2.1. Article 5(1)(d) of the 2014 EIA Directive requires the following:

“a description of the reasonable alternatives studied by the developer, which are relevant to the development and its specific characteristics, and an indication of the main reasons for selecting the chosen option, taking into account the effects of the development on the environment.”

- 12.2.2. Annex (IV) (Information for the EIAR) provides more detail on ‘reasonable alternatives’:

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

- 12.2.3. Chapter 4 of the EIAR deals with ‘Alternatives’. The reasonable alternatives examined can be summarised as follows:

- Do Nothing: This would equate to consideration of an alternative location. The need for residential development would still exist, the zoned lands would remain underutilised, and would not maximise development potential.
- Alternative locations: The proposed location aligns with the Development Plan and the LAP and would complement the GA1 and GA3 lands. It is zoned and serviced, and the proposal is the most appropriate use for the location.
- Alternative layout, size and scale, and design: The extant permission (option 1) for the site contains larger units which are not in sync with market conditions or national policy guidance to increase density. The pre-planning design (option 2) raised various issues, including open space and visual impact, which required a revised design proposal. The chosen design (option 3) is designed to respect its setting, to integrate with surrounding uses, and to complete the planned compact urban community.
- Alternative processes or technologies: The proposal is guided by relevant standards and legislation and sustainability measures have been incorporated. The flexibility for alternatives is limited compared to a more complex activity.
- Alternative Mitigation: For each aspect of the environment specialists have considered feasible measures and the most suitable mitigation measures have been incorporated.

12.2.4. Having regard to the above alternatives, the EIAR concludes that the proposed development have been carefully designed having regard to its context, the need to maximise development potential, and feedback received in pre-application consultation. Overall, I am satisfied that, the EIA Directive requirements in relation to the consideration of alternatives have been satisfied.

12.3. **Consideration of risks associated with major accidents and/or disasters**

12.3.1. Article 3(2) of the 2014 EIA Directive includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and/or disasters that are relevant to the project concerned are considered.

12.3.2. I note that the nearest Seveso site is a 'Lower Tier' establishment (Exolum Aviation Ireland Ltd) at Dublin Airport, c. 6km from the application site. There are also a

cluster of Seveso Sites at Dublin Port and Ringsend (7 – 8 km linear distance). None of these are within consultation distance of the proposed project. The proposed project is not likely to be affected by an accident at any Seveso Site in the wider area, nor is any Seveso Site likely to be affected by the proposed project itself. Chapter 5 of the EIAR ‘Human health and population’ also concludes that there are no significant potential impacts on Human Health from Health and Safety and/or Major Accident Hazards.

12.3.3. Having regard to the location and zoning of the site, the nature of the site and surrounding uses, and the nature and scale of the proposed development, I am satisfied that effects deriving from major accidents and/or disasters are not likely.

12.4. Assessment of the likely significant direct and indirect effects

12.4.1. The likely significant effects of the development are considered below under the headings used in the EIAR. These headings cover the factors set out in Article 3 of the EIA Directive 2014/52/EU.

12.5. Human Health and Population

12.5.1. Chapter 5 deals with these matters based on a study area consisting of Baldoyle and Grange B Electoral Districts (EDs). The main potential impacts identified would relate to air quality, noise, visual impact and traffic, and mitigation measures to address these impacts are dealt with within the corresponding chapters of the EIAR. The cumulative impacts of the GA1 and GA3 sites are also considered.

12.5.2. Construction stage remedial/mitigation measures are proposed to prevent pollution and other potential emissions, including a Construction Environmental Management Plan (CEMP). Noise mitigation measures during the detailed design will further reduce operational noise impacts from the building services plant. The EIAR states that residual impacts on local business/employment during construction will be positive, moderate and short term, and that the impact on human health as a result of air quality, noise/vibration, and traffic is not likely to be significant.

12.5.3. I note that some observers have raised concerns in relation to impacts on residential amenity and an inadequate quality and mix/tenure of housing being proposed. However, in sections 11.4 and 11.5 of this report I have outlined that the standards

and impacts on residential amenity would be acceptable. I also note observers concerns about community / commercial infrastructure, including school capacity and the Department of Education submission. I have addressed these matters in section 11.8 of this report, and I do not consider the impacts to be unacceptable.

12.5.4. Having regard to the foregoing, I am satisfied that impacts predicted to arise in relation to population and human health would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of population and human health.

12.6. **Land, Soils, Geology, and Hydrogeology**

12.6.1. Chapter 6 assesses the receiving environment and classifies it as 'Type B – Naturally Dynamic Hydrogeological Environment'. Construction stage remedial/mitigation measures are proposed to include a CEMP and management of soil excavation and surface water, while the EIAR concludes that there is limited potential for any operational stage impacts. Regarding cumulative impacts with other aspects of the proposed development and the GA1 and GA3 sites, the EIAR outlines that the mitigation measures and conditions applicable to these other factors will ensure that impacts are imperceptible and neutral.

12.6.2. A third-party submission contends that the EIAR does not mention or address a high-risk unregulated landfill area that the Greater Dublin Drainage (GDD) route selection team identified. I have reviewed the GDD report that the submission references and I am satisfied that the landfill area is located on the Racecourse Park lands to the northeast of the application site. This is substantiated by the EIAR review of soil samples and historical mapping, which shows no evidence of landfill use on the site. No works are proposed within the unregulated landfill area and therefore there are no potential significant effects relating to contaminated ground.

12.6.3. Otherwise, I am satisfied that the EIAR has satisfactorily identified and categorised the geological / hydrogeological environment. It has been demonstrated that the potential impacts would be typical of developments of this scale and that standard construction measures would be employed to address environmental effects.

12.6.4. Having regard to the foregoing, I am satisfied that impacts predicted to arise in relation to Land, Soils, Geology, and Hydrogeology would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of Land, Soils, Geology, and Hydrogeology.

12.7. **Hydrology (Water)**

12.7.1. Chapter 7 examines the baseline hydrological environment, including surface water quality, local drainage, flooding, and designated conservation sites. The hydrological features are rated as being of high importance due to the River Mayne's biotic index and a section of the river being within a protected European site.

12.7.2. Construction stage mitigation aims to address the potential for contaminated surface water run-off/drainage and associated indirect links to Baldoyle Bay. These will include the implementation of a Surface Water Management Plan (SWMP) to protect water quality; a CEMP to ensure that pollution and nuisances are prevented or managed; and foul drainage management. At operational stage, SUDs measures will be incorporated to address the potential for increased surface water runoff or contamination. Foul drainage will be designed in accordance with relevant standards and will be treated off site at Ringsend WWTP, while water usage will be appropriately designed using water conservation measures. The EIAR outlines that the cumulative impacts with other aspects of the proposed development and the GA1 and GA3 sites will be imperceptible and neutral as a result of the mitigation measures and conditions applicable to these other factors.

12.7.3. Several observers have questioned the capacity of the wastewater infrastructure network and associated pollution/environmental/biodiversity concerns. Concerns have also been raised about water conservation, attenuation pond capacity, and flooding. However, the FCC Chief Executive's Report and the Irish Water submission do not raise any fundamental objections on these matters. I have already addressed these matters in section 11.10 of this report. I am satisfied that the quantitative and qualitative capacity of the water/drainage infrastructure would be suitably protected by the proposed mitigation measures and applicable conditions and would not result in any unacceptable environmental impacts.

12.7.4. Having regard to the foregoing, I am satisfied that impacts predicted to arise would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of water and hydrology.

12.8. **Biodiversity**

12.8.1. Chapter 8 assesses the biodiversity value of the proposed project area/site and the potential impacts on the ecology of the surrounding area within the potential zone of influence (ZOI). It identifies the nearest designated conservation sites at Baldoyle Bay, including the SAC (0.19 km), the SPA (0.55 km), pNHA (0.19 km), and Ramsar site (0.54 km). The EIAR evaluates species and habitats on site and concludes that the habitats are relatively poor in value and that there were no plant species of interest in the vicinity. A mammal and amphibian survey found no signs of conservation importance on site. A bat survey was carried out, which found a single tree of bat roosting potential and minor bat activity of a Soprano Pipistrelle.

12.8.2. A Wintering Bird Survey Report found that Snipe (red-listed), Grey Heron (green conservation status) and Herring Gull (amber-listed) have been observed proximate to the site, none of which are qualifying interests of Baldoyle Bay SPA. No works are proposed in the vicinity of the Mayne River where roosting habitat was noted. During the non-wintering bird assessments, no birds of conservation importance were noted on site. The EIAR does not deem the site to be an important area for wintering or breeding birds.

12.8.3. Construction mitigation measures include the implementation of a SWMP to protect water quality and a CEMP to ensure that dust/dirt pollution and noise impacts are prevented or managed. Measures will also be employed to prevent impacts on habitats, plants, and species, including those relating to habitat removal, roosting/breeding sites, site boundaries, and construction lighting. At operational stage, SUDs measures will be incorporated to address the potential for surface water contamination. The application identifies 6.14 ha for public open space and 1.385 ha communal open space, including biodiversity enhancement measures. The EIAR states that increased lighting and building collision potential is not expected to significantly impact bats. In terms of cumulative impacts, the EIAR states that an

increase in anthropocentric pressures would be offset by the provision of additional open space in excess of that required.

12.8.4. In response to observers concerns, I have previously outlined my satisfaction that the wastewater and drainage infrastructure would be adequately designed and protected to avoid any quantitative or qualitative water impacts on biodiversity. I note the observers concerns about the density and height of the proposal (including lighting) and potential impacts on the flight path of protected species such as Brent Geese. However, notwithstanding the observers' contentions about North American evidence, I consider that any local collision threats could be satisfactorily addressed through the standard use of mitigating solutions to address the exterior glazing, balcony railings, 'fly-through' conditions, and green walls/terraces. I also consider that the EIAR and associated surveys has adequately addressed both wintering and breeding birds. Appropriate Assessment issues have also been raised by observers, and these are dealt with in section 13 of this report, which concludes that the integrity of European Sites would not be adversely affected. I note the IFI submission highlighting the need to protect local water quality and I am satisfied that this would be achieved through the water and drainage mitigation measures previously discussed.

12.8.5. Having regard to the foregoing, I am satisfied that impacts predicted to arise would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of biodiversity, including species and habitats protected under the Habitats Directive and the Birds Directive.

12.9. **Air Quality and Climate**

12.9.1. Chapter 9 outlines an examination of baseline air quality and climate conditions and calculates air quality background concentrations for the Opening Year 2024 and Design Year 2041.

12.9.2. Construction stage mitigation measures include a Dust Management Plan to be incorporated into the CEMP to prevent impacts on nearby houses, vegetation, and human health. And regarding embodied carbon impacts, 'Low carbon cement' will also be used (min. 40%), which has a much lower CO₂ footprint and also means

reduced artificial lighting requirements. Air quality impacts at operational stage were assessed by modelling NO₂ emissions from traffic at high sensitivity residential receptors and the overall impact is deemed to be imperceptible to slight.

Concentrations of PM₁₀ were modelled and were in compliance with annual limit values at all receptors.

- 12.9.3. The predicted annual average NO_x concentration within the SAC, pNHA and SPA would be within limit values and would not be significantly increased by the proposed development. The predicted change in the maximum NO₂ dry deposition rate would be well below the critical load for coastal habitats. Overall, the air quality effect on the Baldoyle Bay SAC, pNHA and SPA, is considered to be negative, long-term and imperceptible.
- 12.9.4. Regarding climate, a detailed flood risk assessment has been undertaken and adequate attenuation and drainage have been provided to account for increased rainfall in future years. And in terms of GHG emissions from traffic, the predicted concentrations of CO₂ for the future years of 2024 and 2041 are significantly less than the 2024 and 2030 target set out under EU legislation. Air dispersion modelling of traffic emissions has shown that levels of all pollutants are below the ambient air quality standards set for the protection of human health.
- 12.9.5. Regarding cumulative impacts, the EIAR states that the potential for short-term GHG emissions during construction is unlikely to make a perceptible impact on climate, and that the cumulative embodied carbon impacts from specific cumulative projects should not be individually assessed.
- 12.9.6. Third-party observers have raised concerns that the climate section has not adequately addressed all flood risks and that carbon emissions (including embodied carbon) have not been adequately quantified and reduced in accordance with Climate Action requirements. I have addressed flood risk in section 11.10 of this report, and I am satisfied that there would be no unacceptable risk to the proposed development or surrounding lands. I also consider that carbon emissions, including embodied carbon, have been appropriately addressed. 'Low carbon cement' would be used and the application includes 'Energy Statements' outlining how the proposed development complies with sustainable building design principle and legislative requirements for NZEB.

12.9.7. Having regard to the foregoing, I am satisfied that impacts predicted to arise would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of air quality and climate.

12.10. **Wind**

12.10.1. Chapter 10 assesses the potential effects on the pedestrian level wind microclimate around the proposed buildings, open spaces, and in the areas immediately surrounding the site. It is a desk-based study which is based upon a Wind Microclimate Technical Report and the potential cumulative impacts of the GA1 and GA3 developments.

12.10.2. The assessment of wind primarily relates to the impacts of the proposed development on the residential amenity of the proposed scheme and surrounding properties. Based on Chapter 10 of the EIAR, I have already addressed these matters in section 11.4 and 11.5 of this report and I would conclude that there would be no unacceptable impacts. And in response to observers' concerns, I am satisfied that the use of Dublin Airport wind speed data is appropriate in this case.

12.10.3. Having regard to the foregoing, I am satisfied that impacts predicted to arise in relation to wind would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of wind.

12.11. **Microclimate – Daylight and Sunlight**

12.11.1. Chapter 11 assesses of loss of daylight and sunlight to surrounding areas and overshadowing, as well as provision to rooms within the development itself. It focuses on the operational impacts of the development.

12.11.2. The assessment of daylight and sunlight primarily relates to the impacts of the proposed development on the residential amenity of the scheme and surrounding properties. Based on Chapter 11 of the EIAR, I have already addressed these matters in section 11.6 of this report, and I would conclude that there would be no

unacceptable impacts. And in response to observers' concerns about overshadowing impacts on the amenity and biodiversity value of Racecourse Park, I have concluded that the area affected would be a marginal and minimal portion of the overall lands; would not be of any significant biodiversity value; would primarily function as a greenway corridor; and would not, therefore, result in any unacceptable impacts.

12.11.3. Having regard to the foregoing, I am satisfied that impacts predicted to arise would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of sunlight and daylight.

12.12. **Noise & Vibration**

- 12.12.1. Chapter 12 assesses the potential noise and vibration impacts in the context of current relevant standards and guidance. The initial site noise risk assessment concludes that the level of risk across the site is 'Low to Medium' according to the Professional Guidance on Planning & Noise (ProPG) document, which requires an Acoustic Design Strategy but does not preclude residential development.
- 12.12.2. Based on worst-case scenario activity, short-term construction impacts may exceed the maximum permissible daytime noise level at distances up to 30m from the works. Mitigation will be achieved through the application of best practice operational and control measures. The main outward noise impacts at operational stage will be from additional traffic, which is deemed to be imperceptible to slight-moderate. Inward noise impacts are also considered and mitigated through Good Acoustic Design. The selection of mechanical/electrical plant will ensure that noise limits are not exceeded and glazing, and vent specifications will ensure suitable internal noise levels. The EIAR concludes that construction stage impacts will be limited and moderate for most noise sensitive locations, and that operational impacts relating to traffic and services plant are not predicted to be significant.
- 12.12.3. I have already addressed observers concerns in relation wind-induced noise and construction noise in sections 11.4 and 11.5 of this report, and I have concluded that no unacceptable noise impacts would occur.

12.12.4. Having regard to the foregoing, I am satisfied that impacts predicted to arise would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of noise and vibration.

12.13. **Landscape and Visual**

12.13.1. Chapter 13 appraises the effects the proposed development would have on the quality of landscape – both physically and visually. Landscape impacts are considered in the context of the surrounding visually sensitive receptors, while visual impacts are considered in the context of 12 identified viewpoints.

12.13.2. Construction stage landscape impacts are generally deemed to be moderate and short-term, while the operational landscape impacts are deemed to be generally positive through the creation of a strong urban edge. The short-term visual impacts vary from 'positive' to 'negative', but positive impacts would increase over the medium to long-term as the proposed planting measures grow and establish. The residual landscape impacts at operational stage are deemed to be slightly positive, while visual assessment from 9 specific locations conclude that the impacts would be in line with emerging trends (including the cumulative impact of sites GA1 and GA3) and would range from slight to moderate (negative and positive).

12.13.3. I have already addressed the issues of landscape and visual amenity in section 11.7 of this report, including the concerns raised by observers and the planning authority. I acknowledge that the application attempts to incorporate mitigation through the design, layout, and landscaping of the proposed development. However, for the reasons outlined in section 11.7, I consider that the proposed development fails to successfully integrate with the surrounding landscape and would be seriously injurious to the visual amenities of the area.

12.13.4. Having regard to the foregoing, I do not consider that the significant adverse landscape and visual impacts would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, or through suitable conditions. Therefore, I consider that the proposed development would have unacceptable direct impacts in terms of landscape and visual amenity.

12.14. Archaeology, Architectural and Cultural Heritage

- 12.14.1. Chapter 14 assesses the predicted impacts on archaeological, architectural, and cultural heritage based on a survey of cartographic sources and site assessment. It reports that there are no recorded archaeological sites, monuments, or finds within the application site, and that the eight recorded archaeological sites within c. 1km of the site will not be impacted. There are no architectural heritage structures within the site boundary or the wider study area.
- 12.14.2. The EIAR acknowledges the possibility of sub-surface archaeological features surviving and construction-stage mitigation measures will include a geophysical survey, a programme of archaeological testing, and further consultation with the National Monuments Service. I note that the planning authority had no objection subject to a condition to require archaeological monitoring.
- 12.14.3. Having regard to the foregoing, I am satisfied that the impacts predicted to arise would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of archaeological, architectural, and cultural heritage.

12.15. Traffic and Transportation

- 12.15.1. Chapter 15 assesses the potential traffic impacts associated with the proposed development. Based on this assessment, I have already assessed the traffic and transport impacts in section 11.9 of this report. I have considered the reports of the planning authority and the submissions of observers and the NTA, as well as the potential cumulative impacts in association with sites GA1 and GA3 and other traffic-related issues including noise and air emissions.
- 12.15.2. I have concluded that the proposal would generally be appropriately designed to promote sustainable transport modes and would not unacceptably impact on the safety or capacity of the surrounding road network. I have noted that the proposed design fails to satisfactorily provide pedestrian and cycle connections as envisaged in the LAP, but I do not consider that this would result in unacceptable environmental impacts.

12.15.3. Having regard to the foregoing, I am satisfied that the impacts predicted to arise in relation to traffic and transportation would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of traffic and transportation.

12.16. **Waste Management**

12.16.1. Chapter 16 assesses the impacts arising from the consumption of resources and the generation of waste materials. It outlines that the construction phase will generate a range of non-hazardous and hazardous waste materials; that the generation of waste materials during the operational phase is unavoidable; and the greatest impact during the decommissioning phase would be demolition/refurbishment.

12.16.2. Specific Waste Management Plans will be implemented for the construction, operational, and decommissioning phases. Together with other good waste management measures and requirements, the EIAR predicts that any residual impacts will be neutral and imperceptible, and that there would be sufficient waste contracting capacity in the area to prevent any significant cumulative impacts.

12.16.3. Having regard to the foregoing, I am satisfied that the impacts relating to waste would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative effects in respect of waste.

12.17. **Material Assets**

12.17.1. Chapter 17 assesses ownership and access, built services and infrastructure, which have not already been addressed elsewhere in the EIAR. Other than those aspects already discussed, it identifies potential impacts including a negligible loss of agricultural land; slight impacts on utilities such as power/electrical supply; and imperceptible impacts on telecommunications. Best practice construction and operational mitigation measures will be applied to protect utilities, services, and other material assets. The EIAR concludes that the residual and cumulative effects will not be significant.

12.17.2. Having regard to the foregoing, I am satisfied that the impacts relating to material assets would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative effects in respect of material assets.

12.18. Interactions

12.18.1. Chapter 18 assesses the potential interactions and inter-relationships between the environmental factors discussed in the preceding chapters. In the majority of cases, it is stated that there will be no interaction, or the interactions are deemed to be neutral or positive. In a minority of cases, negative interactions are identified as follows:

- construction stage interactions between 'biodiversity' and land, soil, hydrogeology, and hydrology as a result of watercourse pollution and dust.
- construction stage interactions between 'air quality and climate' and biodiversity, land, soil, hydrogeology, and hydrology as a result of watercourse pollution, dust emissions, and traffic emissions.
- construction stage interactions between 'biodiversity' and 'noise and vibration' as a result of the disturbance of birds, including those using the nearby SAC.
- construction stage interactions between 'landscape / visual impact' and 'population and human health' as a result of the change from an undeveloped brownfield site to a construction site.
- operational stage interactions between 'Material assets' and air quality, climate, noise and vibration as a result of increased traffic and associated emissions.

12.18.2. Having regard to the foregoing, I am satisfied that impacts relating to interactions, cumulative and combined effects would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, combined or cumulative interactions.

12.19. Mitigation and Monitoring Measures

12.19.1. Each chapter of the EIAR has set out the mitigation and monitoring measures for each environmental factor that are considered necessary to protect the environment for the construction and operation phases of the proposed development.

12.20. Reasoned Conclusion

12.20.1. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the applicant, the reports from the planning authority and submissions by prescribed bodies and observers in the course of the application, I am satisfied that the potential effects of the proposed development have been adequately identified, described and assessed, and I am satisfied that there will be no other likely significant environmental effects arising from the proposed development. I consider that the main significant direct and indirect effects of the proposed development on the environment, including mitigation measures, are as follows:

- Direct construction stage effects on population and human health as a result of dust and noise emissions. These effects would be mitigated through a Dust Management Plan and the application of best practice noise control measures, which would not result in any unacceptable residual effects.
- Direct and indirect effects at construction and operational stage on biodiversity, including species and habitats protected under the Habitats Directive and the Birds Directive, as a result of dust emissions, noise disturbance, water pollution and bird/bat flight obstruction. These effects would be mitigated through a Dust Management Plan; the application of best practice noise control measures; a Surface Water Management Plan; a Construction Environmental Management Plan; the incorporation of SUDs measures; the use of solutions to address flight obstruction; and the mitigation measures outlined in the Appropriate Assessment (section 13 of this report). The application of these measures would prevent any unacceptable effects on biodiversity.

- Direct and indirect effects on water at construction and operational stages as a result of the potential for increased surface water run-off and the contamination of water. These potential impacts will be mitigated through a Surface Water Management Plan, a Construction Environmental Management Plan, and the incorporation of SUDs measures, which would not result in any unacceptable residual effects on water.
- Indirect construction stage effects on climate which will be mitigated through the use of 'low carbon cement' and sustainable building design principles. This would not result in any unacceptable residual effects on climate.
- Direct construction stage effects on air quality as a result of dust emissions, which would be mitigated through a Dust Management Plan and would not result in any unacceptable residual effects.
- Direct operational effects on landscape as a result of the significant and adverse visual impact of the development. These effects would not be avoided by the proposed mitigation measures and would result in unacceptable residual effects on the landscape.

13.0 **Appropriate Assessment**

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

13.1. Introduction

13.1.1. This section of my 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 Appropriate Assessment Screening & Natura Impact Statement (NIS) prepared by Altamar Marine and Environmental Consultancy, dated March 2022, and submitted with the application. I have had

regard to the submissions of observers in relation to the potential impacts on Natura 2000 sites. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and section 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.

13.2. The Project and its characteristics

13.2.1. A detailed description of the proposed development can be found in section 3.0 of this report.

13.3. Submissions and observations

13.3.1. The submissions and observations from the Local Authority, Prescribed Bodies, and observers are summarised in sections 8, 9 and 10 of this report. Observers have raised concerns about the following:

- The capacity of the wastewater infrastructure and potential pollution impacts for water quality associated with Natura 2000 sites.
- The existing flight paths of protected species such as Brent Geese and the potential for building height, bird strikes, and light pollution to directly impact on the integrity of the Natura 2000 network.
- The bird survey is deficient as it is outdated (2019/2020), only covers the winter period, and does not include a breeding bird survey.
- Inadequate evidence that the attenuation pond will prevent contaminants from reaching the 'poor' status Mayne River.
- Lack of mitigation for impacts on the SCIs of Baldoyle SPA.
- Inadequate consultation with the NPWS, An Taisce, and the EPA with regard to potential impacts on protected sites.
- Inadequate assessment of the cumulative impacts of GA1, GA2, and GA3.

13.3.2. The Local Authority or Prescribed Bodies have not raised specific issues relating to Appropriate Assessment. However, the IFI submission contends that pollution of adjacent freshwaters from poor on-site construction practices could have a significantly negative impact on flora and fauna. The Irish Water submission confirms that new connections to service the development are feasible subject to conditions.

Otherwise, I am satisfied that the applicant has notified Prescribed Bodies in accordance with the requirements of Article 285(5)(a) of the Planning and Development (Strategic Housing Development) Regulations 2017, and that there is sufficient information on the file for the purpose of the Board's decision.

13.4. European Sites likely to be affected (Stage I Screening)

- 13.4.1. The application site is not within or directly adjacent to any Natura 2000 site. The applicant's AA Screening Report identifies the European sites within 15 kilometres of the subject site. There are no direct/indirect pathways to sites beyond 15km and, therefore, I am satisfied that any sites beyond 15km can be excluded at this preliminary stage.
- 13.4.2. As outlined in the applicant's AA Screening Report, I acknowledge that there is a direct hydrological pathway to Baldoyle Bay SAC and SPA via the proposed surface water drainage system. Surface water will be directed to a wetland installed within the Mayne River floodplain and ultimately outfalls to Baldoyle Bay. Therefore, there is the potential for downstream impacts on the qualifying interests of Baldoyle Bay SAC and SPA. This surface water outfall also represents an indirect hydrological pathway to other marine-based European Sites.
- 13.4.3. There is also an indirect hydrological pathway to marine-based European sites via the proposed foul water drainage network. Foul wastewater will discharge to a public foul wastewater network and will then be treated at Ringsend Wastewater Treatment Plant before discharge to the Lower Liffey Estuary and Dublin Bay.
- 13.4.4. Finally, I acknowledge the proximity of the site to Baldoyle Bay SPA (0.55km) and the potential for disturbance impacts on the protected bird species. Such disturbance impacts could include heightened noise levels, activity, and lighting; the loss of ex-situ feeding ground; and the potential for the obstruction of flight paths.
- 13.4.5. The applicant's AA Screening Report lists and maps the Natura 2000 sites within a 15km radius of the application site, as outlined in the table below. I have also added the specific qualifying interests and conservation objectives for these sites based on the EPA and National Parks and Wildlife Service (NPWS) information.

| European Site (Site Code) & Conservation Objective | Distance (km) | Qualifying Interests (QIs) /Species of Conservation Interest (SCIs) (Source: EPA / NPWS) |
|---|---------------|---|
| <p>Baldoyle Bay SAC (000199)</p> <p>To maintain or restore the favourable conservation condition of habitats as listed in Qualifying Interests.</p> | 0.19 km | <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 maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> |
| <p>North Dublin Bay SAC (000206)</p> <p>To maintain or restore the favourable conservation condition of habitats as listed in Qualifying Interests.</p> | 1.6 km | <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p><i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p> |
| <p>Malahide Estuary SAC (0000205)</p> <p>To maintain or restore the favourable conservation condition of habitats as listed in Qualifying Interests</p> | 3.5 km | <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><i>Spartina</i> swards (<i>Spartinion maritimae</i>) [1320]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> |

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| (excluding 'Spartina swards'). | | Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] |
| Howth Head SAC (000202) To maintain or restore the favourable conservation condition of habitats as listed in Qualifying Interests. | 4.2 km | Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] European dry heaths [4030] |
| Rockabill to Dalkey Island SAC (0003000) To maintain the favourable conservation condition of Reefs and Harbour porpoise. | 4.7 km | Reefs [1170] <i>Phocoena phocoena</i> (Harbour Porpoise) [1351] |
| Ireland's Eye SAC (002193) To maintain the favourable conservation condition of habitats as listed in Qualifying Interests. | 4.8 km | Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] |
| South Dublin Bay SAC (000210) To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide. | 6.9 km | Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] <i>Salicornia</i> and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110] |
| Rogerstown Estuary SAC (000208) | 10.2 km | Estuaries [1130] |

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| <p>To maintain or restore the favourable conservation condition of habitats as listed in Qualifying Interests.</p> | | <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> |
| <p>Lambay Island SAC (000204)</p> <p>To maintain the favourable conservation condition of habitats and species as listed in Qualifying Interests.</p> | <p>11.6 km</p> | <p>Reefs [1170]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p><i>Halichoerus grypus</i> (Grey Seal) [1364]</p> <p><i>Phoca vitulina</i> (Harbour Seal) [1365]</p> |
| <p>Baldoyle Bay SPA (004016)</p> <p>To maintain the favourable conservation condition of the bird species and habitats listed as Qualifying Interests / Special Conservation Interests.</p> | <p>0.55 km</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>North Bull Island SPA (004006)</p> <p>To maintain the favourable conservation condition of the bird species and habitats listed as Qualifying</p> | <p>1.6 km</p> | <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> |

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| <p>Interests / Special Conservation Interests.</p> | | <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162] Turnstone (<i>Arenaria interpres</i>) [A169] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Wetland and Waterbirds [A999]</p> |
| <p>Malahide Estuary SPA (004025) To maintain the favourable conservation condition of the bird species and habitats listed as Qualifying Interests / Special Conservation Interests.</p> | <p>4.2 km</p> | <p>Great Crested Grebe (<i>Podiceps cristatus</i>) [A005] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] 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>Ireland's Eye SPA (004117)</p> | <p>4.5 km</p> | <p>Cormorant (<i>Phalacrocorax carbo</i>) [A017] Herring Gull (<i>Larus argentatus</i>) [A184] Kittiwake (<i>Rissa tridactyla</i>) [A188]</p> |

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| <p>To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests.</p> | | <p>Guillemot (<i>Uria aalge</i>) [A199] Razorbill (<i>Alca torda</i>) [A200]</p> |
| <p>South Dublin Bay and River Tolka Estuary SPA (004024)</p> <p>To maintain the favourable conservation condition of the bird species and habitats listed as Qualifying Interests / Special Conservation Interests (excluding Grey Plover).</p> | <p>5.7 km</p> | <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa totanus</i>) [A162] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194] Wetland and Waterbirds [A999]</p> |
| <p>Howth Head Coast SPA (004113)</p> <p>To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests.</p> | <p>5.7 km</p> | <p>Kittiwake (<i>Rissa tridactyla</i>) [A188]</p> |
| <p>Rogerstown Estuary SPA (004015)</p> | <p>9.6 km</p> | <p>Greylag Goose (<i>Anser anser</i>) [A043] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048]</p> |

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| <p>To maintain the favourable conservation condition of the bird species and habitats listed as Qualifying Interests / Special Conservation Interests.</p> | | <p>Shoveler (<i>Anas clypeata</i>) [A056] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Redshank (<i>Tringa totanus</i>) [A162] Wetland and Waterbirds [A999]</p> |
| <p>Lambay Island SPA (004069) To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests.</p> | <p>11.5 km</p> | <p>Fulmar (<i>Fulmarus glacialis</i>) [A009] Cormorant (<i>Phalacrocorax carbo</i>) [A017] Shag (<i>Phalacrocorax aristotelis</i>) [A018] Greylag Goose (<i>Anser anser</i>) [A043] Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183] Herring Gull (<i>Larus argentatus</i>) [A184] Kittiwake (<i>Rissa tridactyla</i>) [A188] Guillemot (<i>Uria aalge</i>) [A199] Razorbill (<i>Alca torda</i>) [A200] Puffin (<i>Fratercula arctica</i>) [A204]</p> |
| <p>Dalkey Islands SPA (004172) To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests</p> | <p>13.8 km</p> | <p>Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> |

13.5. Potential Effects on Designated Sites

13.5.1. In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to Natura 2000 sites, and any potential pathways

which may exist from the development site to a Natura 2000 site, aided in part by the EPA Appropriate Assessment Tool (www.epa.ie), as well as by the information on file, including observations on the application made by prescribed bodies and other observers. I have also visited the site and the surrounding area.

- 13.5.2. I concur with the conclusions of the applicant's AA Screening Report, in that the only Natura 2000 sites where there is potential for likely significant effects are the Baldoyle Bay SAC and Baldoyle Bay SPA. There are no direct pathways with the remaining SAC and SPA sites and the potential for significant impacts is considered unlikely. I acknowledge that potential indirect hydrological pathways exist for marine-based European Sites via the surface water and wastewater outfalls. However, it should be noted that the conservation objectives for the habitats and species in those European Sites do not relate to coastal water quality.
- 13.5.3. Regarding the surface water outfall, it should be noted that there is a minimum separation distance from such marine-based European sites of 1.6 km across an expansive marine environment within the Irish Sea. The proposed drainage strategy is compliant with the Greater Dublin Strategic Drainage Study (SuDS) and I am satisfied that the proposed SuDS measures are not included to avoid or reduce an effect to a Natura 2000 Site. Therefore, they should not be considered mitigation measures in an AA context. Having regard to the separation distance involved and lack of direct connectivity, together with the known potential for waters in Dublin Bay to rapidly mix and assimilate pollutants, I am satisfied that any pollutants or silt would settle, be dispersed, or be diluted adequately to avoid any potential for significant effects on any European Sites other than the Baldoyle Bay SAC and SPA sites. I have considered other permitted development in the vicinity of the site, and I am satisfied that there is no potential for significant in-combination or cumulative effects in this regard.
- 13.5.4. I also acknowledge the indirect hydrological pathway that exists for marine-based European sites via the wastewater outfall from Ringsend, and the concerns that have been raised from observers in this regard. The inner Dublin Bay sites would have more potential for effects in this regard, including North Dublin Bay SAC; North Bull Island SPA; South Dublin Bay and Tolka Estuary SPA; and South Dublin Bay SAC. The other European sites are at a significant distance and would benefit from the assimilative capacity of the wider Dublin Bay waterbody.

- 13.5.5. I note that Irish Water confirm that the proposed development can be facilitated without infrastructure upgrades. This information was passed to the Board on the 10th of May 2022, and I see it as the most up to date scenario with regard to wastewater capacity and the local network. Foul effluent from the proposed development will be sent to the Ringsend WWTP and permission has been granted under section 37G of the Planning and Development Act 2000 (Board Order ABP-301798-18) for a 10-year permission comprising revisions and alterations to the existing and permitted development at the Ringsend Wastewater Treatment Plant and for a new Regional Biosolids Storage Facility, being two components of an integrated wastewater treatment facility. These works will bring the capacity of the Wastewater Treatment Plant from its current 1.9 million PE to 2.1 million PE in the second half of 2023 and to 2.4 million PE by 2025, while meeting the required Water Framework Directive standards. Evidence also suggests that in the current situation, some nutrient enrichment is benefiting wintering birds for which the SPAs have been designated in Dublin Bay.
- 13.5.6. The proposed development involves a peak effluent discharge of 32.7 l/s, which would not be significant when equated as a percentage (i.e. 0.29%) of the current licensed discharge at Ringsend WWTP. Overall, I am satisfied that no significant impacts to the Natura 2000 sites can arise from additional loading on the Ringsend WWTP as a result of the proposed development, as there is no evidence that negative effects are occurring to SACs or SPAs from water quality. I have considered other permitted development in the vicinity of the site, and I am satisfied that there is no potential for significant in-combination or cumulative effects in this regard.
- 13.5.7. Furthermore, given that all other European Sites are distanced at least 1.6 km from the application site, it is unlikely that any disturbance impacts would occur during the construction or operational stage. In this regard I have considered all potential disturbance effects, including heightened noise/lighting levels and the obstruction of flight paths / bird strike, as well as the potential for significant in-combination or cumulative effects in this regard.
- 13.5.8. As such, it is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects

would not be likely to have a significant effect on Malahide Estuary SAC, North Dublin Bay SAC, Rogerstown Estuary SAC, South Dublin Bay SAC, Rockabill to Dalkey Island SAC, Ireland's Eye SAC, Howth Head SAC, Lambay Island SAC, Malahide Estuary SPA, North Bull Island SPA, Rogerstown Estuary SPA, South Dublin Bay and River Tolka Estuary SPA, Ireland's Eye SPA, Howth Head Coast SPA, Lambay Island SPA, or Dalkey Islands SPA.

13.5.9. As previously outlined, I acknowledge the direct hydrological pathway to Baldoyle Bay SAC and Baldoyle Bay SPA via existing watercourses and the surface water drainage system. I consider that there is potential for pollutants to enter these European sites via the watercourse/drainage system at construction and operational stages, and this has the potential for significant effects on water quality which requires further mitigation and consideration.

13.5.10. I also note the proximity of the application site to Baldoyle Bay SPA. While the EIAR outlines that the non-wintering bird assessments did not record any birds of conservation importance, the AA Screening Report includes a summary of a Wintering Bird Survey (December 2019 and March 2020). Excluding the previously acknowledged potential for surface water pollution and the potential for the loss of roosting habitat at the mouth of the Mayne River (which is outside the project site), I would concur with the report's acceptance of the potential for disturbance during construction works and the operational phase to SCIs as a result of movement of machinery, personnel, noise, and/or noise associated with domestic dwellings. I consider that this could lead to displacement of species and requires further mitigation and consideration. The potential for further disturbance, as raised by the observers, including lighting and obstruction of flight paths / bird strike will also be considered.

13.5.11. I note the concerns raised by observers about the loss of ex-situ habitat. However, the subject site itself is not suitable for regularly occurring populations of wetland or wading birds which may be associated with Natura 2000 sites listed above, as these birds are associated with coastal and intertidal habitats. While there are some species that utilise inland amenity grassland and/or agricultural land for feeding, there is no such suitable habitats within the application site. I note that ex-situ feeding sites associated with the Light-bellied Brent Goose (SCI of Baldoyle SPA) have been identified, comprising amenity grassland in the surrounding area. The

subject site does not provide ex-situ feeding grounds and this is confirmed by the applicant's wintering bird surveys. However, it is not the loss of the subject site alone that has a potential impact on ex-situ sites. The effect of increased disturbance and human activity on amenity grasslands that do act as ex-situ feeding grounds may also be an issue.

13.5.12. In conclusion on the foregoing, I consider that, in the absence of mitigation measures, the project has the potential for significant impacts on the Baldoyle SAC and Baldoyle Bay SPA for the following reasons:

- Pollutants and silt/sediment entering these European sites via the watercourse/drainage system at construction and operational stages, which has the potential to affect water quality.
- Disturbance during construction works and the operational phase to SCIs as a result of movement of machinery, personnel, lighting, noise, and/or noise associated with domestic dwellings, which could lead to displacement of species.
- Obstruction of flight paths and the potential for bird strikes.
- Increased disturbance and human activity on amenity grasslands that act as ex-situ feeding grounds may also be an issue.

13.6. In Combination or Cumulative Effects

13.6.1. The applicant's AA Screening Report has considered in-combination/cumulative impacts. This outlines a wide range of other permitted/proposed developments, including the GA1 and GA 3 residential developments and the Racecourse Park development to the north of the application site. Having reviewed these other projects, I am satisfied that they have been suitably assessed for impacts on the Natura 2000 network and that they incorporate suitable measures to avoid any significant cumulative impacts with the proposed development. As previously outlined, I do not consider that the increased surface water and wastewater discharges have the potential to cumulatively impact on the marine-based European Sites which have been excluded.

13.6.2. I have already acknowledged that the proposed development has potential for increased disturbance and human activity on amenity grasslands that act as ex-situ feeding grounds. The additional population associated with the other residential

developments has the potential to have increased cumulative disturbance/activity pressures in this regard. In combination with this, the Racecourse Park redevelopment is intended to act an 'ecological buffer' which would off-set the impact of disturbance/activity on the Natura 2000 sites and associated ex-situ habitats. This matter requires further consideration. Otherwise, I do not consider that there is potential for cumulative/in-combination effects with the proposed development.

13.7. Mitigation Measures

13.7.1. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

13.8. AA Screening Conclusion

13.8.1. The proposed development was considered in light of the requirements of section 177U of the Planning and Development Act 2000 (as amended). Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project, individually, or in combination with other plans or projects, would not be likely to give rise to significant effects on Malahide Estuary SAC, North Dublin Bay SAC, Rogerstown Estuary SAC, South Dublin Bay SAC, Rockabill to Dalkey Island SAC, Ireland's Eye SAC, Howth Head SAC, Lambay Island SAC, Malahide Estuary SPA, North Bull Island SPA, Rogerstown Estuary SPA, South Dublin Bay and River Tolka Estuary SPA, Ireland's Eye SPA, Howth Head Coast SPA, Lambay Island SPA, or Dalkey Islands SPA, in view of the sites' conservation objectives.

13.8.2. However, for the reasons previously outlined I have concluded that the potential for significant effects on Baldoyle Bay SPA and Baldoyle Bay SAC cannot be ruled out having regard to the sites' conservation objectives. Therefore, a Stage 2 Appropriate Assessment is required.

13.9. Stage 2 – Appropriate Assessment

13.9.1. The applicant's NIS provides a detailed description of Baldoyle Bay SAC. It is a tidal estuarine bay protected from the open sea by a large sand-dune system. Two small rivers, the Mayne and the Sluice, flow into the bay. The Qualifying Interests of the SAC have been previously outlined in this report. Large areas of intertidal flats are exposed at low tide at this site. Areas of saltmarsh occur near Portmarnock Bridge and at Portmarnock Point, with narrow strips along other parts of the estuary. The site includes a brackish marsh along the Mayne River. The area surrounding

Baldoyle Bay is densely populated and so the main threats to the site include visitor pressure, disturbance to wildfowl and particularly dumping. It is a fine example of an estuarine system, which contains four habitats listed on Annex I of the E.U. Habitats Directive and supports two legally protected plant species. The site is also an important bird area and part of it is a Special Protection Area.

13.9.2. It is an objective to maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in Baldoyle Bay SAC, which is defined by the following list of attributes and targets:

Target 1 - The permanent habitat area is stable or increasing, subject to natural processes (409 hectares).

Target 2 - Conserve the following community types in a natural condition: Fine sand dominated by *Angulus tenuis* community complex (257ha); and Estuarine sandy mud with *Pygospio elegans* and *Tubificoides benedii* community complex (152 ha).

13.9.3. The NIS also acknowledges that Baldoyle Bay SAC is designated for three Qualifying Interest coastal saltmarsh habitats which are found in close association with each other. These are Salicornia and other annuals colonising mud and sand (1310); Atlantic salt meadows (*Glauco-Puccinellietalia maritima*) (ASM) (1330); and Mediterranean salt meadows (*Juncetalia maritimi*) (MSM) (1410). The target is to maintain/restore the favourable conservation condition of these saltmarsh habitats, and that there should be no decline or change in their distribution, unless it is the result of natural processes, including erosion, accretion and succession. The attributes, measures, and targets for the conservation objectives are common and can be collectively summarised as follows:

| Attribute | Measure | Target |
|-------------------------------------|---------------------------------------|--|
| Habitat area | Hectares | Area stable or increasing, subject to natural processes, including erosion and succession |
| Habitat distribution | Occurrence | No decline, or change in habitat distribution, subject to natural processes |
| Physical structure: sediment supply | Presence/absence of physical barriers | Maintain, or where necessary restore, natural circulation of sediments and organic matter, without any physical obstructions |

| | | |
|---|---|--|
| Physical structure: creeks and pans | Occurrence | Maintain creek and pan structure, subject to natural processes, including erosion and succession |
| Physical structure: flooding regime | Hectares flooded; frequency | Maintain natural tidal regime |
| Vegetation structure: zonation | Occurrence | Maintain the range of coastal habitats including transitional zones, subject to natural processes including erosion and succession |
| Vegetation structure: vegetation height | Centimetres | Maintain structural variation within sward |
| Vegetation structure: vegetation cover | Percentage cover at a representative number of monitoring stops | Maintain more than 90% of area outside creeks vegetated |
| Vegetation composition: typical species and subcommunities | Percentage cover | Maintain the presence of species-poor communities listed in SMP (McCorry and Ryle, 2009) |
| Vegetation structure: negative indicator species- Spartina anglica | Hectares | No significant expansion of common cordgrass (<i>Spartina anglica</i>), with an annual spread of less than 1% |

13.9.4. The applicant's NIS also provides a detailed description of Baldoyle Bay SPA. It is an important site for wintering waterfowl, providing good quality feeding areas and roost sites for an excellent diversity of waterfowl species. It supports an internationally important population of Light-bellied Brent Goose and has a further five species with nationally important populations: Shelduck, Ringed Plover, Golden Plover, Grey Plover, and Bar-tailed Godwit. All 6 species are SCIs for the site, along with Wetland & Waterbirds.

13.9.5. The conservation objectives for Baldoyle SPA aim to maintain the favourable conservation condition of the waterbird SCI species. In summary, the following is required to be 'favourable':

- The long-term population trend for each species of waterbirds should be stable or increasing. Populations should not decline by 25% or more.
- There should be no significant decrease in the range, timing or intensity of use of areas by the waterbird species of Special Conservation Interest, other than that occurring from natural patterns of variation.

13.9.6. Factors that can adversely affect the achievement of this objective, including displacement and/or reduction in numbers, include:

- Habitat modification: Activities that modify discreet areas or the overall habitat(s) within the SPA in terms of how one or more of the listed species use the site (e.g. as a feeding resource).
- Disturbance: Anthropogenic disturbance that occurs in or near the site and is either singular or cumulative in nature.
- Ex-situ factors: Significant habitat changes or increased levels of disturbance.

13.9.7. It is also an objective to maintain the favourable conservation condition of the wetland habitat at Baldoyle Bay SPA. To be 'favourable', the permanent area occupied by the wetland habitat should be stable and not significantly less than the area of 263 ha, other than that occurring from natural patterns of variation.

13.9.8. It is noted that the maintenance of the 'quality' of wetland habitat lies outside the scope of objectives for the Wetlands Habitats. However, for the waterbird species of Special Conservation Interest, the scope of the conservation objectives covers the need to maintain, or improve where appropriate, the different properties of the wetland habitats contained within the SPA.

13.9.9. Table 10 of the applicant's NIS addresses the potential for effects on the qualifying interests and conservation objectives of European Sites. As previously outlined, it acknowledges the potential for construction and operational stage impacts to result in the pollution of watercourses and the surface water drainage system, which are hydrologically linked to Baldoyle Bay SAC/SPA. The sources of such potential impacts would include dust, surface water runoff, concrete/cement products, silt, site

clearance, reprofiling and dewatering of foundations, plant and machinery, temporary storage of construction materials/soils, oils, fuels and chemicals, material exportation, the use of haul roads, and contaminated wastewater from onsite toilets.

13.9.10. I would concur that these effects are likely to be localised in nature. However, without the presence of mitigation measures there is a potential for downstream effects if significant quantities of pollution or silt were introduced into the attenuation pond, leading to the Baldoyle Bay SAC/SPA. For the SAC site, the nature of the potential effects and the presence of saltmarsh at the mouth of the Mayne River, there is potential for impacts on the attributes of all QI habitats. In relation to the SPA site, birds could potentially use the attenuation pond and be impacted, and significant quantities of silt could impact on the infauna and diet of birds within the SPA and the Wetlands. This could affect the distribution and range, timing and intensity of use of areas of the SPA for the SCI species, as well as the Wetlands.

13.9.11. The NIS contends that the effects would not be significant due to the presence of the existing pond on site with a sediment forebay. However, adopting the precautionary principle it proposes mitigation measures that will be carried out to ensure that no silt or pollution enters the Mayne River from the construction or operation phases of the proposed project.

13.9.12. Mitigation measures are outlined in the Construction Surface Water Management Plan ('SWMP) and Outline Construction Environmental Management Plan (OCEMP) accompanying the NIS. These include but are not limited to measures to address the potential for dust, surface water runoff, and contaminated materials from site entering the attenuation pond and ultimately the Mayne River which leads to designated sites. An ecologist will be appointed to monitor the mitigation measures on site. In summary, measures include the following:

- A pre-construction assessment will be carried out to identify and address areas of concern at the earliest possible stage.
- Stabilised entrance ways and wheel washes will be established.
- The material to be excavated from site will be managed, moved, and stored in such a manner to minimise potential for dust and sun-off to the receiving environment.

- On the site, a site drainage and protection system will be built to reduce run-off from the site, prevent soil erosion, and protect water quality.
- Measures will be put in place to prevent accidental construction releases including concrete run-off, fuel, and other chemicals.
- Surface water treatment and discharge measures will be implemented to protect the drainage system and watercourses. These include temporary construction phase measures until the permanently attenuated surface water drainage system of the proposed site is complete.
- Foul water and onsite sanitation facilities will be established.
- Regular monitoring and maintenance of surface water measures and other mitigation measures will be carried out.
- Site activities will be managed, including access/traffic, excavation, and materials storage. Measures such as dust control will be implemented to protect air quality.

13.9.13. For the operational phase of the development, the NIS contends that there is limited potential for site activities to impact on the geological and hydrogeological environment of the area. However, it states that hydrocarbon interception will be put in place, and I note that comprehensive measures have been included to manage and treat surface water associated with the operational phase of the development.

13.9.14. I have reviewed the proposed mitigation measures alongside consideration of the site-specific conservation objectives and potential impacts upon these objectives. I am satisfied that with the incorporation of the described mitigation, the surface water impacts for the construction and operational stages of the project would not adversely affect the integrity of Baldoyle Bay SAC or Baldoyle Bay SPA.

13.9.15. At AA Screening stage, I also identified the potential for disturbance impacts for SCI waterbird species of the Baldoyle Bay SPA at construction and operational stage, particularly in relation to noise, lighting, and human activity.

13.9.16. The applicant's NIS addresses the potential for construction noise impacts, noting that the maximum likely distance at which disturbance will impact SCIs from the Baldoyle Bay SPA is 300m (Cutts et al., 2013), whereas the application site is at a greater separation distance (i.e. 550m). The NIS also refers to noise level studies at the Pyewipe mudflats during piling for the new Grimsby River Terminal

(Postlethwaite and Stephenson, 2012) and subsequent comment by RPS (2018), which indicates that construction noise would have only limited and temporary effects. I note that ex-situ Brent Geese foraging has been identified to the southeast of site (within 300m). However, the use of this foraging area would be limited to occasional and temporary periods, which would be unlikely to significantly interact with the temporary construction noise impacts. Therefore, I do not consider that construction noise would adversely impact on the integrity of the SPA, including its SCIs.

- 13.9.17. In relation to noise, lighting and human activity disturbance at operational stage, I would accept that the proposed development would effectively consolidate the existing interface between the built-up edge of the city and the Baldoyle Bay SPA. In this context, it is likely that habituation would occur to this new source of disturbance given that the SCIs of the SPA are already accustomed to the disturbance associated with Baldoyle village and surrounding housing developments. Therefore, I am satisfied that any additional noise and lighting would be consistent with the existing and emerging environment and would not have any adverse impacts on the integrity of European Sites.
- 13.9.18. Although not specifically raised in this case, I note that the issue of cumulative human activity disturbance of the SPA and ex-situ habitats was raised in a previous case (ABP Ref. 311016) under which the Board decided to grant an SHD permission on the GA3 lands to the west. In that case the Council's Bio-Diversity Officer raised concerns about timing and the need to deliver the Racecourse Park as a mitigation measure for the pressure experienced at ex-situ amenity grassland feeding grounds for Brent Geese (at Red Arches Road and Seagrange Park).
- 13.9.19. I would acknowledge the intended function of Racecourse Park as an ecological buffer zone. In this context, it has the potential for positive in-combination effects with the proposal, i.e. the new park would provide significant additional recreational space that would ease the pressures currently placed on the SPA and ex-situ amenity grassland. However, I do not consider it to be a mitigation measure which would be necessary to prevent adverse impacts on the integrity of European Sites as a result of the proposed development. Consistent with the NPWS recommendation on the previous SHD case (ABR Ref. 311016-21), I would accept that human disturbance impacts on the SPA would not be significant. As recommended as a precautionary

approach by the NPWS in that previous case, I consider that a more proportionate mitigation response would be the rection of signage at existing amenity areas to inform users and discourage disturbance until the new park is operational. Such signage is seen as a measure to reduce the impact of human disturbance on SCIs of the SPA that use existing amenity land for grazing during high tide.

13.9.20. Observers have also raised concerns that flight paths for protected species would be interrupted, and increased bird strikes would result from the taller buildings proposed. Again, this issue was raised in the previous application (ABR Ref. 311016-21). And while the NPWS did not make a submission on the current application, it did make a submission on the matter in ABP Ref. 311016-21 and was satisfied that these issues can be addressed by mitigating planning conditions.

13.9.21. In that submission, the NPWS noted considerable usage by Baldoyle Bay SPA species of areas adjacent to the development site. In particular, flocks of the light-bellied brent geese were found to be using areas of grassland close to the development site for grazing and flight movements across the development site were also recorded, as is the case in the current application. The NPWS highlighted the likelihood of flight path interruption and collision potential despite birds such as the Brent Geese being able to navigate the present Dublin skyline relatively successfully. It stated that aspects of the proposed scheme such as tall buildings close to an SPA, and particularly those buildings with windows positioned so as to provide apparent 'fly-through' opportunities, appear to constitute a definite potential collision risk for birds, including references to recent research on this matter. It presented solutions to address the exterior glazing, balcony railings, 'fly-through' conditions, and green walls/terraces. I am satisfied that these detailed mitigation measures would adequately protect any impacts on the flight paths of SCI species and would ensure that the proposal would not adversely affect the integrity of the Baldoyle Bay SPA.

13.10. In-Combination / Cumulative Impacts

13.10.1. I have previously outlined the nature and extent of other relevant plans and projects in the area, and I note the location of the proposed development in the context of the broader urbanisation of lands as part of the expansion of Dublin City and its hinterland. The footprint of this expansion is planned for under the Fingal County Development Plan 2017-2023 and Baldoyle – Stapolin Local Area Plan 2013, both of

which were also subject to Appropriate Assessment and consideration of the impact of identifying sites suitable for development in the County, including in and around Baldoyle.

- 13.10.2. I have also considered the pressure on wastewater treatment facilities and specifically the Ringsend Waste Water Treatment Plant (WWTP), with no significant effects anticipated on Natura 2000 sites. I am satisfied that the NIS has appropriately considered the issue of flood risk and that surface water drainage proposals will be in accordance with the Greater Dublin Strategic Drainage Study.
- 13.10.3. Given the nature and scale of the proposed development and other permitted developments in the area, together with mitigation measures incorporated into the proposed development and other approved plans and projects in the area, I am satisfied that, subject to conditions, the proposed development is not likely to lead to any cumulative impacts on the integrity of the Baldoyle Bay SAC or Baldoyle Bay SPA sites when considered in combination with other developments.

13.11. AA determination - Conclusion

- 13.11.1. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.
- 13.11.2. Having carried out screening for Appropriate Assessment of the proposed development, it was concluded that likely significant effects on the Baldoyle Bay SAC (000199) and Baldoyle Bay SPA (004016) could not be ruled out, due to the hydrological (surface water) links between the application site and the European Sites; the potential for construction disturbance impacts; the potential for disturbance impacts associated with increased human activity, including those on ex-situ sites; and the potential for the obstruction of flight paths and increased bird strikes. Consequently, an Appropriate Assessment was required to assess the implications of the project on the qualifying features of those sites in light of their conservation objectives.
- 13.11.3. Following an Appropriate Assessment, it has been determined that, subject to mitigations measures and planning conditions, the proposed development, individually or in combination with other plans or projects would not adversely affect

the integrity of the European sites, the Baldoyle Bay SAC (000199) and Baldoyle Bay SPA (004016), or any other European site, in view of the sites Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed project, both alone and in combination with other plans and projects, and there is no reasonable scientific doubt as to the absence of adverse effects.

14.0 Recommendation

Having regard to the foregoing, I recommend that permission be **refused** for the proposed development for the reasons and considerations set out hereunder.

15.0 Recommended Draft Board Order

Planning and Development Acts 2000 to 2022

Planning Authority: Fingal County Council

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 5th day of April 2022 by Lismore Homes Ltd., care of Kieran O'Malley & Co. Ltd. Town Planning Consultants, Saint Heliers, Stillorgan Park, Blackrock, Co. Dublin.

Proposed Development comprises of the following:

The development will consist of the construction of 1,007 apartments (consisting of 58 no. studio units (38.1 – 52.3 sq.m.), 247 no. 1 bedroom units (48.9 – 79.7 sq.m.), 94 no. 2 bedroom 3 person units (67.3 – 80.42 sq.m.), 563 no. 2 bedroom 4 person units (77.7 – 106.1 sq.m.), and 45 no. 3 bedroom units (93.5 – 130.66 sq.m.), 6 no. communal residential community rooms, and a ground floor creche in 16 no.

buildings with heights varying from 4 to 12 storeys, basement and surface level car parking, secure bicycle parking, landscaping, water supply connection at Red Arches Road, and all ancillary site development works on a c. 6.1 hectare site as follows:

1. The proposed residential development will consist of 1,007 no. residential apartments (58 no. studio units, 247 no. 1 bedroom units, 94 no. 2 bedroom 3 person units, 563 no. 2 bedroom 4 person units, and 45 no. 3 bedroom units as follows:
 - Block 1, sector 6A/6B, 5 storey building with 59 no. apartments with balconies and solar panels at roof level
 - Block 2, sector 6A/6B, 5 storey building with 39 no. apartments with balconies and solar panels at roof level
 - Block 3, sector 6A/6B, 5 & 6 storey building with 63 no. apartments with balconies and solar panels at roof level
 - Block 4, sector 6A/6B, 6 storey building with 47 no. apartments with balconies and solar panels at roof level
 - Block 5, sector 6A/6B, 5 storey building with 39 no. apartments with balconies and solar panels at roof level
 - Block 6, sector 6A/6B, 5 storey building with 39 no. apartments with balconies and solar panels at roof level
 - Block 7, sector 6A/6B, 5 & 6 storey building with 49 no. apartments with balconies and solar panels at roof level
 - Block 1, sector 7, part 5, 6, 7 & 11 storey building with 98 no. apartments with balconies and solar panels at roof level
 - Block 2, sector 7, part 5, 7, 9 & 12 storey building with 125 no. apartments with balconies and solar panels at roof level
 - Block 3, sector 7, part 5, 6, 7, 8 & 10 storey building with 110 no. apartments with balconies and solar panels at roof level

- Block 1, sector 8A, part 5, 6, 7 & 11 storey building with 131 no. apartments with balconies and solar panels at roof level
 - Block 2, sector 8A, 5 storey building with 13 no. apartments with balconies and solar panels at roof level
 - Block 1, sector 8B, part 5, 6 & 11 storey building with 96 no. apartments with balconies and solar panels at roof level
 - Block 2, sector 8B, 6 & 7 storey building with 29 no. apartments with balconies and solar panels at roof level
 - Block 1, sector 8C, part 4, 5 & 8 storey building with 48 no. apartments with balconies and solar panels at roof level
 - Block 2, sector 8C, 4 & 5 storey building with 22 no. apartments with balconies and solar panels at roof level
 - 6 no. Communal Residential Community Rooms/Facilities of c. 547 sq.m. located at ground floor level in Block 7 (sector 6A/6B), Block 2 (sector 7), Block 2 (sector 8A), and Block 1 (sector 8B), and external communal amenity space of c. 1.62 ha. provided at ground level throughout the scheme.
2. A ground floor crèche (gross floor area of 800 sq.m.) with dedicated outdoor play area of c. 208 sq.m. is proposed at Block 1, Sector 8A with 14 no. dedicated crèche car parking spaces.
 3. A total 743 no. car parking spaces are proposed at basement level (605 no. spaces) and at surface level (138 no. spaces including 14 no. crèche car parking spaces) and 1,754 no. bicycle parking spaces for residents and 500 no. bicycle spaces for visitors are proposed in covered and secure parking facilities at ground level throughout the scheme.
 4. Upgrade the public watermain for c. 170 metres along Red Arches Park to connect to the existing watermain at Red Arches Road as required by Irish Water.
 5. Pedestrian, cyclist, and vehicular access will be provided at Red Arches Park, Stapolin Avenue, Ireland's Eye Avenue, and Stapolin Way.

6. The development will also provide for all associated ancillary site development infrastructure including: ESB sub-stations, bin stores, plant rooms, public lighting, new watermain connection to the south at Red Arches Road, foul drainage to the pumping station at Stapolin Haggard, and surface water drainage to the west at GA3; roads and footpaths; landscaping; and all associated site development works necessary to facilitate the proposed development.

The proposed development will integrate with the permitted Strategic Housing Developments at the GA1 lands to the south (ABP ref. TA06F.310418) and GA3 lands to the west (ABP ref. TA06F.311016) for which an overall total of 2,202 residential units were approved by An Bord Pleanála.

Decision

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

Matters Considered

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

Reasons and Considerations

1. The site is within and adjoining a designated 'Highly Sensitive Landscape' as per the Fingal County Development Plan 2017-2023, wherein Objective NH36 and Local Objective Point 95 aim to ensure that new development does not impinge in any significant way on the character, integrity, distinctiveness, and scenic value of such areas, including the Greenbelt to the north of the site. Having regard to the massing and height strategy proposed, the Board considers that the proposed

development would result in an excessive scale, bulk, and massing of development at the interface with the Greenbelt, would fail to appropriately integrate with the surrounding landscape character and public realm, and would be seriously injurious to the visual amenity of the area. Furthermore, the design, layout, height, and massing of the proposed development fails to appropriately incorporate the 'green routes' and public spaces through the site in accordance with the requirements of the Baldoyle-Stapolin Local Area Plan 2013 (as extended to May 2023), and the proposal would not, therefore, provide an acceptable contribution to place-making, appropriately respond to the surrounding natural environment, or provide appropriate legibility through the site and wider urban area. Therefore, the height and density of the proposed development would not be justified under the criteria set out in Section 3.2 and Specific Planning Policy Requirement 3 of the Urban Development and Building Heights Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Objectives DMS57A and DMS57B of the Fingal County Development Plan 2017-2023 require that a minimum 10% of a proposed development site area be designated for use as public open space. Notwithstanding the applicant's contentions regarding the delivery of public open space on lands outside the site, the Board is not satisfied that the proposed development meets the requirements of these objectives. The development is therefore considered to materially contravene the development plan in relation to the provision of public open space to serve the proposed apartments. This issue has not been addressed in the applicant's Material Contravention Statement and the subject application, therefore, does not meet the requirements of section 8(1)(a)(iv)(II) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended). The Board, therefore, cannot invoke section 37(2)(b) of the Planning and Development Act 2000 (as amended) and is precluded from granting permission.

Stephen Ward
Senior Planning Inspector
9th March 2023