



An
Bord
Pleanála

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

Inspector's Report ABP-313223-22

Strategic Housing Development	Demolition of the existing buildings, construction of 146 no. apartments, creche and associated site works.
Location	The Lord Mayor's Public House, Main Street, Swords, Co. Dublin. (www.lordmayorshd.ie)
Planning Authority	Fingal County Council.
Applicant	Jacko Investments Limited.
Prescribed Bodies	<ol style="list-style-type: none">1. Irish Water2. Inland Fisheries Ireland3. Transport Infrastructure Ireland4. Department of Housing, Local Government and Heritage

Observer(s)

1. Alan and Emir Higgins
2. Ann Graces
3. Ciara O'Reilly
4. Ciaran O'Kelly and Dorone Paris
5. Darragh Butler and Brigid Manton
6. Dean Mulligan
7. Fiona and Gerard O'Reilly
8. Garrett O'Brien
9. Gary and Oonagh Cronin
10. George Mongey
11. John and Catherine Orohoe
12. John Drinane and Swords Malahide Residents
13. Ken Duffy and Swords Tidy Towns
14. Laura Farrell
15. Michael Thomas
16. Niall and Roberta O' Connor
17. Pat Cregg
18. Philip Maguire
19. Phylis O' Brien
20. Shane Egan LM SHD Working Group
21. Yvonne Doherty Rathbeale Residents Association.

Date of Site Inspection

04.01.2023

Inspector

Mary Mac Mahon

Contents

1.0 Introduction	5
2.0 Site Location and Description.....	5
3.0 Proposed Strategic Housing Development.....	6
4.0 Planning History.....	8
5.0 Section 5 Pre Application Consultation.....	9
6.0 Applicant’s Statement of Response.....	12
7.0 Relevant Planning Policy.....	13
8.0 Applicant’s Statement of Consistency.....	261
9.0 Applicant’s Statement of Material Contravention.....	30
10.0 Third Party Observations	34
11.0 Prescribed Bodies	42
12.0 Planning Authority’s Submission.....	34
13.0 Assessment.....	841
14.0 Appropriate Assessment.....	72
15.0 Environmental Impact Assessment.....	80
16.0 Recommendation.....	84
17.0 Reasons and Considerations.....	84
18.0 Conditions.....	91
Appendix 1: EIA Screening Determination for Strategic Housing Developments....	104

1.0 Introduction

- 1.1 This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. This application for the demolition of the existing public house on site and construction of 146 no. apartments, 5 no. commercial units and creche. It is the second SHD application on the site following refusal of permission on 28.07.2020 for 172 no. apartments, a creche and commercial unit. That application was refused for reasons of flood risk, appropriate assessment and preservation of views to St. Columba's Church and Round Tower, the need for public open space onto Main Street and the creation of a linkage from Main Street to Ward River Valley Park and satisfactory interface with Church Road.

2.0 Site Location and Description

- 2.1 The site is located near the southern end of Main Street, Swords. It is west of the Pavillions Shopping Centre, which is east of the R132 was identified as a Metro Stop for the permitted Metro North. The site is roughly triangular in shape, bordered by Main Street, Forest Road and Church Road. The Glebe Stream flows through the site, close to the boundary Church Road. There is a historic water pump in front of the property on Main Street. The area is largely commercial onto the Main Street, but Forest Road and Church Road is largely residential.
- 2.2 The area of the site is circa 1.53 ha (circa 0.1ha is in the ownership of Fingal County Council). It is occupied by the Lord Mayor's Public House (a thatched building), and an off-licence within two buildings (both businesses are closed). The buildings are part single, two and three storey in height (but read as two storey and single storey from the street). There is a car park to the rear and adjacent area of open space. There are circa 70 car parking spaces on site at present, which is entered from Church Road. Church Road is a narrow road, which drops down before rising again, crossing the River Ward. The Cooldrinagh Court apartment buildings, which is three storey over basement is opposite the site to the east. That building is a local landmark, with a tower and

turret as it faces onto Main Street. The site falls to the rear, in a western and northerly direction, as it falls towards the Ward River and associated park. The Glebe Stream runs along the road frontage on the eastern side of the site, before entering the Ward River. The Ward River is a tributary to the Broad Meadow River, which flows into the Malahide Estuary.

- 2.3 Further north, on Brackenstown Road, St. Columba's Church, Medieval Tower and Round Tower are situated on high ground, some 150 metres from the site. These are Protected Structures and Recorded Monuments.
- 2.4 The western end of the site connects to Bells Lane, a narrow metalled lane. The western end of the site connects into The Ward River Valley Park. The site falls from circa 25.29 m OD at the junction with Forest Road / Dublin Road to 18.15m OD to the north on Church Road. Adjoining Bells Lane, the ground levels change between 24.15 to 18.45 m OD.
- 2.5 The area is well served by Dublin Bus and local Swords public transport services. It adjoins a Quality Bus Corridor. A Metrolink stop is planned for circa 500 metres to the southeast, but is not due to operation until 2035.

3.0 Proposed Strategic Housing Development

- 3.1 The proposed development includes the demolition of the public house, restaurant, off-licence and construction of a residential development of 146 no. apartments, 4 no. retail units, cafe and creche, 2 no. basements, in four blocks, ranging in height from four to six storeys. The unit mix is 69 no. one bedroom units, 68 no. two-bedroom units and 9 no. three bedroom units.
 1. Community facilities include gym, cinema room and communal store rooms. Communal open space is stated as 3,551 square metres. Public open space is stated as 2,041 square metres.
 2. 109 no. car parking spaces (including 5 car share spaces), 6 no set down spaces and 332 no. bicycle spaces are provided in the basement. 56 no. bicycle spaces are provided at surface level.
 3. 5 no. commercial units (746 square metres in total) are at basement/ground floor level.

4. The Glebe Stream is to be diverted and an NIS has been submitted.

3.2 The key parameters are set out below:

Parameter	Site Proposal
Application Site	1.53 ha gross (1.4 ha excluding lands in FCC ownership. 1.2 ha zoned MC and 0.2 zoned HA)
No. of Units	146 no. residential units (464 bedspaces)
Density	Net c. 122 units per hectare (based on MC zoned lands only)
Site Coverage	27% on net area.
Dual aspect	Stated to be 50%
Other Uses	5 retail/commercial units (c.746 m ²) and creche (424 m ²)
Car Parking	Basement: 109 spaces with 6 no. set down only
Bicycle Parking	Basement: 332 Surface: 56
Vehicular Access	Church Road
Part V (applies to BTR element)	15 no. units
Public Open Space	2,041m ²
Communal Open Space	3,551m ²
Communal Facilities	Communal gym, cinema (300m ²), communal storage (158m ²)

3.4 The Residential Unit mix is as follows:

Table1: Residential Unit Mix

Unit Type	1 bed	2 bed	3 bed	Total
Apartment	69	68	9	30
% Total	47%	47%	6%	100%

4.0 Planning History

4.1 **ABP306771-20** – Planning permission refused for an SHD application by An Bord Pleanála for the demolition of the buildings and structures on site and construction of 172 no. residential units, in four no. blocks, four to seven storeys in height over basement. Two no. commercial units and a creche.

4.2 Three reasons for refusal were given. These are:

1. The Board is not satisfied, in light of potential flood risk, and on the basis of the information provided with the application, including the Natura Impact Statement, that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of European sites Malahide Estuary Special Protection Area (site code 004025) and Malahide Estuary Special Area of Conservation (site code 000205), in view of the sites' conservation objectives. In such circumstances the Board is precluded from granting permission.
2. Having regard to the use of a bespoke river flood model rather than the Office of Public Works Fingal East Meath Flood Risk Assessment and Management Study (FEMFRAMS) model in the Site Specific Flood Risk Assessment submitted with the application, to the location of all of Block B and part of Block A within flood Zones A or B as per FEMFRAMS mapping, and to the extent of the differences in design flows between the FEMFRAMS and the Site Specific Flood Risk Assessment, the Board is not satisfied that the proposal has been subject to an appropriate flood risk assessment that

would satisfy criterion number 2 of the Justification Test for development management set out in section 5.15 of the Planning System and Flood Risk Management Guidelines issued by the Department of the Environment, Heritage and Local Government in November 2009. A grant of permission would, therefore, be contrary to those guidelines and would be contrary to the proper planning and development of the area.

3. It is considered that the proposed development does not achieve several key objectives of the Swords Masterplan 2009, with specific reference to:

the preservation of views from Swords Main Street of St. Columba's Church and Round Tower to the north of the site,

a successful interaction with Swords Main Street and the creation of a public space at this location, and

the creation of a linkage from Swords Main Street to Ward River Valley Park.

In addition, due to its design and layout at the northern end of the site, the development does not achieve a satisfactory interface with the Ward River Valley Park and, due to its design, does not achieve a satisfactory interface with Church Road. The development would, therefore, be contrary to the proper planning and sustainable development of the area.

- 4.3 A number of other planning applications were made on the site relating to the use of the site as a public house. It is not considered that these applications are relevant to the proposed development.

5.0 Section 5 Pre Application Consultation

- 5.1 A pre-application consultation meeting was held on 17th November 2021. The agenda was focused on 7 items. These were:

- Conservation impact assessment, visual assessment, location of the site and Swords Masterplan 2009;
- Design and layout;
- Traffic and Transport, including link road;
- Impact on residential amenity;

- Flood risk assessment;
- Ecological issues;
- Any other matters.

5.2 An Bord Pleanála issued an opinion that the proposed development constituted a reasonable basis for an application.

5.3 In relation to specific information to be included in an application, 8 items were identified. These were:

Item 1: Further consideration and justification for the impact of the proposed development on the character and setting of those buildings of conservation interest, in the vicinity of the site. The documentation should demonstrate that the proposed development would not have an adverse impact on the architectural heritage to the north of the site or prevent the delivery of the Swords Town Centre Masterplan. In this regard, the Conservation Impact Assessment shall be accompanied by CGIs/visualisations/3D digital modelling and cross section drawings showing the works required on the site, the proposed development relative to existing and proposed developments in the vicinity, including justification for the height and location of the proposed buildings relative to the surrounding area.

Item 2: A Taking in Charge Map.

Item 3: A Social Infrastructure Audit.

Item 4: A detailed landscaping plan clearly illustrating the quantum and functionality of all areas designated for communal and public open space. The landscaping details shall include, inter alia, designated communal open space, the inclusion of useable space for play provision necessary to comply with Section 4.13 of the *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities* and the design, a detailed tree survey and proposed tree planting scheme and shall clearly indicate the quantum and designated areas of useable public open space. The treatment of the interface with the Ward Valley Regional Park shall be clearly detailed and

cross-section drawings shall illustrate the works proposed within the applicant's site and Fingal County Council Lands.

Item 5: An updated Sunlight/Daylight/Overshadowing analysis showing an acceptable level of residential amenity for future occupiers and existing residents, which includes details on the standards achieved within the proposed residential units, in private and shared open space, and in public areas within the development and in adjacent properties. This report should address the full extent of requirements of BRE2009/BS2011, as applicable.

Item 6: An updated Site-Specific Flood Risk Assessment (SSFRA) clearly illustrating all necessary works required to ensure the proposed development can adequately address any impact on flood risk on the site or lands in the vicinity of the site. In this regard, all alterations to the river profile shall be clearly illustrated and include comparisons from the existing and proposed scenario.

Item 7: Updated plans and particulars of the swale proposed at the rear of building C, *inter alia*, the design, treatment and functioning as a SuDS feature and an amenity area

Item 8: The information referred to in article 299B(1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018, unless it is proposed to submit an EIAR at application stage.

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

- Transport Infrastructure Ireland,
- National Transport Authority,
- Irish Water,
- The relevant Childcare Committee,
- Minister for Culture, Heritage and the Gaeltacht (archaeology, architectural heritage and nature conservation),

- The Heritage Council (archaeology, architectural heritage and nature conservation),
- An Taisce - the National Trust for Ireland (archaeology, architectural heritage and nature conservation),
- An Comhairle Ealaíon,
- Fáilte Ireland,
- Inland Fisheries Ireland.

6.0 Applicant's Statement of Response

6.1 Hughes Planning and Development Consultants submitted a following response statement, as summarised below.

Item 1: The consultant refers the Board to the Architectural Heritage Impact Assessment by John Cronin & Associates, the Architectural Design Statement by Aughey O' Flaherty Architects and the Landscape and Visual Impact Assessment by Mitchell & Associates. These documents, which include a photographic record, assess the context of the site, the impact of the proposed development and impact on architectural heritage. The findings confirm that while views are altered, there is no impact on the built heritage north of the site or on the architectural character of Main Street. Photomontages, CGIs and cross-sections are included to justify the height of the proposed development.

Item 2: A Taking-in-Charge Map is provided, prepared by Aughey O' Flaherty Architects.

Item 3: A Social Infrastructure Audit is provided, prepared by Hughes Planning and Development Consultants.

Item 4: A Landscape Design Statement and drawings are provided, prepared by Mitchell & Associates; an arborist report and drawings are provided, prepared by The Tree File Ltd.. The quantum of open space is provided. The tie-in works with the Ward River Valley Park are detailed.

Item 5: A Sunlight / Daylight /Overshadowing study is provided, prepared by IES. The report finds that the proposed development is internally and externally compliant with relevant daylight standards. A high standard of Average Daylight Factor is confirmed for 95% of residential units and another 4% achieve an Average Daylight Factor of 1.5% for combined Kitchen Living Dining rooms.

Item 6: A site specific flood risk assessment is provided, prepared by JBA Consulting, which details how flood risk is addressed.

Item 7: The swale feature has been designed as a SUDS feature, as discussed in the Engineering Services Report (CORA Consulting) and Landscape Design Report (Mitchell & Associates).

Item 8: An Environmental Impact Assessment Screening Report has been provided, prepared by Verde, which includes a Statement in accordance with Article 299B(1)(b)(ii)(C) of the Planning and Development Regulations, 2001, as amended.

7.0 Relevant Planning Policy

7.1 National Planning Framework (2018)

7.1.1 The *National Planning Framework* is the national plan that sets out the strategic path to growth and development in Ireland until 2040.

7.1.2 Relevant Policy Objectives include:

National Policy Objective 3(a): Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

National Policy Objective 3(b): To deliver at least half (50%) of all new homes that are targeted in the five cities and suburbs of Dublin, Cork, Limerick, Galway, and Waterford, within their existing built-up footprints.

National Policy Objective 4: To ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

National Policy Objective 6: Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.

National Policy Objective 11: In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns, and villages, subject to development meeting appropriate planning standards and achieving targeted growth

National Policy Objective 27: Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.

National Policy Objective 28: Plan for a more diverse and socially inclusive society that targets equality of opportunity and a better quality of life for all citizens, through improved integration and greater accessibility in the delivery of sustainable communities and the provision of associated services.

National Policy Objective 32: To target the delivery of 550,000 additional households to 2040.

National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

National Policy Objective 34: – Support the provision of lifetime adaptable homes that can accommodate the changing needs of a household over time

National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

National Policy Objective 57: Enhance water quality and resource management by ... ensuring flood risk management informs place making by

avoiding inappropriate development in areas at risk of flooding in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities...

National Policy Objective 63: Ensure the efficient and sustainable use and development of water resources and water services infrastructure in order to manage and conserve water resources in a manner that supports a healthy society economic development requirements and a cleaner environment.

7.2 Housing for All (2021)

7.2.1 This national plan aims to provide for 33,000 homes until 2030. The new housing is to be affordable, located appropriately, compliant with building standards and support climate action. Tenure is to include affordable, social, private rental and private ownership. Increasing housing supply is the most relevant to this application.

7.2.2 An adequate supply of zoned and serviced land, which is to be developed at appropriate density is critical. Sanctions are to be imposed on inactive lands that are zoned for residential development.

7.3 Climate Action Plan (2023)

7.3.1 Under this plan, district heating is to be provided for in new developments, where appropriate. Spatial and land use planning is crucial to enable transport systems that support a net-zero approach. Land use planning is to reduce or avoid the need for travel. Parking constraint measures are to be increased. Planning authorities should not require specific minimum levels of car parking, save for disabled parking. 'On demand' shared mobility services are to be encouraged.

7.4 Section 28 Ministerial Guidelines

7.4.1 Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- *The Sustainable Urban Housing: Design Standards for New Apartments, 2022.*

- *Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities, 2009.*
- *Urban Design Manual, A Best Practice, 2009.*
- *Design Manual for Urban Roads and Streets, 2019.*
- *The Planning System and Flood Risk Management Guidelines, 2008.*
- *Regulation of Commercial Institutional Investment in Housing Guidelines, 2021.*
- *Childcare Guidelines for Planning Authorities, 2001.*

7.5 Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019 – 2031 (2020)

7.5.1. The following Regional Policy Objectives are noted in particular:

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

REP 4.83: Support the consolidation of the town and village network to ensure that development proceeds sustainably and at an appropriate scale, level and pace in line with the core strategies of the county development plans

7.6 Best Practice Guidelines for the preparation of resource & waste management plans for construction and demolition projections – EPA – 2021

7.6.1 This recommends that a Resource and Waste Management Plan (RWMP) is prepared for development projects during their construction and where appropriate, deconstruction stage. The purpose is to prevent waste, reuse materials, reduce waste and better manage C&D wastes which cannot be prevented. Strategic Housing Developments are categorised as Tier 2 – larger scale projects. The guidelines set out a recommended structure for the RWMP.

7.7 Fingal Development Plan 2017-2023 (including for Variation No.s 1 and 2)

7.7.1 There are two land use zonings on the site. The main part of the site is zoned 'MC' Major Town Centre. The 'MC' land use objective is "to protect, provide for and/or improve major town centre facilities." Residential and commercial use are acceptable in principle.

7.7.2 The part of the site nearest to the Ward River is zoned 'HA' High Amenity. The 'HA' Land use objective is "to protect and enhance high amenity areas". Open space is acceptable in principle.

7.7.3 Other map based information is that part of the site is within the Zone of Archaeological Notification. There is a roads objective to the north of the site to provide a new link road from Brackenstown Road and Main Street, to eliminate the difficult junction at the bridge. An indicative cycle / pedestrian route is shown along the western boundary. There are preserved views which circle St. Columba's Church, Round Tower and Medieval Tower (protected structures 360a, 360b and 360c). 361 – Sexton's House and 359 the Old School House and the road bridge (908). over the River Ward are protected structures. There are a number of recorded monuments, including the historic town of Swords (DU011-035) and is opposite a holy well (DU011-034013). The site is located in the Dublin Airport Noise Zone D.

7.6.4 There is an objective (GIM3) to upgrade Ward Valley Park on the Green Infrastructure Map 1 and for a master plan to be prepared for the park (GIM29) on the Green Infrastructure Map 2. The park is described a Nature Development Area. The Ward River is characterised as 'Poor' Water Quality Status on the Green Infrastructure Map 3.

7.6.5 Swords specific policies include:

Objective SWORDS 2: Retain the Main Street as the core of the town centre, protect and enhance its character and ensure that any future new commercial and retail development reinforces its role as the core area of the town centre, by promoting the development of active ground floor uses and limiting the expansion of certain non-retail and inactive street frontages including financial institutions, betting offices, public houses and take aways/fast food outlets.

Objective SWORDS 4: Promote the development of lands within Swords town centre in accordance with the principles and guidance laid down in the Swords Master Plan (January 2009).

Objective SWORDS 11: Provide for a comprehensive network of pedestrian and cycle ways, linking housing to commercial areas, to the town centre and to Metro stops and linking the three water bodies (the Ward River Valley, the

Broadmeadow River Valley and the Estuary) to each other subject to Screening for Appropriate Assessment if required.

Objective SWORDS 12: Develop a 'green necklace' of open spaces which are linked to each other and to the existing town centre of Swords, as well as to new development areas, thus promoting enhanced physical and visual connections to the Ward River Valley Park and the Broadmeadow River.

Objective SWORDS 15: Develop an appropriate entrance to the Ward River Valley from the town of Swords so that access to the amenities of the valley is freely and conveniently available to the people of Swords.

Policy no. 4: Promote and facilitate the long-term consolidation and growth of the County town of Swords as provided for in the Swords Strategic Vision 2035.

Objective SS12: Promote the Metropolitan Consolidation Towns of Swords and Blanchardstown as Fingal's primary growth centres for residential development in line with the County's Settlement Hierarchy

General relevant development policies include:

Objective SS01: Consolidate the vast majority of the County's future growth into the strong and dynamic urban centres of the Metropolitan Area while directing development in the core to towns and villages, as advocated by national and regional planning guidance.

Objective PM41: Encourage increased densities at appropriate locations whilst ensuring that the quality of place, residential accommodation and amenities for either existing or future residents are not compromised.

Objective DMS170: Protect and enhance the ecological corridors along the following rivers in the county by ensuring that no development takes place, outside of urban centres, within a minimum distance of 30m from riverbank: Liffey, Tolka, Pinkeen, Mayne, Sluice, Ward, Broadmeadow, Ballyboghil, Corduff, Matt and Delvin Rivers.

Objective DMS171: Ensure that no development, including clearance and storage of materials, takes place within 10m-15m as a minimum, measured from each bank of any river, stream or watercourse.

7.6.6 The Church, Round Tower and Medieval Tower area protected structures (360a-c), as is the Sexton's House (361). The Old School House Restaurant (359) on Church Road is a protected structure. The Old Vicarage (362) is not visible from the site.

7.6.7 There are a number of Recorded Monuments – DU011-034002 to DU011-0340010, within the Church grounds. A holy well, DU011-03403, is located 15 metres from the site.

7.7 *Draft Fingal Development Plan 2023-2029*

7.7.1 For information purposes, the land use zonings are unchanged. The road objective for Brackenstown Road has been removed.

7.8 *South Fingal Transport Study 2019*

7.8.1 This report notes that Brackenstown Road to Church Road has been at overcapacity since 2016. The provision of additional capacity is recommended. The realignment and widening of the existing narrow Church Road on the western side of Main Street and creation of a junction with Brackenstown Road could achieve the additional capacity without the need to build an additional river crossing.

7.9 *Swords Castle Cultural Quarter Masterplan 2015*

7.9.1 In 2015, *Swords Castle Cultural Quarter Masterplan* was prepared. The site is outside of this area. However, the Ward River Valley Park is recognised as being a special place in Swords in the document. St. Colmcille's Well and St. Columba's Church are noted as historical special places. The site is identified as providing access to the Ward River Valley Park. A cultural quarter is identified at the junction of site. It is regarded as a gateway to Swords. Views to be protected along Church Street and from the church eastwards are identified.

7.10 *Swords Masterplan and Swords Strategic Visions 2035 (2009)*

7.10.1 The *Swords Strategic Vision 2035* was prepared as a non-statutory consultation document, to assess the development potential of the wider Swords area, in advance of Metro North.

7.10.2 The *Swords Masterplan 2009* covers *Swords Town Centre*, primarily 'MC Major Town Centre' zoned lands within the Main Street and North Street areas and the Pavilions development area. The Masterplan provides an urban design framework for the period to 2020, with detailed guidance in relation to building heights and street widths.

7.10.3 The site forms part of an area described as a cultural quarter. The location of a cultural quarter in the southern end of Main Street is intended to provide attractors at both ends of the street (the Civic offices and castle being located at the northern end). The intended uses are suggested as a town library, theatre, galleries and arts centre, with a public square at the centre. This space is intended to be large enough to cater for outdoor performance, dining and meeting space. A direct pedestrian access is proposed between the area, through the Pavilions and the Metro Quarter (some 5 minutes' walk), with linkages to the Ward River Valley Park. A significant pedestrian crossing to the Ward River Valley Park is intended. A new connection is to be created on the western side of Main Street, by way of a stepped landscape strategy or through a number of buildings. Key requirements of the Movement Strategy for this area is that an adequate pedestrian cross facility be provided from the Cultural Square to the Ward River Valley Park and ramp access of a gradient of less than 1:20 will be provided. A Ward River Place is expected to be provided with landscaping elements interwoven with well designed buildings stepping down to the park. The Cultural Square and Ward River Place will focus on the view down the Ward River Valley Park. Passive supervision of the park is to be improved. Ward River Place will provide a series of vistas into the park. Key requirements of the Public Realm are that Buildings and landscaping will be positioned to set up views and access to the park and views of St. Columba's Church and Round Tower. An indicative layout is provided but an alternative design may be pursued, providing it complies with the council's vision. Buildings on the Ward River Place will be 2-4 storeys in height and linear in their form, responding to the parkside location and to frame a view from the Cultural Square and the church and round tower. There is an opportunity create a landmark building on the Ward River Valley Park. No building should obscure

views into the park or to the church and round tower from the Cultural Quarter. The landscaping is to be publicly accessible.

7.11 Swords Masterplans 2019

7.11.1 For information purposes, the Swords Masterplans 2019 relate to the future development areas of Fosterstown, Estuary West and Barrysparks & Crowcastle and are not relevant to this site.

8.0 Applicant's Statement of Consistency

8.1 Hughes Planning and Development Consultants report is summarised below.

8.2 The pre-planning application consultation with Fingal County Council is described, with an explanation of how the design changed over the course of communication. The Tri-Partite meeting with the Board, planning authority and applicant's design team is referenced and changes made afoot of that.

8.3 The extent of community amenities area are explained - a gym of 211 sq. m., communal store rooms (158 sq.m.), cinema/playroom (89 sq.m.), 3,552 sq.m of external communal open space and 2,041 sq.m of public open space.

8.4 Contextual illustrations and visualisations are provided.

8.5 National, regional and local development plan policy are cited. *The National Development Plan 2018-2027*, which guides national investment, refers to Metrolink, to which the site is within 500 metres of. The extent of existing public transport is highlighted (8 bus routes), indicating the site's suitability for increased height and reduced levels of car parking. Other national policy documents referred to are:

- Apartment Guidelines, 2020,
- The Urban Development and Building Height Guidelines,
- Housing for All, Quality Housing for Sustainable Communities Guidelines,
- Sustainable Residential Development in Urban Areas,
- the Urban Design Manual,

- Part V,
- Childcare Facilities
- the RSES,
- DMURS
- Flood Risk Management Guidelines,
- the Fingal Development Plan 2017-2023,
- the Swords Castle Cultural Quarter Masterplan and
- the Swords Masterplan, 2009.

8.6 The statement sets out how the apartments comply with the standards set out in Apartment Guidelines, 2020. All comply with the minimum floor areas and the majority exceed this standard by more than 10%. 50.6% of units are dual aspect, in accordance with the site's suburban/intermediate location. Daylight / sunlight requirements are met. Floor to ceiling requirements are met. Private amenity space requirements are met. Communal open space is stated to be 3,551 square metres and 902 square metres is achieved. A children's play area is provided.

8.7 The statement refers to the Landscape and Visual Impact Assessment, which finds that the proposed development represents a significant change in the scale, height and quantum of buildings on the site. However, the proposed development provides new public spaces, links to the park and significantly improves the public realm. The quality of the architecture will add visual interest. The maximum height of the proposed development is distant from other buildings.

8.8 The site is a brownfield site. The proposed development will not have undue impacts on existing residential amenities. Shadows are cast onto the public realm, rather than the existing dwellings. The proposed development will have a high quality of residential amenity for future users, as assessed under the BRE Guidelines and other standards. Each apartment has its own private opens space. The provision of the public ream and the ground floor commercial units will contribute to the vitality and viability of the town centre.

- 8.9 The design of the architecture is high quality and contemporary. Uninterrupted walls are avoided and views into the central courtyard will be encouraged, while providing for sufficient surveillance. The heights of the buildings are reduced around this central area. The proposed development will be a landmark development. The use of the apartment typology is the only way of providing adequate density on this site.
- 8.9 The proposed development has been assessed specifically in relation to ecology, with an Ecological Impact Assessment, Screening Statement for Appropriate Assessment and Natura Impact Statement. Given the limited height of the proposed development, no assessment for microclimate or microwave links was necessary. The requirements of the Irish Aviation Authority will be adhered to, during construction and operation. An architect's design statement, architectural heritage and archaeology reports have been provided, as well as an Environment Impact Assessment Screening, which includes for Schedule 7 and 7A information, under the Planning and Development Regulations, 2001 as amended.
- 8.10 The proposed development will increase housing supply and are Build-To-Sell units, which will support home ownership. The site is well located with significant recreational and retail resources in the area.
- 8.11 The proposed development complies with the 12 criteria as set out in the Urban Design Manual for a quality residential development. The site responds to its context and surroundings by utilising the topography of the site, thus appearing lower when viewed from Main Street. A sensitive transition between the site and the Ward River Valley Park has been provided. The commercial units are appropriate for the town centre location. The location of the site allows for residents to benefit from public transport, walking and cycling connections. A significant community gain has been provided by directly connecting the Main Street and the park. The connection can be easily used and accessed by all. The proposed development has commercial units, a childcare facility, communal rooms and residential units and so constitutes a good mix of activities.

- 8.12 The site is appropriate for higher density and currently underused. The proposed development is laid out to ensure that the site takes advantage of its solar orientation and views. The proposed development utilises SUDS measures. The plaza and central courtyard create a new space for the town. The proposed development addresses both site frontages. The public area is appropriately surveilled.
- 8.13 Adaptability has been considered as internal walls can be modified in the future, while providing acoustic privacy. The units have been designed to the Apartment Guidelines standards. There is no direct overlooking of existing properties.
- 8.14 There is an appropriate level of car parking - 109 no. spaces for the residential development and 6 no. setdown places for the creche. 332 no residents and visitor cycle parking are provided.
- 8.15 The building materials and landscape have been considered in terms of their quality and maintenance performance.
- 8.16 A childcare facility is to be provided, which can cater for up to 141 children.
- 8.17 The proposed development conforms to the two land-use zonings which apply to the site, with uses permitted in principle on the appropriate zonings. It complies with the relevant Swords policy objectives, including the delivery of the Swords Civic and Cultural Centre, protection of the historic core, guidance in the Swords Masterplan, linking to the Ward River Valley Park and creating an appropriate entrance to the park.
- 8.18 The proposed development is compliant with development management criteria. The site is located in Zone 1, which allows for fewer car parking spaces. It supports walking and cycling as sustainable forms of transport. The apartment units comply with daylight and sunlight standards.
- 8.19 In relation to overlooking, the development plan generally requires 22 metres separation distance of first floor windows, but it allows for relaxation in built up areas on a case by case basis.
- 8.20 As regards open space, the proposed development provides 0.4352 ha of public open space. 0.5924 ha of public open space is required under the Fingal

Development Plan. Given the site's proximity to the Ward River Valley Park, it is suggested that no real shortfall exists. Furthermore, the link created with Main Street negates the need for a financial contribution, as it fulfils two key objectives for Swords in the development plan – that of providing a link to the park (Objective Swords 12 and 15).

- 8.21 A riparian strip of 22 metres to the Ward River is provided. 10 to 15 metres is required. A riparian buffer is provided to the Glebe Stream, which is an improvement on current conditions.
- 8.22 The *Swords Masterplan, 2009*, is a guidance document, which recognises that flexibility may be required to achieve the desired outcome. A small section of the site comes within the Cultural Quarter section of the plan, with the majority falling within the Ward River Valley Park area. The cultural quarter is to connect directly with the Pavilions and the park. A large public square is to be created. A new urban quarter is to be located west of Main Street overlooking the river, with shops, apartments and activities. The proposed development conforms to this.
- 8.23 The plan requires that buildings and landscaping are to be positioned so as there are views and access into the park and views of St. Columba's Church and Round Tower. No buildings are permitted in the viewshed to the church. The proposed development delivers this, albeit the footprint of the indicative buildings is different.
- 8.24 The height of the buildings is recommended as 2 to 4 storeys. However, the plan allows for alternative design, once the overall vision of the council's is delivered. The proposed development has delivered this. The topography of the site allows for taller buildings, while still reading as four storey onto Main Street.
- 8.25 It is noted that the library and civic centre, previously destined for the cultural quarter, were relocated to Swords Castle in the 2015 plan and are due to be completed by 2024.

9.0 Applicant's Statement of Material Contravention

9.1 A material contravention statement was provided by Hughes Planning and Development Consultants. A potential material contravention of public open space policy in the *Fingal Development Plan 2017-2023* was identified. The plan states that:

'sufficient quantities of open space and recreational facilities are provided for and that for all developments with a residential component, the overall standard for public open space provision is a minimum 2.5 hectares per 1,000 population. In general, this shall be provided at a ratio of 75% Class 1 and 25% Class 2 '[Class 1 open space is defined as a significant local park which provides for active recreation the form of playing fields and Class 2 open spaces are smaller and offer informal recreation and play - MMM].

9.2 Four policies were listed: Objective PM52, Objective DMS57, Objective DMS57A and Objective DMS57B.

9.3 Objective PM52 states:

Require a minimum public open space provision of 2.5 hectares per 1,000 population. For the purposes of this calculation, public open space requirements are to be based on residential units with an agreed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms. For all developments with a residential component, the overall standard for public open space provision is a minimum 2.5 hectares per 1,000 population. In order to provide existing and future communities with adequate recreational and leisure opportunities, the Council will employ a flexible approach to the delivery of public open space and more intensive recreational / amenity facilities. It is the intention of the Council, however, to ensure, except under exceptional circumstances, public open space provision exceeds 10% of a development site area.

9.4 Objective DMS57 is similar to above. Objective DMS57A allows the planning authority the discretion to use any remaining shortfalls in open space above 10% to allow the provision of parks outside the site area. Objective DMS57B

allows the planning authority the discretion to accept a financial contribution in lieu of the remaining shortfall. It states that: *Where the Council accepts financial contributions in lieu of open space, the contribution shall be calculated on the basis of 25% Class 2 and 75% Class 1 in addition to the development costs of the open space.*

- 9.5 The applicant's design team estimate that on the basis of a population of 237 persons, 0.592 ha of public open space is required. I would concur with this estimate. The statement later refers to a figure of 0.65 ha. I do not consider this correct.
- 9.6 The applicant's design team suggests that given the quality of the space being provided (0.2311 ha of Class 1 space and 0.2041 ha of Class 2 space) and that the space achieves two of the development plan objectives of Swords (Objective Swords 12 and Objective Swords 15) that no financial contribution should apply to the proposed development in lieu of public open space. The Board may consider this a material contravention of the development plan. Should the Board consider that such a material contravention arises, it can only grant planning permission having regard to the national or strategic importance of the proposed development; conflicting objective in the development plan regional policy or Section 28 guidelines; the pattern of development and permissions granted in the area since the making of the development plan.
- 9.7 In that case, the planning consultant refers to national policy to create compact, the strategic nature of the link with the Ward River Valley Park and the pattern of permissions granted in the area. An Bord Pleanála decisions are cited, which did not impose a financial contribution. These are ABP306794-20 and ABP308366-20.

10.0 Third Party Observations

- 10.1 Twenty-one no. third party submissions were received. The submissions are summarised below.

Loss of a landmark building

- 10.2 The Lord Mayor Public House with its thatched roof is a symbol of Swords and an iconic building. There is historic fabric in the building. It should be preserved.

Archaeology and Setting of National Monuments

- 10.3 The site is within 10 metres of St. Colmcille's Well and within the vista of St. Colmcille's Church and round tower. The well dates back to the 6th century. The site has been used for human habitation and human remains have been found close by. The site forms part of the setting for this historic settlement, therefore, an archaeological excavation of the site misses the point.

Impact on the Vista

- 10.4 The impact of the vista, for which the application was refused previously, remains. The visualisations are not considered to adequately reflect the proposed development. The landscaping will be altered with proposed road widening.

Swords Masterplan and Swords Strategic Vision

- 10.5 The *Swords Masterplans* (2009 and 2019) identify this area as part of a cultural quarter. A cultural use, such as a library should be found for the site. The entrance to the River Ward Valley Park has been privatised. The layout of the site does not reflect the layout shown on the masterplan documents. The focus of the area should be for tourism.

Standard of Architecture and Materials

- 10.6 The quality of the architecture is poor, presenting as monolithic, and the suggested materials do not include stone, for which the area is well known for.

Traffic

- 10.7 The proposed development is premature pending the delivery of the Metro. It has inadequate car parking. It will lead to the worsening of existing traffic congestion. The road width is inadequate. Road widening is proposed for Church Street and the proposed development is premature and make construction more difficult. There is a long term road objective that will cut through the site. Cyclepaths and footpaths are needed.

Infrastructure

- 10.8 Some 2,700 residential units have been granted in Swords in recent times. There are insufficient school places. Pipes in the area regularly cannot cope with the volume of water.

Height

- 10.9 The height of the proposed development is excessive and will block views. It will impact on the residential amenities of adjoining property. It will give rise to a poor standard of internal amenity. It materially contravenes the heights associated with the site in the Swords Masterplans, of three and four storeys.

Mix and Size of Units

- 10.10 The proposed development is dominated by one bedroom units which are small in size. A greater mix is required to enable families to live in the town. The units should be larger to cater for persons downsizing. There is a risk that in the long term, these units will become socially disadvantaged.

Overdevelopment

- 10.11 The combination of height and density will give rise to overdevelopment of the site, out of scale with the receiving environment. The proposed buildings are too close to the boundaries.

Flooding

- 10.12 The proposed development has not addressed the previous reason for refusal on flooding. The large basement will exacerbate the risk of groundwater flooding. The Glebe Stream flows into the Ward River close to this point. Road widening has also to be taken in account. The use of engineered soil to reduce stormwater runoff is not considered good practice.

River Ward Valley Park

- 10.13 The proposed development will privatise the entrance to the public park. It will negatively impact on views from the park, as the height of the proposed development is greatest from here. Increased use of the park will result in greater littering and give rise to disturbance of the flora and fauna which reside there. Rights of way to and through the park could be lost, particularly on Bells Lane.

Biodiversity

10.15 The biodiversity of the site, including bats, and its connection to the River Ward Valley Park is of considerable value. There is a direct hydrological connection to Natura 2000 sites and the Malahide Estuary. Water quality may deteriorate during construction, which has implications for the Water Framework Directive and the Urban Wastewater Treatment Regulations, as well as impacting on protected bird species.

Residential Amenity

10.16 The residential amenity of third parties has not been properly evaluated. The proposed development will give rise to overlooking of No. 2 Hill Gardens. It will be visually obtrusive and should be realigned. A reduction of at least a storey is warranted.

Petition and Survey

10.17 A submission summarised a petition and survey. The original petition was not included but the third party refers to some 2,700 signatories. A survey of 69 persons was also carried out. The issues identified reflect the issues discussed above.

Support for the Proposed Development

10.18 The use of the site for antisocial activity and the proposed development is welcomed to prevent this.

11.0 Prescribed Bodies

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

- Transport Infrastructure Ireland
- National Transport Authority
- Irish Water
- The relevant Childcare Committee

- Minister for Culture, Heritage and the Gaeltacht (archaeology, architectural heritage and nature conservation),
- The Heritage Council (archaeology, architectural heritage and nature conservation),
- An Taisce-the National Trust for Ireland (archaeology, architectural heritage and nature conservation),
- An Comhairle Ealaíon,
- Fáilte Ireland
- Inland Fisheries Ireland

11.2 The applicant notified five of the relevant prescribed bodies listed in the Board's Section 6(7) opinion. The letters were sent on the 4th of April, 2022. The Board notified the remaining prescribed bodies on 29.12.2022.

11.3 A summary of the submissions received are summarised below. The **CE Report** considered the submissions. In relation to the submission from the Department of Housing, Local Government and Heritage, it stated that it supported the report and recommendations. It requested that in the event of a grant of planning permission, that the condition suggested by the Department to retain vegetation 10 metres from the Ward River, be amended to facilitate the works for connectivity from the site to the Ward River. I consider that the finalised landscaping scheme can be agreed in writing with the council, in the event of a grant of planning permission.

Irish Water:

11.4 The proposed development is feasible without recourse to an infrastructure upgrade for both water and wastewater. Conditions are recommended.

Transport Infrastructure Ireland:

11.5 No observations to make.

Inland Fisheries Ireland:

- 11.6 The Ward River has resident salmon and sea trout populations and so is ecologically sensitive. Construction activity has significant potential to release sediments and pollutants into surrounding watercourses, without good construction practices, as outlined in the Construction Management Plan. Chapter 9 provides for monitoring of Glebe Stream / Ward River and contains mitigation measures.
- 11.7 Mitigation measures include no direct pumping of contaminated water from the works to a watercourse – dewatering of ground water should be discharged to an attenuation area first; storage and removal/disposal of excavated materials should be planned to minimise risk of pollution; drainage from topsoil storage area should be directed to the attenuation area.
- 11.8 IFI should be consulted on the realignment of the Glebe Stream. Works should be undertaken in open season (July to September), in accordance with an agreed method statement.
- 11.9 Surface water outfalls to a watercourse should also be agreed with IFI, in accordance with an agreed method statement.
- 11.10 During operation, silt traps and oil interceptors to be regularly maintained and a condition requiring the owner to enter into an annual maintenance contract is recommended.
- 11.11 All discharges shall be in compliance with the European Communities (Surface Water) Regulations 2009 and European Communities (Groundwater Regulations, 2010).
- Department of Housing, Local Government and Heritage*
- 11.12 The Department recommends archaeological excavation (preservation by record) takes place in advance of construction works. A condition is recommended.
- 11.13 In relation to nature conservation, the Department notes the location of the site 1.5 km upstream of the Malahide Estuary SAC (000205) and Malahide Estuary SPA (004025) and notes that these sites could be affected if water quality

deteriorated. The previous application was refused arising from concerns in relation to the impact on these Natura 2000 sites. More extensive works are proposed to the Glebe Stream in this application. This could give rise to sediment movement or accidental spillage of pollutants and potential pollution from construction related surface water run-off. The Department states in relation to construction on Page 3 of their submission:

“These measures include obtaining Inland Fisheries Ireland (IFI)’s approval for the instream methodologies to be employed, the carrying out of instream works ‘in-the-dry’, the diversion of surface water runoff into the foul sewer during demolition and facilitation works on site, the installation of double silt fencing along the stream and local silt traps throughout the site, as well as the storage of fuel, oils and other chemicals in bunded areas and no stockpiling of materials within 20 m of a water course. If this range of mitigation measures are fully and diligently employed during the development’s construction phase they should, as intended, prevent any detrimental impacts as result of water pollution originating from the development on biota and habitats in the Ward River and the downstream Malahide Estuary SAC and Malahide Estuary SPA including the Qualifying Interests (QIs) and SCIs for these European sites.”

- 11.14 If the proposed development is found to be vulnerable to flooding, polluting materials could mobilise, with downstream impacts on the Natura sites.
- 11.15 The proposed development will result in the removal of all dry meadow habitat, hedgerow and most trees on the site, which will result in a reduction in local biodiversity. This loss will be mitigated in the long run by the provision of bird boxes, including swift boxes, bat boxes and solitary bee habitats in the proposed development and the introduction of a pollinator friendly mowing regime in the new landscaped areas within the proposed scheme. The works must happen outside of the bird nesting season.
- 11.16 The increase in culverting of the Glebe Stream is contrary to development plan policy NH 24, which is to maintain streams in an open state. The culverting will result in the loss of stream biota. A condition is requested that the hedgerows

along the Ward River and Glebe Stream be retained. I note that the site area nearest to the Ward River is in the ownership of the council. The council will approve or otherwise the compliance submission made by the developer, in the event of planning permission. In relation to retention of hedgerows along the Glebe River, I do not consider that this possible, having regards to the construction works that would take place in the area and so recommend that a condition, that cannot be implemented, be included in the grant of permission.

11.17 Acknowledging that no bats were found following two bat surveys, and noting that the EclA notes that there are bats in the general area, the recommendations in relating to lighting should be adhered to.

11.18 The key issues are to be certain in relation that no flood risk arises during the operational phase of development and that to consider if the extent of culverting could be reduced. Conditions are recommended. I note that the previous application was refused in part due to the smaller extent of public realm in the location of where the Glebe Stream is culverted. Therefore, to provide for a larger public realm, increased culverting would appear to be unavoidable. The remaining conditions are provided for the mitigation measures for the CEMP.

12.0 Planning Authority Submission

12.1 The Chief Executive's **(CE) Report**, in accordance with the requirements of Section 8(5)(a) of the Act 2016, was received by An Bord Pleanála on the 30th of May, 2022 and a subsequent submission on 08th of March, 2023. The report includes a summary of the proposed development, description of the site and surrounding area, planning history, zoning of the site, a summary of submissions by third parties, prescribed bodies, policy context and Elected Members' views. A grant of planning permission is recommended.

12.2 Internal reports from the Water Services, Transportation Section, Environmental Department Waste Management, Parks and Green Infrastructure Division, Conservation Officer, Arts and Culture Department,

Community Archaeologist, and Architects Department. A letter confirming that the Part V proposal was received from the Housing Section is included.

- 12.3 A summary of the views of the **Elected Members** from Balbriggan/Rush/Lusk/Swords as expressed at a special meeting held on the 29th April, 2022. The elected members considered that the Lord Mayor's pub should not be demolished. There were concerns about the visualisation and landscape plan not matching. Impacts on views and Colmcille's Well, traffic, access to the park, loss of trees, viability of creche and wider footpaths required were among the issues raised.
- 12.4 The submission summarises county development plan policy and the masterplans referred to in Section 6.
- 12.5 The 'HA' portion of the site would be landscaped, remain green space and the proposed development is set back 22 metres from the river.
- 12.6 The demolition of the Lord Mayor's public house has been accepted by An Bord Pleanála in the previous application. Given national policy and the site's proximity to the future Metrolink, a large scale residential development at this location is generally acceptable, subject to detailed analysis.

Density, Height, Design and Layout

- 12.7 The net density of the proposed development is 121.6 units per hectare. The plot ratio is 1.59. Site coverage is 27%, excluding the lands zoned for high amenity and lands subject to a letter of consent (circa 1.2ha remaining).
- 12.8 The heights of Blocks B and C are considered excessive due to the site's context and historic views to be preserved and the views of River Ward Valley Park. A condition to reduce the height of these blocks is recommended.
- 12.9 The Architect's Department note that changes have been made to the design following the Tripartite meeting. Block A is prominent on Main Street. It is considered overbearing, at odds with the surrounding buildings and building lines, including 7A to the west. The building line should be pulled back, to reduce visual overbearance and to turn the corner appropriately, with sufficient pedestrian space.

- 12.10 The height and massing of Block C is not considered to respond to its location on the bank of the river, associated views and ground levels. It is not in an urban situation and the height should be reduced gradually, to reduce visual impact. The same recommendation is made for Block D. Changes in the elevational design to attune to both contexts is recommended. Further refinement of the brick façade is suggested.
- 12.11 The Architectural Conservation Officer notes that the site is within the historic core of Swords, centred around the monastic enclosure of St. Columba's Church, round tower and medieval tower – protected structures and recorded monuments. The town is predominantly low rise and the ad-hoc insertion of tall buildings within its main street has the potential to have a detrimental impact. The junction of Main Street and Church Street is the only place where all three elements are visible at street level and it is essential that the visual connection between the original core and modern core is maintained, via the openness of views.

Architectural Conservation

- 12.12 The current application has increased substantially the setback of Block B from Church Road, which is welcomed. However, the increase in height, particularly Block C is of concern. It is important that the ecclesiastic site is not subservient to the proposed development. Block C should be reduced below Block B. The photomontages (view 1 and 2) and visualisation of the intersection of Main Street and Church Street confirm this. The blocks should be stepped down in height, reflecting ground levels, rather than remaining a consistent height. The recessing of the top floor of Block C is not sufficient in relation to views towards St. Columba's. A condition is recommended. The materials of the buildings should be tonal contrasts rather than sharp contrasts.
- 12.13 The demolition of the Lord Mayor's Pub is acceptable as the original fabric has been either compromised or lost. A replacement building needs to address both elevations of Dublin/Main Street and Forest Road and to be sympathetic in scale with its neighbours. Block A remains overly dominant, with no attempt to break up the mass to be similar to plot widths. The horizontal banding serves to emphasise the scale of the proposed development. A condition is

recommended to create vertical breaks. The historic water pump and limestone water trough need to be protected against damage during construction works.

Residential Amenity

- 12.14 The proposed development provides for private open space in the form of a ground floor terrace or balcony. There is a landscaped courtyard for communal open space and a gym and cinema room.
- 12.15 The proposed development complies with SPPR1, in that less than 50% of the apartments are one bedroom units (47%). The remainder are two or three bedroom units.
- 12.16 The Statement of Consistency states that floor areas, storage and private amenity spaces meet or exceed the requirements of the Apartment Guidelines. Floor to ceiling heights are 2.7 metres at ground floor and 2.4 metres above.
- 12.17 50% of the apartments are dual aspect. The maximum numbers of apartments per core is 10 units.
- 12.18 A daylight target of 2% is found in the living/kitchen /dining rooms in 95% of cases. 99% of cases achieve 1.5%,
- 12.19 A landscape and visual impact assessment has been provided.
- 12.20 There are solar panels and green roofs on the roof. The Energy Statements shows that the apartments would have a BER rating of A2.
- 12.21 The roads and streets have been designed in accordance with *DMURS*.
- 12.22 The proposed development has been tested against the criteria set out in the *Sustainable Residential Development in Urban Areas Guidelines* for higher density developments.
- 12.23 I note that the impacts on the residential amenities of existing dwellings are not discussed in the report.

Access and Transportation

- 12.24 A Stage 1 Road Safety Audit, Traffic Assessment and Mobility Report have been submitted. Parking for the residential units is circa 104 spaces for 146 units. This equates to 55% of the minimum parking standard. There is no allowance for visitor parking. No parking is proposed for the 5 no. retail units

and creche. The creche can cater for up to 138 no. children. This would require set down parking for 8-10 vehicles and parking for staff.

- 12.25 There are 332 bicycle parking spaces, which exceeds national requirements of 305 bicycle parking spaces. However, this is not sufficient, given the low car parking space rate. The bicycle facilities are poor, not secured and lack a dedicated ramp. These need to be agreed by way of condition.
- 12.26 Access to the park includes a cycle link. The hours of access are unclear. How the link works within the overall cycle network serving Swords is unclear.
- 12.27 Details in relation to EV charging points should be provided, along with Swept Path Analysis for emergency vehicles.
- 12.28 The Traffic and Transport Assessment shows that the two junctions assessed (Brackenstown Road/ Church Road and Church Road/Main Street junctions) will exceed capacity in 2039. A new transportation link is needed between Main Street and the Brackenstown Road, as identified in the *South Fingal Transport Study*, 2019, which allows for Metrolink and Bus Connects. A setback of at least 3.25m to 9.25m is required. Church Road is to have pedestrian and cycle facilities as well as traffic calming as part of the Sustainable Swords Strategy project. The set back from Church Road does not address the provision of the Church Road upgrade in this regard. It should be incorporated into the current development, including for the realignment of Glebe Stream.
- 12.29 The development in its current format could be considered premature and the outstanding issues addressed in a revised application.
- 12.30 If granted permission, the upgrading works should be subject to condition for upgraded cycle facilities. Alternatively, a Special Section 48(2) (c) condition could be attached to the permission for the upgrade works. Some lands may have to be acquired. The planning authority considers that this could be subject to a condition.

Ecology

- 12.31 No rare plants, birds, amphibians or reptiles and no evidence of bats or badgers were found on site.

Flooding

- 12.32 A site specific flood risk was submitted. The site is at the confluence of two watercourses – the Ward River and Glebe Stream. Part of the site comes within Flood Zone B and is at risk of inundation from the 0.1 AEP of the Glebe Stream. The lower part of the site is at risk from the Ward River during the 1% and 0.1% AEP. The OPW FEM FRAM (2010) found that the site is within Flood Zone A and B.
- 12.33 In the previous application, Fingal had concerns with the reduced design flows calculated by the design team. This appears to have arisen from the use of a different Factorial Standard of Error. When the new error factor was applied, similar estimates to the FEM FRAM were found for the 1% AEP flood event for both watercourses. The FEM FRAM for the 0.1% were higher than in the report. The report states this can be attributed to the growth factors applied. It confirms that the northern boundary experiences inundations during the 1% and 0.1% AEP flood events. Overtopping occurs during the 0.1% AEP from the Glebe, but it is considered that this arises from an undersized culvert. Removal of the culvert (and two other culverts) will remedy this. The council welcome this proposal.
- 12.34 The route of the Glebe will be moved slightly to the west (2-3metres) to allow for proposed road widening at Church Road. The modification of the route does not impact on either flood extent or flood flows. The conveyancing capacity will be retained. While two culverts will be provided, they are designed to convey the flow of water without risk of surcharging. The aim is to remove the 0.1% AEP from the site. The only impact upstream or downstream is a minor decrease of 0.10m during the 0.1% AEP across the site boundary.
- 12.35 Mitigation measures include a ground floor level of 0.51m above the 0.1% AEP for Block C and appropriate levels for Blocks A and B. The report states that access and egress can be maintained during a 1% and 0.1% AEP.
- 12.36 Climate change has been allowed for and all flows remain within the channel during the tested scenarios. Culvert blockage of 66% has also been modelled. Overtopping was found, but this does not affect the residential areas of the site. The basement entrance level is above the 0.1% AEP event and pluvial risk is managed by proposed SUDS measures.

12.37 The planning authority are satisfied that as the results of the consultant's model are more in line with the data produced by FEM FRAMS, they are confident in the findings. The design flows have been significantly increased from those of the previous application and the development proposed is now an acceptable level of flood risk on the site.

Water Services and Public Health

12.38 The requirements of the Environmental Health Officer should be ascertained and implemented in relation to noise, childcare and social infrastructure.

12.39 In relation to relation to foul drainage, Block A is drained by gravity directly. Blocks B, C and D, the drainage has to be pumped to a rising main to a foul discharge manhole where it enters the public sewer by way of gravity. There is a potential noise / odour issue in relation the pump station and a 35 metre distance from residential units is recommended in the development plan.

12.40 The surface water drainage includes green roofs, swales, tree pits, permavoid 150 attenuation system and permeable paving at basement creche area. A flow control device will limit the flow to the swale to allow for temporary storage before falling to the river.

12.41 While the design appears generally acceptable, some information is missing. The attenuation capacity of the permavoid system and swale is not shown on a drawing. The tree pits and how they interact with the overall drainage system is not clear. The swale is located in the 0.1 AEP zone, while not ideal, is acceptable given space constraints on site.

12.42 Water supply is from the public network.

Open Space and Landscaping

12.43 A Landscape Design Report, arboricultural report, landscape drawings and a public lighting report have been submitted, which are acceptable in principle. Conditions are recommended.

12.44 A financial contribution is sought in lieu of public open space.

12.45 Tree protection measures, including a tree bond are recommended for condition.

12.46 A public art piece is to be agreed.

12.47 The creche is provided, in accordance with development plan policy.

Archaeology

12.48 The site lies partially within the constraint area for the historic town of Swords (DU011-035) and within 15 metres of holy well DU011034013. Test excavations was undertaken and archaeological remains were found in 7 of the 9 trenches excavated. The report recommends 'preservation by record'. [This is consistent with the **Department of Housing, Local Government and Heritage's** recommendation]. The planning authority notes that archaeological excavations on the Old School House Restaurant found 13th to 15th century levels. The eastern limit of the site is an historic townland boundary and the western limit being a mill race, indicate an extensive archaeological risk that will require time and resources to excavate and report. The proposed development will have a detrimental impact on the identified and potential archaeological features. Conditions are recommended.

Waste Management

12.49 Conditions are recommended.

Energy and building management

12.50 Conditions are recommended.

Part V

12.51 A condition is recommended.

Environmental Impact Assessment

12.52 To be decided by An Bord Pleanála.

Appropriate Assessment

12.53 To be decided by An Bord Pleanála.

Recommendation

12.54 The planning authority considers that having regard to planning policy, subject to conditions, the proposed development would not seriously injure the residential or visual amenities of the area and would be acceptable in terms of

traffic safety. Thirty-one conditions are recommended for attachment. A condition to reduce Block B by one floor in the northern end adjoining Block C and to remove two floors on Block C, with the top floor recessed is recommended.

13.0 Assessment

13.1 This application follows from a previous refusal on the site. The Board refused permission for three reasons, relating to flooding and associated impact on Natura 2000 sites; the flood risk analysis presented and failure to achieve key objectives of the Swords Masterplan. This related to the preservation of views from Main Street to St. Columba's ecclesiastical site, the lack of a public space at Main Street and the lack of a link through the site to the Ward River Valley.

13.2 The application will be assessed *de novo*, but I will set out the differences between the previous application and the current one, to ascertain whether the applicant has successfully overcome the reasons for refusal and will assess whether the current application complies with policy standards and whether any new adverse impacts arise.

Demolition of the Lord Mayor Public House

13.3 Observers have called into question as to whether the public house on site should be demolished. With its thatched roof, it is considered a landmark building within Swords. The Architectural Heritage Impact Assessment report submitted with the application finds that the building is not a protected structure or on the NIAH list. The building is described as likely to date from the nineteenth century, but probably built on an earlier building. Most of the building has been replaced, with little of the original fabric remaining. It is described as of little or no architectural heritage significance. The **CE Report** has no objections to the demolition of the building. The reasons for refusal on the previous application did not relate to the loss of the existing building. Therefore, I am satisfied that the demolition of the building is acceptable.

13.4 The **CE Report** requests that protection measures to safeguard the water pump and trough on the public pavement during construction be conditioned, should

permission be granted for the proposed development. This can be accommodated.

Principle of Development

- 13.5 The redevelopment of the subject site has been envisaged since the *Swords Masterplan* in 2009. The proposed uses are acceptable in principle under the relevant zonings. The CE Report recommends similarly. Therefore, I consider that the principle of the redevelopment of the site and the proposed uses are acceptable.

Archaeology

- 13.6 The site is partially located within the zone of archaeological potential for the historic town of Swords (DU011-035) and is opposite a holy well (DU011-034013), associated with St. Columba. The Glebe Stream flows through the site and the site adjoins the Ward River. Church Road, which bounds the site, bridges the Ward River, leading up the ecclesiastic site. The monastery was founded circa 550 AD.
- 13.7 An Archaeological Impact Assessment Report for the proposed development was prepared by Courtney Deery. They note the number of archaeological finds in the vicinity of the monastery, several holy wells and note that a burial ground was found at the site where the Pavillions Shopping Centre was constructed, dating to a similar period as the monastery. The burial ground contained 281 persons. More human remains (6 in number) were discovered 120 metres west of the site on the south bank of the river, dating between the 13th and 14th century, in 1999. In 2020, more remains were found 4 metres from the from the site. The report states that the excavation was small in area and that it is likely that there are more remains at the location.
- 13.8 The report suggests that the Glebe Stream would have provided a line of defence in earlier times.
- 13.9 Archaeological testing was carried out on site over two days. Nine test trenches were excavated. Finds were made in seven trenches. These included medieval

pottery sherds, seashells, animal bone, drainage ditch, a curving feature, linear feature and pits. The report considers that human remains may be found on site. It recommends fully excavate and 'preservation by record'

13.10 **Observers** have also expressed concern about this possibility. The site forms part of the setting for the historic settlement, so its development would seriously injure the setting.

13.11 The **CE report** states that the eastern limit of the site is a historic townland boundary and the western limit being a mill race, indicates that archaeological finds are likely that will take time and resources to excavate and report. The impact on archaeological features will be detrimental. Conditions are recommended.

13.12 The **Department of Housing, Local Government and Heritage** noted the contents of the applicants' submissions and recommend that a condition be imposed, allowing preservation by record. I would concur with these recommendations and consider the condition would be sufficient to protect the archaeological heritage of the site.

Site Layout

13.13 The extent of the site has been enlarged to the northeast from the previous application, to take in part of the Ward River Valley Park, to provide the area for an improved connection into the park. The site is extended by circa 0.13 to facilitate that connection. As the additional lands are for access reasons only, I will continue to assess the site on the basis of 1.4 ha, of which 0.2 ha are zoned for high amenity and the use of which is open space.

13.14 When comparing the site layout between the current and the previous layout, there remains four separate blocks above two basements. Block A (formerly Block D) has been reconfigured from a linear block to a more square shaped block, bringing it closer to No. 7A Forrest Road. The impact of this change on the residential amenities of this dwelling will be discussed in this at Para 13.39.

13.15 Block B (formerly Block C) has been setback from Church Road, so that its closest point to the Cooldrinagh Apartments opposite is circa 26 metres. Previously it was circa 16.4 metres. Block B was circa 82 metres long; it is currently 52.7 metres long. This is an improvement, as it breaks up the scheme. Block C has lengthened, but does not extend further than the building line of Block B. Block D (formerly Block A) has been pivoted, so as it now overlooks the link to the park and faces towards the rear garden of No. 2 Hill Gardens. This is a significant adverse change for the residents of No. 2 Hill Gardens, where previously this area was open space. I will return to this point at **Para 13.40.**

13.16 The Glebe Stream has been realigned slightly further west away from Church Road. A pedestrian / cycle footpath now extends from the plaza to the site boundary to the north at Church Road. This would provide a safe route for pedestrians and cyclists on this side of Church Road, where there are no such facilities at present. The **CE Report** considers this acceptable provides a choice of conditions in this regard in relation to implementation.

13.17 Save for the issues in relation to impacts on residential amenities, I am satisfied that the proposed development is superior in terms of site layout than the previous application.

Compatibility of the layout with Swords Masterplan 2009 / Public Realm

13.18 The Swords Masterplan envisaged the junction of Main Street / Dublin Road to form part of a cultural quarter, including large public square, which would bring people from Swords Pavillions into the town and form a counterweight to the Swords Castle area in the north. The bulk of the cultural quarter and square was to be located on the east side of the Main Street, opposite the site. There are buildings present in this location. I also note that the library previously planned for this location is now to be developed in Swords Castle. The formal square on the eastern side of Main Street is to be contrasted with the public plaza on this site, described as a 'minor public space', which buildings edge or

project into, while stepping down to the park. A ramped access to the Ward River Valley Park is to be provided, which is to be visible from the cultural quarter. A viewshed to St. Columba's to be maintained.

13.19 The **CE Report** notes that the masterplan is intended to provide direction within a changing streetscape and flexibility in relation to its interpretation is acceptable.

13.20 I note that the previous development was refused in part, on the basis of the failure to create a successful interaction with Swords Main Street, in the public realm at this location and the creation of a linkage from Main Street to the park. I consider that the proposed public plaza is significantly wider at the junction with Main Street. Two of the commercial units in Block A face onto the public plaza, as does the café unit in Block 2. The central walkway through the site to the park is significantly more generous and inviting. The route is overlooked and the elevations of Block C and D address the terraced entrance from the park. Previously, the route was tighter and was essentially a ramp down through the site. I am satisfied that these elements of the reasons for refusal no longer apply in this application and that the proposed development would not inhibit the achievement of the objectives of the Swords Masterplan in relation to the site.

Views to St. Columba's Church and Towers

13.21 One element of the reasons for refusal for the previous application was the proposed development would not preserve the line of sight between Main Street and the ecclesiastic site at St. Columba's. Block B has now been setback into the site. I note that there is a visualisation of the view of the proposed development from Main Street and St. Columba's is visible in this. The Landscape and Visual Assessment Impact Statement (LVIA) assesses the view from the churchyard, but not the view from the Main Street. Given that the views from the church grounds are the protected views, this is understandable, but

the LVIA does not address the view from Main Street to the ecclesiastic site, as indicated by **observers**.

13.22 The Architectural Heritage Impact Assessment states that the view corridor to the protected structure is achieved through the demolition of the existing single storey off-licence (when at ground level on Main Street) and the setting back of the proposed development from Church Street. Views corridors to the Ward River Park are provided to the north and west.

13.23 The **CE Report** states that the setback from Church Road has increased substantially. The Architectural Conservation Officer would prefer to see buildings concentrated in the southern part of the site and the northern part kept free of development.

13.24 I am satisfied that the proposed development would maintain the line of the views from Main Street to the ecclesiastic site, as can be seen from the proposed site plan. The view of the ecclesiastic site was practically invisible from Main Street on my site visit, due to intervening landscaping which had grown since the last application, notwithstanding that my site visit took place in wintertime. Should permission be granted for the proposed development, any planting in the buffer zone in the viewshed should be conditioned to be low growing shrubs, in my opinion.

Height

13.25 Observers refer to the Swords Masterplan suggests that the height of the buildings on this site should be of the order of 2 to 4 storeys. I note that later, the masterplan allows for an increase in height, where there is a strong urban design rationale. The limitation in height for a town centre site predates and would be contrary to the general objective in the *National Planning Framework* to achieve compact growth. The previous application was of greater height and planning permission was not refused on this ground, although the Inspector considered that the height of the proposed development did not comply with the criteria set out in the *Urban Development and Building Height Guidelines*, 2018.

The applicant’s design team have made changes to the proposed development in relation to height and have provided a Landscape and Visual Impact Assessment report.

13.26 The height of three of the blocks has been changed. It has been reduced by a floor and replaced with a setback floor on the lower height for Blocks B, C and D. Blocks B and C are 6 storeys on one side and 5 storeys on the other. Previously these blocks were 6 and 7 storeys, utilising both sides of the corridor. In Block B, the lower block is on Church Road. In Block C, the lower block faces the river. Block D was previously 7 storeys and is now 5 and 4 storeys (the 4 storey facing Hill Gardens). Block A remains at 4 storeys.

13.27 In relation to the protected view, the Landscape and Visual Impact Assessment report submitted with the application notes the view has noticeably changed from the existing situation and the width of Block C is accentuated in this view. The visual impact is rated as slight and negative. The Architectural Heritage Impact Assessment finds that the impact as being moderate and negative. However, the report considers that the proposed development will not have an adverse impact on the protected structures and the architectural heritage buildings to the north.

13.28 The **CE Report** notes that the Architectural Conservation Officer has requested that the blocks be seen to step down towards the ecclesiastic site, so that Block C is lower than Block B. A condition to step down Block B by one floor in proximity to Block C and to reduce Block C by two floors is recommended.

13.29 The *Urban Development and Building Height Guidelines* set out criteria against which a proposed development can be tested. These are set out below:

Urban Development and Building Height Guidelines Principles and Criterion

Principles and Criterion	Proposed Development
Does the proposal positively assist in securing National Planning Framework objectives of focusing	Yes – the site is in Swords town centre and is a brownfield site.

<p>development in key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres?</p>	
<p>Is the proposal in line with the requirements of the development plan in force and which plan has taken clear account of the requirements set out in Chapter 2 of these guidelines?</p>	<p>The current development plan predates these requirements.</p>
<p>Where the relevant development plan or local area plan pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align with and support the objectives and policies of the National Planning Framework</p>	<p>Yes.</p>
<p>The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.</p>	<p>Yes – proximate to high frequency bus services. In addition, the site is within 500 metres of a potential future Metrolink station.</p>
<p>Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/ enhance the character and public realm of the area, having</p>	<p>To be discussed below. A Landscape and Visual Impact Assessment is provided.</p>

<p>regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.</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>The proposed development incorporates a new street to the River Ward Park. The heights of the blocks are varied and take account of existing development. The proposed development is different from the existing buildings on the streetscape.</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>The proposed development includes an urban plaza, with shops and a new street. It opens up views to the ecclesiastic site above on Church Road</p>
<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>To be discussed below.</p>
<p>The proposal enhances the urban design context for public spaces and</p>	<p>The proposed development sets an urban context</p>

<p>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>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 proposed development has been designed to provide legibility from the Main Street to the park and improves legibility.</p>
<p>The proposal positively contributes to the mix of uses and/ or building/ dwelling typologies available in the neighbourhood.</p>	<p>The proposed development provides a mix of uses and increases the availability of apartments in the area.</p>
<p>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.</p>	<p>To be discussed below.</p>
<p>Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the</p>	<p>To be discussed under <i>Existing Residential Amenity</i> and <i>Proposed Residential Amenity</i> headings.</p>

<p>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'. 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>Specific impact assessment of the micro-climatic effects such as downdraft. Such assessments shall include measures to avoid/ mitigate such micro-climatic effects and, where appropriate, shall include an assessment of the cumulative micro-</p>	<p>Not applicable, given the limited heights involved.</p>

climatic effects where taller buildings are clustered.	
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.	An Ecological Impact Assessment and Natura Impact Statement has been provided. The materials to be used in the buildings will be visible to bird species and will not pose a significant risk of collision.
An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.	Not provided, given the limited height of the proposed development.
An assessment that the proposal maintains safe air navigation.	Not provided, given the limited height of the proposed development.
An urban design statement including, as appropriate, impact on the historic built environment	A design statement and assessment reports in relation to the built heritage and archaeology and landscape impact assessment has been provided.
Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate	Appropriate environmental reports have been provided.

13.30 The reduction in height in the current scheme from previously proposed is welcomed. I consider that there are three views where the height of this proposed development is particularly sensitive. There is the protected view from the ecclesiastic site, the view from Main Street to the ecclesiastic site and the view from the park into the scheme.

- 13.31 I would concur with the finding that the view from the park is a significant change. The townscape has limited impact on the view at present. The proposed development transforms it to a very urban area. The change is dramatic, but given the width of the entrance from the scheme into the park, the formal blocks do not discourage public entry. I consider that the height of the proposed development acceptable from this viewpoint.
- 13.32 When viewed from the ecclesiastic site, Block C appears very large and unrelenting. I would concur with the **CE Report** that changes in materials are required to visually break up the façade, to avoid the block from appearing monolithic. The height of Block C is overly dominant in this protected view. I would recommend that an intermediary floor is removed and that the façade is broken up to reduce the horizontal emphasis, by way of condition.
- 13.33 Block B fronts onto Church Road, which falls as one moves from Main Street. Cooldrinagh Court opposite the site, follows the fall in the road. I do not consider it necessary to reflect this fall in Block B, given its setback from Church Road and the landscape buffer. Its flat roof is a different format from the pitched roofs of Cooldrinagh. I would agree with the **CE Report** that some vertical emphasis could be added by continuing up brick bands onto the façade. This can be achieved by way of condition.
- 13.34 Block A is four storeys. I consider the height is visually acceptable. Similarly, the height of Block D is acceptable. I will consider the impact of the height of both these blocks on existing residential amenities separately under the relevant heading in this report.

Quantum of development

- 13.35 The quantum of development is circa 19,896 square metres gross floor area (including basements). Previously, the gross floor area was 23,942 gross floor areas. The current application is for 146 no. residential units. Previously, it was for 172 no. residential units. The net density of development is currently 122

units per ha. Previously, it was 143 units per ha. The reduction in numbers of units has resulted in a reduction in height, more in keeping with Church Road.

13.36 The number of one bed units is 69 units, or 47% of the total. **Observers** have suggested that more of the larger size units for families would be more appropriate. The **CE Report** notes that the *Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities 2022*, under Specific Planning Policy Requirement 1, apartment applications may include up to 50% one- bedroom or studio types units. In this proposed development, 53% are two and three-bedroom units. Therefore, I concur with the **CE Report** and am satisfied that the unit mix is acceptable.

Residential Amenities

13.37 In this section I will consider the impacts of the proposed development on existing residences and assess the standard of the quality of the proposed development in relation to the standards set out in the Apartment Guidelines, 2022.

13.38 IES has prepared the Daylight, Sunlight and Overshadowing Study for the proposed development. It relies on a number of daylight standards. These are the BRE Guide 2nd Edition, the BS 8206-2:2008, the IS EN 17037:2018 and BS EN 17037:2018. Since the application was submitted, a new edition of the Apartment Guidelines has been published, December, 2022. In relation to assessing daylight and sunlight, it states at Paragraph 6.6 and 6.7 :

“Planning authorities should avail of appropriate expert advice where necessary and have regard to quantitative performance approaches to daylight provision outlined in guides like A New European Standard for Daylighting in Buildings IS EN17037:2018, UK National Annex BS EN17037:2019 and the associated BRE Guide 209 2022 Edition (June 2022), or any relevant future standards or guidance specific to the Irish context, when undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision.

Where an applicant cannot fully meet all of 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, which planning authorities should apply their discretion in accepting taking account of its assessment of specifics. This may arise due to design constraints associated with the site or location 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.”

13.39 The guidelines applied in the IES report are therefore acceptable.

Existing Residential Amenity

13.40 There are two dwellings that immediately adjoin the site. The residential amenity of existing dwellings are not addressed in the **CE Report**. No. 7A Forest Road is an infill, detached infill house, located immediately west of the existing public house. It has a number of windows which overlook the site. I have assessed the drawings which were submitted with the application for this house under F09A/0531 and note that these windows serve non-habitable areas. Therefore, I am satisfied that the proposed development will not give rise to overlooking of the dwelling house. Having regard to the position of Block A, which is four storeys, is at angle from No. 7A, I do not consider that the proposed development will be overbearing on it. It is approximately 5 metres from the flank wall of the dwelling house. The proposed development gives rise to some additional overshadowing of the rear garden of this dwelling house, briefly in the morning on March 21st. The rear garden will continue to retain the same level of sunlight as currently exists on March 21st. I do not consider that the proposed development would seriously injure the residential amenities of this dwelling house.

13.40 No. 2 Hill Gardens is located to the southwest of the site, accessed via Bell's Lane. Unusually, it does not face onto Bell's Lane, but instead is oriented

towards the site. Building D faces towards the rear garden of No. 2. It is 4 and 5 storeys in height. Ground levels is rising from west to east. The finished floor level of the ground floor of Block D is 22.85 m OD. In contrast, the contour nearest the boundary of the site is 25.00 m OD. Effectively, much of the ground floor is below the levels of No. 2. The separation gap between the house and Block D is 35 metres. As the block continues south, this separation gap decreases to circa 8 metres. No overshadowing of this residence occurs, as it is south of the proposed development. The rear garden will continue to retain the same level of sunlight as currently exists on March 21st. The **Observers** are concerned that the proposed development will be overbearing and overlook their property and request that a floor be removed from Block D. In the previous application, Block D was not pivoted towards this property. The relationship can be seen in Drawing No. P2.103. Block A appears proximate to the **Observers'** property, but the rear garden of No. 7A is located between Block A and the **Observers** (as per the submitted planning drawings). I would concur that the final apartment in Block D is overly proximate to the boundary and would recommend that it be removed on all floors. The adjoining apartment is a one bedroom and I consider that there is sufficient room to enlarge this apartment into a two bedroom unit, while not unduly interfering with the residential amenities of the **Observers**. The terrace and balconies of these units are circa 18 metres from the property line. This can be done by way of condition, which would be sufficient to protect the residential amenities of the **Observers**.

- 13.41 Cooldrinagh Court is on the eastern side of Church Road. Some overshadowing of the front of this development will arise after 1600 on March 21st, after 1800 on June 21st and after 1400 on 21st December. I consider this level of overshadowing to be acceptable in an urban location. The proposed development does not affect the rear private amenity area of these apartments on March 21st. The annual probable sunlight hours received by the ground floor windows will be significantly affected by the proposed development, particularly

in winter. Loss of winter annual probable sunlight hours is of the order of 47% and 60% in one case. I note in the landscape report accompanying the application that Blocks B and C were set deeper into the site, but were moved forward to facilitate widening of the walkway to the park. I consider that these blocks should be set back, to minimise the impact on the light available to Cooldrinagh Court. This could be achieved by way of condition and would be sufficient to protect the residential amenities of this development.

Proposed Residential Amenity

13.42 The proposed development consists of 146 no. Apartments, in four blocks. Block A is orientated south-east and is largely dual aspect. Block B has an east-west orientation. Block C is north-west, south-east orientation. Block D has a north-east, south-west orientation. I am satisfied that where the predominant orientation of the units are in a northerly direction, the views and outlook are over parks and open space. The daylight and sunlight to be experienced by future residents is discussed below.

Dimensions

13.43 The applicant's design team have prepared a Housing Quality Assessment, to show compliance with the design standards set out in the Apartment Guidelines, 2022. There are 69 no. one bedroom units, 68 no. two bedroom units and 9 no. three bedroom units.

13.44 All units meet or exceed minimum floor area. Of the 69 no. one bedroom units, 50 no. are 28% larger than minimum standards required and 14 no. are 17% above. All ground floor units meet the floor to ceiling minimum of 2.7 metres. Above ground floor units are also 2.7 metres, which is above meet the 2.4 metres floor to ceiling minimum. Private open space and storage minimum sizes are exceeded. I note that few of the bedrooms are en-suite, but this is not a planning requirement.

13.45 The basement provides a communal gym and cinema room, circa 278 square metres. This is circa 1.9 square metre per unit and at the low end of provision, in my opinion. The cinema room could provide tea / coffee making facilities, which would enhance its usefulness. A communal store of 77 square metres is provided, but access to the store is tight, given the car parking layout. Likewise, the bicycle parking and plant in this area would be difficult to access. A revised layout could be conditioned to be agreed with the planning authority, in the event of a grant of planning permission. An additional communal store is provided in the basement under Block A.

13.45 The daylight and sunlight to the apartments and communal open space areas will be assessed next.

Sunlight

13.46 The sunlight for living/kitchen/dining rooms (LKD) are assessed in all the apartments. In Block A, the single east facing units located in the middle of the block do not achieve the 25% of Annual Probable Sunlight Hours (APSH). However, the LKDs on this elevation meet the winter target of 5% of APAH and all have greater than 1.5 hours of sunlight hours required under IS EN17037:2018. The LKD of the northwest facing units significantly fail these thresholds, albeit that the unit is dual aspect.

13.47 In Block B, there are similar failures for the east and west facing units for both annual and winter sunlight. There appears to be an error in the table on page 59, in relation to whether more than 1.5 hours of sunshine is received. The south facing units pass.

13.48 In Block C, south facing, 4 out of 19 LKD tested failed to achieve the 25% APSH but all achieve the winter sunlight. As can be expected, the lower units achieve poorer results. All the north-east facing units in Block C fail.

13.49 In Block D, the south-west facing units pass and the north-east facing units fail.

- 13.50 Overall, the IES report states that of 146 points tested, 35 points (24%) meet the recommended values. 40% exceed 1.5 hours of sunlight.
- 13.51 The scheme overall performs poorly in relation to sunlight to apartments. I note that the Apartment Guidelines do not require the sunlight to apartments to be assessed, save in relation to communal/ public open space. The test for this measure is that more than 50% of the area would achieve more than 2 hours of sunlight on March 21st.
- 13.52 In this scheme, the public amenity space, which is stated to be the public plaza and adjoining Church Road, over 90% of this space achieves the standard, which indicates that these areas will be very sunlit.
- 13.53 The communal open space achieves similar high scores.

Daylight

- 13.54 In terms of daylight, the IES report consider Average Daylight Factor. LKDs ideally would meet a 2% requirement. Bedrooms require a 1% ADF. When daylight is measured under IS EN 17037:2018, it is measured in terms of a target illuminance. A target illuminance of 300 lux must be achieved over 50% of the floor area for over 50% of the daylight hours. Also 100 lux must be achieved over 95% of the floor area for over 50% of the available daylight hours. 300 lux is equivalent to 2% ADF. The IES report uses Method 2, which analyses weather throughout the year (Method 1 only considers the representative day 21st September). Method 2 is Climate Based Daylight Modelling (CBDM). The UK use a National Annex in relation to residential units as it does not believe that the standards can be achieved for some residential units. The LKD under this Annex need to achieve 200 lux. Over 50% of the floor area for 50% of the available daylight hours.
- 13.55 The daylight results achieved for all LKDs and bedrooms in Block A was 100% for all three types of daylight assessment. For Block B, 38 out of 41 LKDs were tested [although it appears all LKD rooms were tested in the appendix]. 35 achieved 2% ADF, and 38 achieved the two Lux based standards. In Block C,

all 54 LKD were tested. 46 LKDs achieved 2% ADF and all 54 achieved the Lux based standards. In Block D, all 36 LKDs were tested. 30 LKD's achieved 2% ADF. When the lower target of 1.5% ADF was applied, all 30 LKD's passed. All LKD's achieved the Lux based standards.

13.56 I am satisfied that the majority of units achieve the necessary standards in relation to daylight. Where the ADF of 2% have not been met, I note that compensatory design measures have been applied. The report refers to resizing of the balconies on the first floor, larger apartments and large communal amenity areas. The proposed development complies with the Apartment Guidelines requirements in relation to daylight. The **CE Report** does not make any findings in relation to either sunlight or daylight.

Summary regarding Residential Amenity

13.57 The proposed development has some adverse impacts in relation to existing residential amenities, in relation to Cooldrinagh Court and No.2 Hill Gardens. These can be mitigated by way of condition. The impacts in relation to No. 7A Forest Road are considered to be within acceptable limits.

13.58 The quality of the residential amenity of the proposed apartments are good in relation to daylight. The amenity spaces enjoy high levels of sunlight. While the level of APSH enjoyed by the units is not ideal in many units, I am satisfied the proposed development, which would look out over the park and community amenity areas, would be an attractive place to live.

Social and Community Infrastructure Audit

13.59 Hughes Planning and Development Consultants have prepared a report on the social and community infrastructure in the area. They estimate that the proposed development may have a population of between 281 and 350 persons. I note that the population estimate is based on the average household size of 2.75 persons. In apartments, a lower household figure of 2.1 persons

applies and so I am satisfied that the population estimates are larger than likely to occur. In the 2016 Census, the population of the area was 19,880 persons. The estimate number of children in the proposed development who would attend creche is 33 children and 73 children of school going age. Three new schools are planned for Swords. I am satisfied that there will be enough creche and school places for the future population of the proposed development. There are health care facilities, sports and recreation facilities, religious facilities, community groups and shopping facilities.

Energy, Building Life Cycle and Management

13.60 The apartments are to achieve a BER rating of A2. Renewal energy in the form of solar panels will provide 20% of the energy requirements per unit. The Life Cycle Report states that the proposed development will be managed by an Owners Management Company (OMC). Waste management, car parking area, etc. will be managed by the OMC. A Building Investment Fund will be set up. Low maintenance design measures have been incorporated in the proposed development.

Ecology, Arboriculture, Construction Management, Landscape and Lighting

13.61 Altamar have carried out an Ecological Impact Assessment. The CE Report acknowledges this. Five survey visits were carried out over a two year period through the appropriate seasons and included two bat surveys, terrestrial mammal survey, wintering birds, flora and habitat assessment. Consultation was undertaken within the design team (landscape, arborist, construction, drainage, flooding and lighting) and Inland Fisheries Ireland. A request for data was sent to the NPWS and the National Biological Data Centre was consulted.

13.62 The Zone of Influence (ZOI) of the project included the Glebe Stream, Ward River and Broadmeadow River. Due to SUDS, the Water Pollution Act and the site discharges, impacts are generally limited to the site, save for mammal and

avian activity. Impacts would arise from the realignment of the Glebe Stream, demolition, noise, dust and light.

- 13.63 The report notes designated conservation sites within 15km of the site and notes the direct hydrological pathway to sites within the Malahide Estuary and potential impacts during construction. Reference to indirect impacts through the drainage system to the Swords Wastewater Treatment Plant is made, but no significant impacts are foreseen as a result.
- 13.64 The habitats found on site are BL3 – Buildings and Artificial Surfaces; GS2 – Dry Meadows and Grassy Verges; WS1 – Scrub; FW1 – Eroding Upland Rivers; WL2 – Treelines and WL1 – Hedgerows. The Glebe Stream is the most important ecological feature on the site. No evidence of current or previous bat roosts was found in the structures or trees and no foraging activity was found. Bats appear to be absent from the site. No rare or plant species of conservation value or invasive species was found. Habitat suitable to frogs was found but the amphibian was not observed, no lizard or newt. No badgers or hedgehogs were found. Otter has been observed 200 metres north of the site. No deer or rare or threatened fauna were recorded. No rare birds or bird species of conservation value were found. No wintering birds were observed and the habitats present do not support this use. Brown trout are found in the Ward River.
- 13.65 As the proposed development involves the removal of the habitats on site and realignment and reprofiling of the Glebe Stream, a Construction Environmental Management Plan and an AA Screening / NIS is required and submitted with the application. A series of designed in mitigation measures and other avoidance / reduction measures are proposed. The **Department of Housing, Local Government and Heritage** consider the measures acceptable for construction. I have read the measures and consider them appropriate to reduce ecological threats and impacts and as a result of their implementation, the proposed development would not impact on the Ward River and the Natura 2000 sites downstream.

- 13.66 During operation, compensatory native species will re-establish nesting and foraging habitats. Lighting will be managed to avoid light spill. Surface water drainage will include SUDS measures and water pollution prevention measures. The materials used in the construction of the buildings will ensure that the buildings are clearly visible to bird species and so would not pose a significant collision risk.
- 13.67 The proposed development will result in the removal of 13 no. of the 17 trees on site. No Category A tree was found. Of the 4 being retained, 2 no. are Category B trees. All the hedgerow is being removed but this identified as Category C or Category U.
- 13.68 The Outline Construction Environmental Management Plan (CEMP) was prepared by Altamar. It includes an analysis of the potential impacts and mitigation measures and monitoring. In particular, the riparian corridor construction stage is detailed and drainage outside that area. It is evident that the construction management process has been clearly worked out in relation to environmental impacts.
- 13.69 The Preliminary Construction and Demolition Waste Management Plan by CORA Consulting Engineers. It anticipates that the demolition of the existing structures on site and removal of the paved areas is circa 5,500metres squared, which would give rise to a total of 1,800 tonnes of mixed waste. Of this, circa 410 tonnes can be reused on site, 1,220 recycled off site and 170 tonnes disposed of. Circa 22,240 cubic metres of soil will have to be removed from the site for the basement excavation and 1,200 cubic metres for the realignment of the Glebe Stream. No information on the traffic generated by construction movements have been provided, or a construction haul route.
- 13.70 A landscape design report has been prepared by Mitchell and Associates. It refers to a number of key concepts – the creation of a new civic plaza (1,000 square metres), with a 16 metre wide corridor to the Ward River Valley Park necessitating the realignment of Blocks B and C, accessible to the public in accordance with park opening times; a stepped podium interface; a pedestrian

link from the park to Church Road and a new walkway following the new alignment of the Glebe Stream. Landscaping will be hard and soft and include native trees, hedgerow, swale and pollinator planting. A playground will be located centrally in the scheme in the podium garden. No boundary treatment is proposed for this garden. Hedgerow will be reinstated on the southern boundary. Defensive planting will provide privacy strips to ground floor apartments. The terracing down to the park will allow for accessibility and flood risk mitigated. Swift, bird and bat boxes will be provided as well as cavity nests for bees. The **Department of Housing, Local Government and Heritage** was concerned that the extent of culverting of the Glebe Stream is great in this application than the previous one. However, the location of part of the Glebe Stream in proximity to the junction with Main Street, where a public plaza has been planned for, makes some culverting inevitable. The public plaza at this location had been previously deemed too small in extent by An Bord Pleanála. The culverting of the stream is necessary to allow for a meaningful and usable public plaza. The plaza has been indicated in the site specific of Swords Masterplan. I note the general policy referred to by the Department in relation to keeping streams open. However, I am satisfied that there is a policy objective to provide a public plaza at this location, which overrides the more general objective.

13.71 A public lighting report is submitted, showing light spill confined to walkways.

13.72 The **CE Report** considered that landscape plan and details acceptable in principle. Conditions are recommended. A shortfall of public open space of 0.59 ha is identified and a financial condition for the shortfall is recommended. In this case, having regard to the public walkways provided and the absence of boundaries on the central podium garden, I would consider that the entirety of the landscaped area in the central area and the landscape buffer would be in reality, public open space. Access does not appear to be curtailed to non-residents. I consider that the communal open space is limited to the rear of Block D and alongside the walkway to the public open space behind Block A,

as this is the only enclosed area. The communal open space required for the proposed development is 902 square metres. Given the quality of the proposed landscaping design, I am satisfied that the residential amenities of future occupants have been adequately catered for. A recommendation for public art is made. Such art would be appropriate in the urban plaza.

Roads and Traffic

- 13.73 Included with the application is a Traffic and Transport Assessment and Mobility Report, a Stage 1 Road Safety Audit and DMURS statement. The proposed development provides for 104 no. car parking spaces, 5 no. car share spaces and 6 no. set down spaces for the creche. 338 no. bicycle spaces are provided at basement level and surface level.
- 13.74 **Observers** are concerned about the volume of traffic the proposed development would generate and traffic congestion, particularly for traffic coming from Bracken Road; the absence of pedestrian facilities on Church Road and the potential for parking to take place in Highfield, the nearest residential estate.
- 13.75 The **CE Report** states that the minimum practical car parking demand is 189 spaces and that development plan standards would require 218 no. parking spaces. There is no allowance for visitor parking. Given the tight street network, some should be provided. No parking is provided for non-residential space on site. The pay-and-display car parking can provide for this type of parking. However, some parking would be expected for creche workers. A Swept Path Analysis should be provided for the car park.
- 13.76 The proposed development provides for a car parking rate of circa 0.7 spaces per residential unit and no creche car parking. The location of the site in Swords Town Centre, where there is significant level of bus transport (both to Dublin city and the surrounding area), would be an area where under the *Apartment Guidelines* recommend that car parking is to be minimised, substantially reduced, or eliminated. The *Climate Action Plan 2023* recommends that parking constraint measures are to be increased. Planning authorities should not

require specific minimum levels of car parking, save for disabled parking and 'On demand' shared mobility services are to be encouraged.

13.77 Therefore, I consider that the rate of 0.7 car parking spaces together with car share spaces are acceptable in this location. The car parking spaces should remain in the control of the management company, to allow for more spaces to become car sharing space in the future. The rate of Electric Vehicle spaces is at 10% and ducting should be provided to enable all spaces be compatible with EV in the future. A 'Swept Path Analysis' should be provided at compliance stage, should permission be granted, to confirm that each car parking spaces can be appropriately accessed.

13.77 The Traffic and Transport Assessment and Mobility Report submitted with the application is provided by Martin Rogers Consulting Limited. Traffic surveys were carried out on Wednesday, 29th May, 2019. I note that while this data is dated, given that fewer people were working from home at present, the data is conservative and could be relied upon as a reasonable estimate. The report states that the proposed development is close to a bus corridor that carries 13 no. buses per hour during morning peak. It states that should a new river crossing be necessary to relieve congestion on Bracken Road, as recommended in *Fingal South Transportation Study*, 2019, the proposed development would not interfere with it. The report refers to Church Road being one way only, heading north. On my site visit, it was two-way. It appears to have been modelled as two way also.

13.78 The report states that the proposed development would generate 12 residential movements into it and 37 out in the morning peak. It would add roughly 2% to traffic at the main junctions onto Main Street and Brackenstown Road, which is very limited. By 2024, a queue of traffic from Brackenstown Road turning right will be circa 13 car lengths. By 2039, the junctions with the main roads will be at circa 15% overcapacity, whether the proposed development is present or not.

13.79 The **CE Report** notes the potential for the future link road from Brackenstown Road [this has subsequently been removed in the current iteration of the draft development plan]. A setback of up to 9.25 metres may be required on the northern boundary of the site. Church Road is to be widened to provide for pedestrian and cycle facilities. It is recommended that these facilities are to be provided as part of the proposed development. A condition is recommended, providing a choice for the applicant to undertake the works or pay for them. Flexibility is sought in relation to the taking-in-charge plan, to allow for the lands relating to road improvements be included. However, the report also recommends that refusal of planning is recommended to allow more time to work out the agreed details of the Church Road upgrade. The CE Report refers to a condition to allow the lands for the upgrade works to be ceded to the planning authority. I would advise the Bord that this type of condition is likely to be *ultra vires*.

13.80 Given the location of the proposed development, and the congestion associated with the Brackenstown Road junction, the limited car parking is considered appropriate. I do not consider that the additional traffic generated by the proposed development would significantly exacerbate the projected queuing. I note that a pedestrian footpath is to be provided on the Church Road frontage and consider this a planning gain for the town centre. I am satisfied that this can be done by way of condition and that the proposed development has left sufficient lands for the upgrade to take place.

13.81 Cycle parking at 388 no. spaces is considered to be an underprovision, in the **CE Report**, given the limited vehicular parking. Access to the cycle parking spaces is considered convoluted. I consider that the number of bicycle places are sufficient for the scale of development, which constitutes a cycle parking ratio of over two bicycle places per residential unit, plus 56 visitor parking spaces.

Site Services: Water supply

13.82 Water supply is from the public network on Main Street.

Site Services: Drainage

13.83 Block A falls directly by gravity to the public sewer. Blocks B, C and D falls by gravity to be slung under the podium level, then pumped by a rising main to the public sewer. The runoff from basement is also directed to this pump. Observers are concerned about pumping but I am satisfied that this arrangement is commonplace. As the pump is in the basement, no odour or noise nuisance will arise.

13.84 Irish Water state that connections in respect of water and wastewater are feasible without infrastructure upgrade to the public system. I note that the information contained in the Engineering Services Report concerning volumes is located in the appendices and this could have been usefully summarised in the main report.

Surface Water

13.85 The proposed development includes for 54% of the roof space to be green roof. A Permavoid 150 attenuation system holds the surface water and limits the flow to 2.0 litres per second to the swale. The swale holds the surface water and allows for infiltration through the soil to the river. The storm events include for the 100 year return period plus 20% climate change.

13.86 The **CE Report** notes that the capacity for the permavoid 150 attenuation system and swale are not stated. The swale is located is the 0.1% AEP zone, which while not ideal, is acceptable. The tree pits and their connection to the surface water system is not shown. The riparian buffer should be shown on the drawings. I concur with the above points but I am satisfied that this can be dealt with by way of condition.

Flooding

- 13.87 In the previous application, the proposed development was refused permission due to flooding concerns. The Site Specific Flood Risk Report (SSFRR) by JBA Consulting of the time acknowledged that one of the blocks and part of the second block was in Flood Zone B. However, given the differences in the findings of the flooding modelling used by the applicant's design team and the information available from the OPW's Fingal East Meath Flood Risk Assessment (FEM FRAMS), the Board was not satisfied with the findings. At that time, the finished floor level for the basement in the lower section of the site was 16.900 (no vulnerable uses were in this basement in that application).
- 13.88 In this application, a new report has been prepared by JBA Consulting. In addition, there is a childcare facility in the basement of Block C. The finished floor level is 19.200. The increase in levels is 2.3 metres.
- 13.89 The SSFRR states that the primary hydrological feature is the River Ward, to which the Glebe Stream is a tributary. The Glebe is culverted in three places on the site – two near the rear of the public house and one at the car park access. The Glebe is at a lower level below both Church Road and the public house and car park.
- 13.90 The Ward River flooded further downstream in Swords in 2002 and 2003. Further flooding occurred in 2013, but there are no reports that the subject site flooded. The SSFRR states that intense rainfall in Swords causes the River Ward to flood. Some remedial works have taken place. The watermain on Church Street also burst in the past.
- 13.91 The OPW has produced a Preliminary Flood Risk Assessment for Swords and a more detailed FEM FRAMS study. The site is subject to fluvial flooding and is within the extents of 1% AEP flood event. A Strategic Flood Risk Assessment has also been undertaken for the Fingal Development Plan. This shows part of the site being within Flood Zones A (1% AEP – 1 in 100 chance of flooding in any one year) and Flood Zone B (0.1% AEP – 1 in 1000 chance of flooding in any one year).

- 13.92 The FEM FRAMS found that parts of the site are in Flood Zones A and B (high versus moderate risk of flooding). The north of the site is affected by the Ward River. The Glebe Stream produces an overland flow through the middle of the site (not within the confines of the stream), indicating that the Glebe is affected by culvert capacity on site.
- 13.93 The flows of water in the JBA FSU model have been compared to the FEM FRAMS and are more conservative. With the removal of the existing culverts, the sizing of the proposed culverts and the realignment of the existing stream with a deeper bed, flooding on the site is significantly reduced. Under normal circumstances, in a 0.1%AEP, the flooding of the site is contained in the landscaped area, allowing for climate change. If a blockage would occur in the new culverts, the overland flow is diverted through the site to the park. The areas that would flood in a worst-case scenario if a blockage arises are confined to the landscaped area and walkway and would not interfere with vehicular access.
- 13.94 The Glebe Stream is realigned along Church Road, to facilitate future pedestrian / cycleways along this road. The modification will allow for capacity of the stream to increase. Post development, the scheme is not at risk from inundation from the Glebe Stream.
- 13.95 Climate Change has been factored into the calculations. The proposed scheme does not give rise to increased flood risk upstream or downstream. This complies with the Justification Test Part 2, as set out in the Flood Risk assessment Guidelines. It does not increase flood risk elsewhere; it minimises flood risk on site as all residential areas are placed 0.5m above the 0.1% AEP level. Measures have been included to ensure that the residual risks can be managed to an acceptable extent. The proposed development is compatible with the achievement of wider planning objectives in relation to good urban design.
- 13.96 **Observers and the Department of Housing, Local Government and Heritage** are concerned about this issue. The **CE Report** states that the

mitigation measures in relation to flooding area now based on significantly increased design flows, it is considered that the original concerns have been addressed and the level of flood risk is acceptable on this site.

13.97 Having regard to the changes in finished floor levels from the previous to the current design and the increased design flows, I am satisfied that the issue of flooding has been resolved in this application.

Childcare

13.98 The proposed development provides for a large creche. The location of the crèche in proximity to the park is welcomed. I note that two areas of outdoor space are provided. Of the 201 square metres of secure outdoor space provided, 103 square metres are covered by apartments overhead. The creche can provide for between 104 to 141 children. I am satisfied that the uncovered area provides sufficient space for play. The **CE Report** is concerned with the absence of staff car parking. Having regard to the town centre location and high frequency bus services in the area, I consider this acceptable.

Part V

13.99 Fifteen apartments are to be transferred to the planning authority for Part v purposes. The CE Report requests a condition be attached for the provision of Part V.

Material Contravention Matters

13.100 The applicant suggests that a material contravention matter arises in relation to the provision of public open as there is an objective to provide for a minimum open space provision of 2.5 hectares per 1,000 persons. That policy (PM52) would suggest that, on the basis of population attributed to occupancy rates of different housing types, 0.592 ha of public open space is generated by the proposed development. The public open space provision on site is 0.444 ha. However, the same policy stipulates that public open space provision on site should exceed 10%. As the proposed development provides for 31% of the site

area as public open space, I am of the opinion then, that there is no material contravention of the aforementioned policies arises as more than 10% of the site area provides for public open space.

14.0 Appropriate Assessment

14.1 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. The areas addressed in this section are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive
- Screening the need for appropriate assessment
- The Natura Impact Statement and associated documents
- Appropriate Assessment of implications of the proposed development on the integrity each European site
- Reason for Refusal
- Compliance with Article 6(3) of the Habitats Directive

14.2 The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3). The requirements of Article 6(3) 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 section.

Screening the need for Appropriate Assessment

- 14.3 The applicant has submitted a report 'Appropriate Assessment Screening & Natural Impact Statement' by Altemar Marine & Environmental Consultancy. The report is supported by an Ecological Impact Assessment, Construction and Environmental Management Plan, Landscape Design Report, Engineering Services Report and Flood Risk Assessment. The qualifications of the author are provided, who is an Environmental Scientist and Marine Biologist.
- 14.4 The report provides a description of the proposed development.
- 14.5 The European Sites within a possible zone of influence of the proposed development are identified. The relationship with a site outside a Natura site is by way of connectivity: i.e. through the source-pathway-receptor connectivity. The report notes that there is not connectivity or ex-situ potential for interactions located in the wider potential zone of influence. It identified that there are a number of SACs and SPAs that would come within the 15km radius generally adopted as a filtering limit in the Guidelines for Appropriate Assessment. I undertook a review of the EPA Assessment tool on 09.01.2023 and confirmed that the SACs and SPAs that are identified are:

No.	Site Code	Name	Distance (approximate)
1.	IE00205	Malahide Estuary SAC	1.5 km
2.	IE004025	Malahide Estuary SPA	1.6 km
3	IE000208	Rogerstown Estuary SAC	5.0 km
4.	IE004015	Rogerstown Estuary SPA	5.5 km
5.	IE004016	Baldoyle Bay SPA	6.8 km
6	IE000199	Baldoyle Bay SAC	7.0 km
7.	IE004006	North Bull Island SPA	9.6 km
8.	IE000206	North Dublin Bay SAC	9.6 km
9.	IE003000	Rockabill to Dalkey SAC	10.4km
10.	IE004024	South Dublin Bay and River Tolka SPA	10.2 km
11.	IE004117	Ireland's Eye SPA	11.1 km

12.	IE002193	Ireland's Eye SAC	11.5 km
13.	IE000202	Howth Head SAC	12.3 km
14.	IE000204	Lambay Island SAC	13.0 km
15.	IE004069	Lambay Island SPA	13.0 km
16.	IE000210	South Dublin Bay SAC	13.2 km
17.	IE004113	Howth Head Coast SPA	13.0 km

14.6 While there are 17 no. Natura 2000 sites potentially affected, I would concur with the finding that there are only two which might be impacted by the proposed development (Malahide SAC, Site Code OE000205, 1.5km and Malahide Estuary SPA, Site Code IE004025, 1.6km to the east). The distances measured are from one point to another. However, the surface water connection via the Ward River to the coast. Therefore, the accurate distance to the Natura 2000 site via the source-pathway-receptor route is circa 2 km via the river. The drainage discharge is via the Swords WWTP and is an indirect connection. There is Irish Water publishes an Annual Environmental Report for this plant. The latest is for 2020. The capacity of this plant is 90,000 PE. In 2020, there was 11,391 remaining. I note that Irish Water has indicated that there is capacity for the proposed development. Therefore, I am satisfied that there will be no indirect effects on the Malahide Estuary SAC (000205) and Malahide Estuary SPA (004025) in this regard.

14.7 The Qualifying Interests / Special Conservation Interests of the Malahide Estuary SAC (IE000205) and Malahide Estuary SPA (IE004025) are set out below

European Site Site Code	List of Qualifying interest/Special conservation Interest
Malahide Estuary SAC 000205	Tidal Mudflats and Sandflats [1140] Salicornia Mud [1310] Atlantic Salt Meadows [1330] Mediterranean Salt Meadows [1410]

	Marram Dunes (White Dunes) [2120] Fixed Dunes (Grey Dunes) [2130]
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Malahide Estuary SPA 004025	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]
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14.8 The proposed development is distant from Natura 2000 sites, so no loss of habitat or disturbance to species located therein is likely to arise. The report lists a number of impacts that have potential direct impacts that may result in significant effects on the Natura 2000 sites. The impacts arise in construction from in-stream works in the Glebe Stream, a tributary to the Ward River, via contaminated surface water runoff and dust. During operational phase, via the surface water drainage. An indirect effect may arise from foul water via discharges through the Swords WwTP. However, in the absence of mitigation measures there are no impacts on the conservation objectives of the SAC. Due to the potential impacts arising at construction stage, it is necessary to proceed to NIS.

- 14.9 Disturbance to species from noise, vibration and lighting associated with construction and operation of the proposed development is considered. The SPA bird species are considered too distant so as to remain unaffected.
- 14.10 The report concludes that in the absence of implementation of suitable mitigation, during construction and operation, the proposed development could pose a risk of likely significant effects on the Malahide Estuary Sites. A Stage 2 Appropriate Assessment is considered warranted, due to the hydrological connection.
- 14.11 I would concur with the above assessment.

In-combination Effects

- 14.12 The report considered cumulative effects with other applications in the area. None are considered likely that could cause in-combination effects. I would concur with this finding.

Screening Determination

- 14.13 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, the project would be likely to have a significant effect on habitats or species in Malahide Estuary SAC (IE00205) or Malahide Estuary SPA (IE004025).

Natura Impact Statement

- 14.14 The NIS is informed by the Ecological Impact Assessment, the Construction and Environmental Management Plan. It evaluates the potential for direct, indirect effects, alone or in-combination with other plans and projects, taking into account the use of mitigation measures.
- 14.15 The Malahide Estuary SAC is a range of coastal habitats including saltmarshes and sand dunes. The SPA is an estuarine system, providing feeding and roosting areas for wintering waterfowl. The estuary relies on sediment supply from the rivers flowing into it. The natural circulation of sediments and organic

matter has to be maintained, without physical obstructions. The flooding regime is to remain within the natural tidal range. The Conservation Objectives of the two Natura 2000 sites are examined. An analysis of the potential impacts of the proposed development on these is provided. The report notes the Ecological Impact Assessment which found that notwithstanding a bat survey, no terrestrial mammals or signs of mammals of conservation importance were identified. Otter on the Ward River have been noted 200 metres from the site. The Ward River has populations of brown trout (*Salmo trutta*) and European eel (*Anguilla anguilla*).

Potential Impacts

14.16 The potential impacts include:

- Site clearance, reprofiling of the Glebe Stream, in-stream works and surface water runoff during construction or operation may lead to silt or contaminated materials entering the Glebe Stream, such as concrete, silt or pollution.
- Breaking of concrete may emit noise and dust during construction.
- Noise during construction;
- Use of plant and machinery and temporary storage of construction materials, oils, fuels and chemicals, topsoil;
- Post-construction, the operation of the surface water regime to prevent the entry of pollutants into the watercourses.

14.17 The effects are considered localised, but without the presence of mitigation measures, there is a potential for very limited downstream effects. The presence of *Zostera* and *Mytilus edulis* beds could be affected in terms of habitat area and structure. Any impacts on *Zostera* could in turn impact on Brent Geese (*Branta bernicla hrota*).

Mitigation Measures

14.18 A series of Designed-in Mitigation Measures for watercourses, air and dust, waste, storage, use of machinery and plant and equipment is provided as well as other avoidance/reduction measures. It includes consultation with the Inland Fisheries Ireland and the appointment of a project ecologist. I am satisfied that the measures during construction are robust and will not give rise to significant downstream effects. The **Department of Housing, Local Government and Heritage** are generally satisfied with the construction mitigation measures.

14.19 During operation, mitigation measures are designed into the car parking area to prevent pollution. SuDS measures are provided to ensure the quality of surface water discharging from the site. I have had regard to the Site Specific Flood Risk Assessment and note that the proposed development will not result in increased flooding upstream or downstream of the site. Therefore, I am satisfied that the operation of the proposed development will not change the sediment regime or the flood events or water quality that might affect the Malahide Estuary, which the **Department of Housing, Local Government and Heritage** are concerned about. I consider the mitigation measures to be site specific and comprehensive. The previous reason for refusal on the basis of the potential impact of flood risk on the Malahide Estuary Special Area of Conservation (Site Code IE000205) and the Malahide Estuary Special Protection Area (Site Code IE004025) has been addressed.

In-combination Effects

14.20 I consider that any potential for in-combination effects on water quality in the two Natura 2000 sites can be excluded. In combination effects have been considered and I am satisfied that the proposed development in combination with other permitted developments in the area, which in themselves have been screened in terms of AA, would not be likely to have a significant effect on any European site.

Evaluation of Effects

14.21 I consider that the proposed mitigation measures relating to the protection of watercourses are clearly described, are reasonable, practical and enforceable. I am also satisfied that the measures outlined fully address any potential impacts arising from the proposed development and that it is reasonable to conclude on the basis of objective scientific information, that the proposed development would not be likely to have an adverse effect on the Malahide Estuary SAC and Malahide Estuary SPA.

Appropriate Assessment Conclusion

14.22 Having regard to the works proposed during construction, and subject to the implementation of best practice construction methodologies and the proposed mitigation measures during both construction and operation, I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the European sites Malahide Estuary SAC (IE000205) and Malahide Estuary SPA (IE004025) 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 and there is no reasonable scientific doubt as to the absence of adverse effects.

15.0 Environmental Impact Assessment

15.1 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:

- Construction of more than 500 dwelling units

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

As the proposed development is less than 500 dwellings and the size of the site is less than 2 hectares in a business district, the proposed development does not come within the thresholds for a mandatory EIA. I note that the EIA Screening Report submitted with this application also considers a car park but this is not relevant to the proposed development as the car park in this case is ancillary to the primary purpose of the development. Equally, the proposed development is not a shopping centre, as the primary purpose of the development is residential use and so this threshold does not apply.

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

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

15.3 The applicant submitted an EIA Screening Report with the application, and this document provides the information deemed necessary for the purposes of screening sub-threshold development for an Environmental Impact Assessment. The report was prepared by Verde Environmental Consultants (Verde). The author is a Senior Hydrogeologist and the report was approved by the Operations Director. No statement of competency has been included.

15.4 The report refers to an Appropriate Assessment Screening and Natura Impact Statement (NIS), an Ecological Impact Statement, a Preliminary Construction and Demolition Waste Management Plan, a Construction Environmental Management Plan (CEMP), Flood Risk Assessment Report, Archaeological Impact Report Assessment Report, Architectural Heritage Impact Assessment and Arboriculture Report. I note that a Landscape and Visual Assessment Report has been submitted.

- 15.5 The Appropriate Assessment Screening Report found that in the absence of standard construction control and mitigation measures, there was the potential to adversely impact on two Natura 2000 sites downstream of the site and a Natura Impact Statement is necessary. Following the use of these measures, the NIS concluded that there would be no significant effects to any Natura 2000 site.
- 15.6 The EIA Screening Report finds that the proposed development does not constitute development which an Environmental Impact Assessment (EIA) is mandatory. The nature of the proposed development can be considered to be subthreshold development. The proposed development is assessed as to whether a subthreshold EIA is necessary.
- 15.7 The various reports submitted with the application address a variety of environmental issues and assess the impact of the proposed development, and demonstrate that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment. I have had regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts. I have examined the sub criteria having regard to the Schedule 7A information and all other submissions, and I have considered all information which accompanied the application.
- 15.8 The EIA Screening report finds that the scale of demolition on site is likely to give rise to 1,800 tonnes of mixed waste. This will require circa 1,375 trucks to be removed from site and is anticipated to take 23 days, assuming 60 truck removals a day. Dust control measures are set out in the CEMP. The NIS sets out surface water drainage is to be dealt with on site, so as to avoid pollution of the two watercourses. I am satisfied that the demolition will not give significant adverse impacts to warrant the preparation of an EIA Report (EIAR).
- 15.9 The EIA screening report prepared by the applicant has under the relevant themed headings considered the implications and interactions between these assessments and the proposed development, and as outlined in the report

states that the development would not be likely to have significant effects on the environment. I am satisfied that all other relevant assessments have been identified for the purposes of screening out EIAR.

15.10 I have completed an EIA screening assessment as set out in Appendix A of this report.

15.11 I consider that the location of the proposed development and the environmental sensitivity of the geographical area would not justify a conclusion that it would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances, the application of the criteria in Schedule 7 to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment and that an environmental impact assessment is not required before a grant of permission is considered. This conclusion is consistent with the EIA Screening Statement submitted with the application.

Cumulative Assessment

15.12 Cumulative Assessment has been considered by Verde. It finds that there are no significant planning applications in the immediate surroundings of the site, save for the future Metrolink Rail Order application. I also consulted the Fingal On- Line Mapping for Planning application on 10.01.2023 to establish if any significant permission had been permitted in the area, but not yet constructed. The future Metrolink is at application stage and there is a station proposed at Swords Central. Should the Rail Order be approved, construction is likely to commence in 2025. The Non Technical Summary of the accompanying EIA states that the construction programme is 9.25 years. As the application has not yet been approved and with the long construction time period, I would agree with the applicant that there is no certainty in relation to cumulative impacts.

Statement in relation to other relevant EU Environmental Legislation

15.13 A Statement in accordance with Article 299(1)(B)(ii)(II)(C) was provided by Verde. The results from other relevant assessments of the effects on the environment carried out pursuant to European Union legislation has been taken into account. The EU Directives include the following:

Directive 92/43/EEC – Habitats Directive

Directive 96/82/EC, 003/105/EC and 2012/18/EU – SEVESO Directive

Directive 2009/147/EC – Birds Directive

Directive 2018/851/EC – Waste Directive

Directive 2007/60/EC – Floods Directive

Directive 2002/49/EC – Environmental Noise Directive

Directive 2000/60/EC – Water Framework Directive

Directive 2001/42/EC – SEA Directive

16.0 Recommendation

16.1 For the reasons outlined below, I consider that the proposal is in compliance with the proper planning and sustainable development of the area and I recommend that permission is GRANTED, under section 9(4) of the Act subject to conditions set out below.

17.0 Reasons and Considerations

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 Hughes Planning and Development Consultants, on behalf of Jacko Investments Limited.

Proposed Development: The development will consist of:

‘(i) demolition of the existing 1-3 storey public house, restaurant, off-licence and associated storage buildings (totalling 1,197sq.m) and removal of associated surface car park;

(ii) construction of a residential development of 146 no. apartments (69 no. one-bedroom, 68 no. two-bedroom and 9 no. three-bedroom) in 4 no. blocks (ranging in height from four to six storeys over basement level) as follows: - Block A containing 15 no. apartments (3 no. one bedroom, 9 no. two bedroom and 3 no. three-bedroom) and measuring four storeys in height; - Block B containing 41 no. apartments (23 no. one bedroom, 17 no. two bedroom and 1 no. three bedroom) and measuring part-five part-six storeys in height; - Block C containing 54 no. apartments (33 no. one bedroom, 16 no. two bedroom and 5 no. three bedroom) and measuring part-five part-six storeys in height; and, - Block D containing 36 no. apartments (10. no one bedroom and 26 no. two bedroom) and measuring part-four part-five storeys in height. (ii) all apartments will have direct access to an area of private amenity space, in the form of a terrace/balcony, and will have shared access to internal communal amenities including a gym (211sq.m), communal store rooms (158sq.m) and a cinema/playroom (89sq.m), 3,551sq.m of external communal amenity space and 2,041sq.m of public open space;

(iii) provision of 109 no. vehicular parking spaces (including 5 no. mobility parking spaces, 5 no. car-share spaces and 11 no. electric charging spaces), 6 no. set-down parking spaces and 332 no. bicycle parking spaces at basement level accessible via new vehicular access from Church Road;

(iv) provision of 5 no. commercial units (746sq.m total) located at basement/ground floor level in Blocks A and B; and 1 no. childcare facility (424sq.m) located within the basement level of Block C;

(v) removal of existing culverts, installation of new culverts to facilitate pedestrian/vehicular access and diversion of the Glebe Stream on site; and,

(vi) all ancillary works including public realm/footpath improvements, landscaping, boundary treatments, internal footpaths, provision of surface level bicycle parking (56 no. spaces), bin storage, foul and surface water drainage, green roofs, ESB substation and all site services, site infrastructure and associated site development works necessary to facilitate the development. A Natura impact statement has been prepared in respect of the proposed development.

Decision:

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

Matters Considered:

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

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

- The site's location on lands with zoning objectives for 'Major Town Centre Use' and 'High Amenity';
- The policies and objectives in the Fingal Development Plan 2017 – 2023;
- The objectives in the Swords Master Plan, 2009;
- Nature, scale and design of the proposed development;
- The planning history of the site;
- The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- Housing for All – A New Housing Plan for Ireland, 2021;
- Climate Action Plan, 2023
- Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2020;
- The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- The Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the

Environment, Community and Local Government in March 2013 and revised in 2019;

- Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December 2022 ;
- The Urban Development and Building Heights Guidelines for Planning Authorities 2018;
- The Planning System and Flood Risk Management' (including the associated 'Technical Appendices') 2009;
- Chief Executive's Report;
- Inspector's Report; and
- Submissions and observations received.

It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure. the residential or visual amenities of the area or of property in the vicinity, would not interfere with protected views, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience and would provide for suitable connections to the Ward River Valley Park. The proposed development would not give rise to a risk of flooding upstream or downstream of the site and has mitigated any residual risk on site, in accordance with the justification test as set out in the aforementioned flooding guidelines. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment:

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Appropriate Assessment Screening document submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the

Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, other than the Malahide Malahide Estuary SAC (IE000205) and Malahide Estuary SPA (IE004025) which are European Sites for which there is a likelihood of significant effects.

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development for the Malahide Estuary SAC (IE000205) and Malahide Estuary SPA (IE004025) in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

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

- (a) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (b) the mitigation measures which are included as part of the current proposal, and
- (c) the conservation objectives for the European Sites.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' conservation objectives. In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of European Sites in view of the sites' conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

Environmental Impact Assessment

The Board completed a screening determination of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the applicant, identifies, and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- The nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(i) and 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- The location of the site on lands zoned 'MC' and 'HA' in the Fingal Development Plan 2017-2023 with the associated land use objectives to 'protect, provide for and/or improve major town centre facilities' and 'to protect and enhance high amenity areas'. The development plan was subject to a strategic environmental assessment in accordance with the SEA Directive (2001/42/EEC) and a Strategic Flood Risk Assessment.
- The location of the site within the town centre, which is served by public infrastructure, and the existing pattern of development in the vicinity.
- The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003).
- The location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended).
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment,

including measures identified in the Site Specific Flood Risk Assessment, Appropriate Assessment Screening Report and Natura Impact Statement, the Outline Construction Environmental Management Plan, the Preliminary Outline Construction & Demolition Waste Management Plan, the Engineering Services Report, the Arboricultural Report, the Ecological Assessment Impact Report, the Archaeology Report and the Architectural Heritage Report.

In conclusion, having regard to the mitigation measures proposed in the above reports there is no real likelihood of significant effects on the environment arising from the proposed development and that the preparation and submission of an environmental impact assessment report would not therefore be required.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that the proposed development is, broadly compliant with the provisions of the Fingal Development Plan 2017-2023 and would therefore be in accordance with the proper planning and sustainable development of the area.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective or other objective of the Development Plan.

Furthermore, the Board considered that, subject to compliance with the conditions set out below that the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not interfere with views to be preserved in the development plan, would be acceptable in terms of urban design, impact on archaeology and would be acceptable in terms of traffic and pedestrian safety and convenience and flood risk. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

18.0 Conditions

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

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows: -
 - a) Blocks B and C shall be repositioned as per the Landscape Concept Diagram as set out on Page 8 of the Landscape Design Report.
 - b) The repositioned Block C shall be reduced in height by an intermediary floor.
 - c) The materials in the outward looking facades of Blocks B and C shall be varied so as the facades have vertical emphasis.
 - d) The two apartment units above the first floor in Block D nearest the southern boundary of the site shall be omitted. The adjoining one bedroom apartment on both floors may be enlarged to two bedroom units.
 - e) The cyclepath adjacent to the Glebe Stream shall comply with the requirements of the planning authority.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual and residential amenity.

3. a) Pedestrian access to the public open space areas shall be permanent, open 24 hours a day, with no gates or security barrier at the entrance to the development or within the development in a manner which would prevent pedestrian access.

(b) Prior to the occupation of any residential unit, the developer shall ensure that the public realm areas and new pedestrian routes, as outlined in the site layout plan and landscape drawings shall be fully completed and open to the public.

Reason: In the interest of social inclusion and to secure the integrity of the proposed development including open spaces.

4. (a) Prior to the commencement of development, the applicant shall submit for the written agreement of the planning authority final details of the basement level, the number and location of car parking spaces and cycle parking spaces within the scheme.

(b) electric charging facilities shall be provided for bicycle parking and proposals shall be submitted to and agreed with the planning authority prior to the occupation of the development.

(c) prior to commencement of construction works, a Swept Path Analysis of the basement car park shall be provided to the planning authority.

(d) access routes to the cycle parking spaces shall be revised and if necessary a car parking space shall be eliminated to facilitate this. The basement layout shall be agreed with the planning authority, prior to the occupation of the development.

Reason: In the interest of encouraging the use of sustainable modes of transport and residential amenity

5. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, as set out in drawings P2.106 to P2.110, save as required for the changes required under Condition 2 (c) of this permission, unless otherwise agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

6. Prior to commencement of construction, details of all areas of boundary treatment, play equipment and planting, shall be submitted to, and approved, by the planning authority. Boundaries and areas of public communal open space shown on the lodged plans shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

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

7. Prior to commencement of development the applicant shall agree in writing with the Planning Authority the requirement for a piece of public art within the site. All works shall be at the applicant's expense.

Reason: In the interest of place making and visual amenity.

8. Prior to the occupation of the residential units, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

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

9. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units and to prevent inappropriate commuter parking.

10. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of electric vehicles

- 11.No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless agreed in writing with the planning authority.

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

- 12.Proposals for an apartment naming / numbering scheme, commercial unit identification and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

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

Reason: In the interests of visual and residential amenity.

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

Reason: In the interest of public health.

15. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

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

(b) No clearance of vegetation from the site shall be carried out during min bird breeding season of March to August.

Reason: In the interest of sustainable waste management and biodiversity.

17. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of

development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

18. The following requirements of the Inland Fisheries Ireland shall be adhered to:

- (a) All works shall be completed in line with the Construction Environmental Management Plan and all recommended measures shall be adopted along with the monitoring programme outlined;
- (b) There shall be no direct pumping of contaminated water from the works to the watercourse at any time, Any dewatering of ground water during excavation works shall be pumped into an attenuation area before being discharged off site.
- (c) Mitigation measures such as silt traps and oil interceptors shall be regularly maintained during the construction and operational phase. The developer shall enter into an annual maintenance contract in respect of the efficient operation of the petrol / oil interceptor.
- (d) Inland Fisheries Ireland shall be consulted on the planned realignment of the Glebe Stream. The realignment shall be conducted in the open season, July-September and shall be subject to an agreed method statement with Inland Fisheries Ireland, including surface water outfall details. The method statement will have regard to Planning for watercourses in the urban environment, by Inland Fisheries Ireland.

Reason: In the interest of water and fish protection.

19. A Construction Traffic Management Plan for the proposed development shall be agreed in writing before the commencement of enabling works.

Reason: In the interest of traffic safety.

20. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

21. Details of the materials, colours and textures of all the external finishes to the proposed dwellings/buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority/An Bord Pleanála prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

22. Noise from the operation of the commercial units of the proposed development shall not cause noise nuisance to nearby noise sensitive locations and shall not exceed the following:

0800 to 2100 – 55dBLA,rT

2100to 0800 – 45dBLAeq,T.

Clearly audible and impulsive tones at noise sensitive locations during night time houses shall be avoided.

Reason: In the interests of residential amenities.

23. The development shall be operated so that there will be no emissions of malodours, noise vibration or other deleterious materials, so as to give rise to a reasonable cause of annoyance.

Reason: in the interests of public health.

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

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

25. The proposed development shall be provided with noise insulation to an appropriate standard, having regard to the location of the site within Dublin Airport Noise Zone D.

Reason: In the interest of residential amenities.

26. Public lighting shall be provided in accordance with a scheme, [which shall include lighting along pedestrian routes through open spaces] details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. This lighting scheme shall be consistent with the need to consider the lighting regime suitable for bats and shall be accompanied by a letter from a qualified consultant in relation to bats, certifying that the lighting is compatible. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity, public safety and the ecology of the Ward River.

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

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

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

Reason: In the interest of residential and visual amenity

31. The developer shall facilitate the protection of archaeological materials or features which may exist within the site. In this regard, the developer shall -

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

(b) submit to and agree in writing with the planning authority revised proposals for the design of the proposed development, which shall ensure that the development will not cause avoidable disturbance to archaeological material and will limit any unavoidable disturbance,

(c) employ a suitably-qualified archaeologist who shall monitor all site investigations

and other excavation works, and

(d) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

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

32. The developer shall liaise with the planning authority with regard to the upgrade of Church Road, The works shall be provided by the developer, at the developer's expense for the extent of the proposed development boundary along Church Road. Details shall be agreed in writing with the planning authority before development works commence.

Reason: In the interest of pedestrian safety.

33. A Stage 3 Road Safety Audit shall be agreed with the planning authority before the operation of the proposed development commences.

Reason: In the interest of traffic safety.

34. Prior to commencement of development, the developer or other person with an Interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an

exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

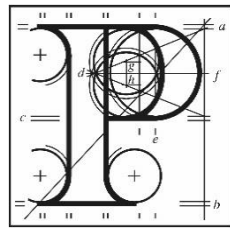
34. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the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

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

Mary Mac Mahon
Senior Planning Inspector

13 March, 2023

Appendix 1: EIA Screening Determination for Strategic Housing Developments



An
Bord
Pleanála

EIA - Screening Determination for Strategic Housing Development Applications

A. CASE DETAILS

An Bord Pleanála Case Reference	
Development Summary	
	Yes / No / N/A
1. Has an AA screening report or NIS been submitted?	Yes
2. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No
3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes

B. EXAMINATION

Yes/ No/
Uncertain

1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)	
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	Yes
1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	Yes
1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	Yes
1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?	Yes
1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?	No, subject to standard construction mitigation measures
1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	No, subject to standard construction mitigation measures
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	No
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No, save for fire and flooding.
1.10 Will the project affect the social environment (population, employment)	Yes

<p>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p>No</p>
<p>2. Location of proposed development</p>	
<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ol style="list-style-type: none"> 1. European site (SAC/ SPA/ pSAC/ pSPA) 2. NHA/ pNHA 3. Designated Nature Reserve 4. Designated refuge for flora or fauna 5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan 	<p>Yes, but an NIS has been submitted demonstrating how impacts can be avoided</p>
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	<p>No – see NIS and Ecological Impact Statement</p>
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>Yes, however archaeological, built heritage and landscape and visual impact assessments accompany the application to show that impacts can be mitigated</p>
<p>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>	<p>No</p>
<p>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</p>	<p>Yes</p>

2.6 Is the location susceptible to subsidence, landslides or erosion?	No
2.7 Are there any key transport routes (e.g. National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	No
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?	No

3. Any other factors that should be considered which could lead to environmental impacts	
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No
3.3 Are there any other relevant considerations?	No
C. CONCLUSION	
No real likelihood of significant effects on the environment.	Yes
Real likelihood of significant effects on the environment.	
D. MAIN REASONS AND CONSIDERATIONS	
Having regard to: - a) The guidance set out in ' <i>Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment</i> ' (2018) issued by the Department of Housing, Planning and Local Government,	

- b) The guidance set out in the “*Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development*”, issued by the Department of the Environment, Heritage and Local Government (2003),
- c) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 as amended, and
- d) the nature and scale of the proposed development, which is below 50% of the threshold in respect of Class 10(b)(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- e) the location of the site on lands zoned in part for ‘Major Town Centre’,
- f) The availability of mains water and wastewater services to serve the proposed development,
- g) The pattern of development in the surrounding area,
- h) The location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended),
- i) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Preliminary Construction and Demolition Waste Management Plan, the Outline Construction Environmental Management Plan (CEMP), the NIS, the Ecological Impact Assessment, the Flood Risk Assessment and the Archaeology Report,

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