



An
Bord
Pleanála

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

Inspector's Report ABP-313265-22

Strategic Housing Development

100 no. residential units (34 no. houses, 66 no. apartments), creche and associated site works.

Location

In the Townland of Kinsealy, including part of the grounds of Lamorlaye, on Back Road, Malahide, Co. Dublin.

Planning Authority

Fingal County Council

Applicant

CE Cladewell Estates Limited

Prescribed Bodies

Dublin Airport Authority
Development Applications Unit
Irish Aviation Authority
Inland Fisheries Ireland
Irish Water

Observers

Malahide Community Forum
Mebestown Housing Estate
Patrick and Louise Goodman
Sandra and Gary Crean and Others
Tom and Maria Hughes and Others

Date of Site Inspection

14th February 2023

Inspector

Rónán O'Connor

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1.0 Introduction

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

2.0 Site Location and Description

- 2.1.1. The site, with a stated area of 2.31 hectares, is located on the southern side of the Back Road facing the rear boundary wall of Malahide Castle demesne. The site consists of a green field and paddocks/ stables associated to the rear of Lamorlaye, a detached house on a generous plot. Located c. 0.3km east of the junction with the R107 Malahide Road and c.2km from Malahide train station.
- 2.1.2. The immediate area is predominantly characterised by single houses on large plots. The area is one in transition with residential developments to the east along the Back Road. Access to the site is via an existing entrance off Back Road. The site boundaries are formed by hedgerows, trees and a stone wall and wraps around the grounds of a large detached house (Lamorlaye).
- 2.1.3. The site is bounded to the north by Back Road which adjoins the southern boundary of Malahide Castle Demesne and Regional Park. To the east and south east 'GB' – Greenbelt zoned land used for horticultural/agricultural purposes and private residences. To the west and south by a cul-de-sac road serving private dwellings consisting mainly of detached dwellings on individual plots. Lands to the west are in residential use, comprising large detached residential dwellings.
- 2.1.4. The site slopes gradually from the road frontage to the north and down again from the centre of the site to its rear to the south.

3.0 Proposed Strategic Housing Development

- 3.1.1. The proposed development on a site of approximately 2.83Ha consists of 100no. residential units in a mix of houses, duplex, own door apartment and apartment buildings ranging in height from 2 to 4 storeys overall; comprising of 34no. 2 to 3 storey semi-detached, terraced and end of terrace houses (29no. 3-bedroom houses and 5no. 4 bedroom houses); 4no. 3 storey duplex and own door apartment blocks

(24no. 2-beds and 14no. 3-beds); 1no. 4 storey apartment block (12no. 1-beds and 16no. 2-beds). The proposed development also includes; 1no. childcare facility (c. 189.5sq m) located at ground floor level of Duplex Block 1 and associated outdoor play space c.142sqm; public open space (c. 4,319sq m); private open space (c. 2,637sqm private rear gardens serving housing and c. 686sqm balconies and terraces serving apartments and duplexes) and communal amenity open space (c. 479sq m); public lighting and street lighting; 151no. car parking spaces (4no. creche spaces, 68no. house spaces, 79no. apartment and duplex spaces (66no. residential and 13no. visitor car parking spaces); 120no. secure bicycle parking spaces (32no. residential apartment spaces, 48no. residential duplex and own door apartment spaces, 4no. creche spaces and 36no. visitor bicycle parking spaces); bicycle storage; bin storage; 1no. ESB substation; provision of temporary foul sewage holding tank and lifting station; provision of internal road network, including new road carriageways, pedestrian facilities; primary vehicular access serving the proposed development is via a new access road off Back Road; a new separate pedestrian and cycle access serving the proposed development to the west of Lamorlaye off Back Road; demolition of out buildings/stables (c. 168sqm) all associated and ancillary site development and infrastructural works including, laying a foul rising main along Back Road from the new access to the development to the junction of Back Road and Kinsealy Lane and 817m southwards along Kinsealy Lane as to connect to Castleway Pumping Station permitted under Fingal County Council Reg. Ref. F21A/0451; all ancillary hard and soft landscaping and boundary treatment works.

3.1.2. Key Figures

Site Area	2.83 Ha
No. of units	100 units (34 houses, 66 no duplex/apartments)
Density	43 units/ha
Height	2 to 4 storeys
Public Open Space	4,319 sq. m.

Part V	10 no. units
Vehicular Access	Off Back Road
Car Parking	151 no. spaces
Bicycle Parking	120 no. spaces
Other uses	Creche (189.5 sq. m)

4.0 Planning History

4.1. PA Reg. Ref. F10A/0120 refers to a grant of permission consequent to a grant of outline planning permission (Reg. Ref. D06A/1884) for 10 no. dwellings on individual c.0.5 acre sites. The application provides for 10 no. (5 bedroom) 2 storey dwellings, ancillary single storey garages, 10 no. individual bio-cycle units, landscaped open spaces, SUDS, boundary treatments, all ancillary site and engineering works and new vehicular entrance to serve the development from Back Road. The development will provide engineering works necessary to provide for a future foul sewer connection.

5.0 Section 5 Pre Application Consultation

5.1.1. A section 5 Consultation meeting took place via Microsoft Teams on the 8th July 2021 in respect of the following development:

- 102 no. residential units (56 no. houses and 46 no. apartments), creche and associated site works.

5.1.2. In the Notice of Pre-Application Consultation Opinion dated 20/08/2021 (ABP Ref. ABP-310125-21) the Board stated that it was of the opinion that the documentation submitted with the consultation request under section 5(5) of the Act required **further consideration and amendment to constitute a reasonable basis for an application** for strategic housing development to An Bord Pleanála.

In the opinion of An Bord Pleanála, the following issues needed to be addressed in the documents submitted to which section 5(5) of the Act of 2016 relates that could

result in them constituting a reasonable basis for an application for strategic housing development:

1. Development Strategy:

Further consideration and / or justification of the documents as they relate to the development strategy for the site. The further consideration and / or justification should address the following matters:

- (i) The proposed residential layout and urban design response with particular regard to the creation of active and architecturally appropriate road frontages having regard to the site context. How the proposed elevational treatments ensure a qualitative design response with optimal passive surveillance of public open spaces throughout the scheme, the creation of strong edges within the scheme and interface with Back Road and cul-de-sac road to the west and south.
- (ii) The hierarchy, function and usability of public open spaces including the use/linking of green areas throughout the scheme and boundary treatment. Computer Generated Images and cross-sections through the streets and open spaces should be submitted to show changes in levels and inter alia, the interface of boundary treatments and to public open spaces/streetscape.
- (iii) Treatment of the Hazelbrook stream along the southern boundary.
- (iv) The layout of the development, compliance with DMURS and provision of connections with adjoining lands and surrounding area
- (v) The location of the creche within the proposed development.

The response should also include a Materials Strategy that details all materials proposed for buildings, open spaces, paved areas and boundaries. The statement should present a justification/rationale for the materials being used having regard to the need for high quality and sustainable finishes that create a distinctive character for the development overall, whilst also responding to the character of the area. The documents should also have regard to the durability of materials and the long-term management and maintenance of the proposed development.

The further consideration / justification should have regard to, inter alia, the guidance contained in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2020 (including the locational criteria in Chapter 2 and the guidance on car parking provision in Chapter 4), the Urban Development and Building Height Guidelines for Planning Authorities 2018; the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) and the accompanying Urban Design Manual; the Design Manual for Urban Roads and Streets 2013; and the Dun Laoghaire Rathdown Development Plan 2016-2022. Further consideration of these issues may require an amendment to the documents and/or design proposals submitted.

5.1.3. Pursuant to article 285(5)(b)(i) and (ii) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant was notified that the following specific information should be submitted with any application for permission:

1. The prospective applicant is advised to address issues raised in the Planning Authority's Opinion received by An Bord Pleanála on 15th June 2021. In particular, the prospective applicant should address the following in the documents submitted:

a) Provide additional details in relation to the wastewater connection. The details should address the matters set out in the submission received from Irish Water, dated 8th June 2021 in relation to the need for network upgrades.

b) Provide additional drainage details. The details should address the matters raised in the Report of the Water Services Department.

c) Provide additional traffic and transportation details. The details should address the matters raised in the Report of the Transportation Planning Division of Fingal County Council.

d) Provide a response to matters raised in the Report of the Parks and Green Infrastructure Division.

2. Detailed rationale/justification for compliance with the Core Strategy, Objective SS02, the proposed residential density and housing mix with regard to the provisions of the Fingal County Development Plan 2017-2023 and relevant national and regional planning policy including the 'Guidelines for Planning Authorities on

Sustainable Residential Development in Urban Areas’ (including the associated ‘Urban Design Manual’); The ‘Design Standards for New Apartments – Guidelines for Planning Authorities’ (2020) and the ‘Urban Development and Building Heights – Guidelines for Planning Authorities’ (2018).

3. A housing quality assessment which provides the specific information regarding the proposed apartments required by the 2020 Guidelines on Design Standards for New Apartments. The assessment should also demonstrate how the proposed apartments comply with the various requirements of those guidelines, including its specific planning policy requirements. A building lifecycle report for the proposed apartments in accordance with section 6.13 of the 2020 guidelines should also be submitted.
4. A report that addresses issues of residential amenity (both existing residents of adjoining development and future occupants). Full and complete drawings including levels and cross sections showing the relationship between the development and nearby residential properties should be submitted.
5. A 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 BRE209/BS2011, as applicable.
6. A Masterplan showing the relationship between the site which is the subject of this consultation and the potential development of the remainder of the landholding associated with Lamorlaye.
7. (a) Traffic and Transport Impact Assessment (TTIA) of the development, the scope of which is to be discussed in advance with Fingal County Council.

(b) A report demonstrating compliance with the principles and specifications set out in DMURS and the National Cycle Manual in relation to the proposed housing and the works along public roads.

(c) A Carparking Strategy and Mobility Management Plan.
8. An Ecological Impact Assessment.

9. An Archaeological Impact Assessment.
10. A Tree survey and Arboricultural Assessment. The response should include a Tree Removal Plan, Tree Constraints Plan and Tree Replacement Plan.
11. A Landscape Impact Assessment and a Visual Impact Assessment including CGIs and details of proposed materials and finishes that would address the impact of the proposed development on Malahide Castle Demesne and Back Road. Key locations identified include the woodland boundary walk associated with Malahide Castle, the Castle building, Back Road entrance and field paths together with a point along the access road serving the development to the south of the site and from Connolly Crescent, Kinsealy Lane where the site is visible. The assessment should include cross sections.
12. A report identifying the demand for school and crèche places likely to be generated by the proposal and the capacity of existing schools and crèches in the vicinity to cater for such demand.
13. A site layout plan showing which, if any, areas are to be taken in charge by the planning authority
14. A draft Construction Waste Management Plan, draft Construction and Environmental Management Plan and a draft Operational Waste Management Plan.
15. Where the prospective applicant considers that the proposed strategic housing development would materially contravene the relevant development plan or local area plan, other than in relation to the zoning of the land, a statement indicating the plan objective (s) concerned and why permission should, nonetheless, be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act 2000. Notices published pursuant to Section 8(1)(a) of the Act of 2016 and Article 292 (1) of the Regulations of 2017, shall refer to any such statement in the prescribed format.

5.2. Applicant's Statement

- 5.2.1. The application includes a statement of response to the pre-application consultation (Planning Application Report, Statements of Consistency & Response to An Bord Pleanála Opinion), as provided for under section 8(1)(iv) of the Act of 2016 and

within this document the applicant has responded to the issue raised in the opinion and to each item of specific information.

6.0 Relevant Planning Policy

National policy as expressed within Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness and the National Planning Framework (NPF) – Ireland 2040 supports the delivery of new housing on appropriate sites. I also note the Government’s Housing for All Plan (2021) which identifies the need to increase housing supply as a critical action.

Project Ireland 2040 - National Planning Framework (2018)

The National Planning Framework ‘Project Ireland 2040’ addresses the issue of ‘making stronger urban places’ and sets out a range of objectives which it considers would support the creation of high quality urban places and increased residential densities in appropriate locations while improving quality of life and place. Relevant Policy Objectives include:

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

National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

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

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

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.

Section 28 Ministerial Guidelines

Having considered the nature of the proposal, the receiving environment and the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant section 28 Ministerial Guidelines and other national policy documents are:

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) and the accompanying Urban Design Manual: A Best Practice Guide (2009)
- 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (Updated December 2020)
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018)
- Design Manual for Urban Roads and Streets (2013). Interim Advice Note- Covid 19 (May 2020).
- The Planning System and Flood Risk Management (including the associated 'Technical Appendices') (2009)
- Childcare Facilities – Guidelines for Planning Authorities (2001)

5.2 Regional

Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031

Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES)

The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and ten year National Development Plan (NDP) - and

the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region.

- 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.
- RPO – 4.1 – Settlement Hierarchy – Local Authorities to determine the hierarchy of settlements in accordance with the hierarchy, guiding principles and typology of settlements in the RSES.
- RPO 4.2 – Infrastructure – Infrastructure investment and priorities shall be aligned with the spatial planning strategy of the RSES.

The site lies within the Dublin Metropolitan Area (DMA) – The aim of the Dublin Metropolitan Area Strategic Plan is to deliver strategic development areas identified in the Dublin Metropolitan Area Strategic Plan (MASP) to ensure a steady supply of serviced development lands to support Dublin’s sustainable growth.

Key Principles of the Metropolitan Area Strategic Plan include compact sustainable growth and accelerated housing delivery, integrated Transport and Land Use and alignment of Growth with enabling infrastructure.

Transport Strategy for the Greater Dublin Area 2016-2035

The Transport Strategy for the Greater Dublin Area 2016-2035 provides a framework for the planning and delivery of transport infrastructure and services in the Greater Dublin Area (GDA). It also provides a transport planning policy around which other agencies involved in land use planning, environmental protection, and delivery of other infrastructure such as housing, water and power, can align their investment priorities.

The Strategy sets out the necessary transport provision, for the period up to 2035, to achieve the above objective for the region, and to deliver the objectives of existing national transport policy, including in particular the mode share target of a maximum of 45% of car-based work commuting established under in “Smarter Travel – A Sustainable Transport Future”.

Climate Action Plan (January 2023)

Climate Action Plan 2023 is the second annual update to Ireland's Climate Action Plan 2019. This plan is the first to be prepared under the Climate Action and Low Carbon Development (Amendment) Act 2021, and following the introduction, in 2022, of economy-wide carbon budgets and sectoral emissions ceilings. The plan implements the carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050.

Specifically in relation to new-build housing, it is set out that all new dwellings will be designed and constructed to Nearly Zero Energy Building standard by 2025, and Zero Emission Building standard by 2030. In relation to transport, significant increases to sustainable transport trips and modal share are envisaged.

Section 15.3.2 sets out measures for enhanced Spatial and Land Use Planning, reducing reliance on the private car, including the promotion of compact growth in areas well served by public transport, as well as improved pedestrian and cycle infrastructure.

5.3 Local

Fingal County Development Plan 2017-2023

The site is governed by the policy and provisions contained in the Fingal County Development Plan 2017-2023.

The site is located within the development boundary of Malahide on lands zoned under land use zoning objective **RS** which seeks to '*provide for residential development and protect and improve residential amenity*'.

The site is also located within a housing density boundary, '*provide for residential development of a density per hectare as shown (5)*'

Airport Related Policy

Variation No. 1 of the Fingal Development Plan 2017-2023 was adopted on 9th December 2019. Variation No. 1 outlines revised Noise Zones and policy objectives in relation to aircraft noise from Dublin Airport.

Table 7.2 of Variation No. 1 outlines the four aircraft noise zones and the associated objective of each zone along with an indication of the potential noise exposure from operations at Dublin Airport. The zones are based on potential noise exposure levels

due to the airport using either the new northern or existing southern runway for arrivals or departures.

The southern extent of the application site is located within the Outer Airport Noise Zone. The application site is located for the most part within Noise Zone C with the south west sector located within Noise Zone B (as per Variation No. 1 of the Development Plan).

For development within Noise Zone B it is a stated objective *'to manage noise sensitive development in areas where aircraft noise may give rise to annoyance and sleep disturbance, and to ensure noise insulation is incorporated within the development. Noise sensitive development in this zone is less suitable from a noise perspective than in Zone C. A noise assessment must be undertaken in order to demonstrate good acoustic design has been followed. Appropriate well-designed noise insulation measures must be incorporated into the development in order to meet relevant internal noise guidelines. An external amenity area noise assessment must be undertaken where external amenity space is intrinsic to the developments design. This assessment should make specific consideration of the acoustic environment within those spaces as required so that they can be enjoyed as intended. Ideally, noise levels in external amenity spaces should be designed to achieve the lowest practicable noise levels'*.

For development within Noise Zone C it is a stated objective to: *'To manage noise sensitive development in areas where aircraft noise may give rise to annoyance and sleep disturbance, and to ensure, where appropriate, noise insulation is incorporated within the development. Noise sensitive development in this zone is less suitable from a noise perspective than in Zone D. A noise assessment must be undertaken in order to demonstrate good acoustic design has been followed. The noise assessment must demonstrate that relevant internal noise guidelines will be met. This may require noise insulation measures. An external amenity area noise assessment must be undertaken where external amenity space is intrinsic to the development's design. This assessment should make specific consideration of the acoustic environment within those spaces as required so that they can be enjoyed as intended. Ideally, noise levels in external amenity spaces should be designed to achieve the lowest practicable noise levels'*.

Objective DA07: 'Strictly control inappropriate development and require noise insulation where appropriate [in accordance with table 7.2] within Noise Zone B and Noise Zone C and where necessary in Assessment Zone D, and actively resist new provision for residential development and other noise sensitive uses within Noise Zone A, as shown on the Development Plan maps, while recognising the housing needs of established families farming in the zone. To accept that time based operational restrictions on usage of a second runway are not unreasonable to minimize the adverse impact of noise on existing housing within the inner and outer noise zone'.

Objective DA13 - Promote appropriate land use patterns in the vicinity of the flight paths serving the Airport, having regard to the precautionary principle, based on existing and anticipated environmental and safety impacts of aircraft movements

Chapter 2 - Core Strategy and Settlement Hierarchy/Chapter 4 – Urban Fingal

Malahide is designated as a Self-Sustaining Town. As of September 2019, there was a remaining land capacity of 75.5 Ha, which is stated as being equivalent to 956 no. residential units (Table 2.4 refers)

Chapter 3 – Placemaking

Objective PM31 -Promote excellent urban design responses to achieve high quality, sustainable urban and natural environments, which are attractive to residents, workers and visitors and are in accordance with the 12 urban design principles set out in the Urban Design Manual – A Best Practice Guide (2009); Objective PM40 Ensure a mix and range of housing types are provided in all residential areas to meet the diverse needs of residents; Objective PM41 Encourage increased densities at appropriate locations whilst ensuring that the quality of place, residential accommodation and amenities for either existing or future residents are not compromised; Objective PM42 The Guidelines for Planning Authorities 'Sustainable Urban Housing: Design Standards for New Apartments', 2015 issued by the then Minister for the Environment, Community and Local Government under Section 28 of the Planning and Development Act, 2000 (as amended) are required to be applied by the Planning Authority in carrying out its functions; Objective PM43 Have regard to 'Sustainable Urban Housing: Design Standards for New Apartments' (2007) (or any update or revision of these standards) when assessing apartment

developments; Objective PM52 Require a minimum public open space provision of 2.5 hectares per 1000 population. For the purposes of this calculation, public open space requirements are to be based on residential units with an agreed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms; Objective PM63 - Facilitate the provision of appropriately scaled children's playground facilities within new and existing residential development; Objective PM64 - Protect, preserve and ensure the effective management of trees and groups of trees; Objective PM70 - Ensure proposals for large scale residential developments include a community facility, unless it can be established that the needs of the new residents can be adequately served within existing or committed community facilities in the area; Objective PM76 Require as part of planning applications for new residential and commercial developments that provision be made for appropriate purpose built childcare facilities where such facilities are deemed necessary by the Planning Authority.

Chapter 9 – Natural Heritage

Objective NH24 - Protect rivers, streams and other watercourses and maintain them in an open state capable of providing suitable habitat for fauna and flora, including fish; Objective NH27 -Protect existing woodlands, trees and hedgerows which are of amenity or biodiversity value and/or contribute to landscape character and ensure that proper provision is made for their protection and management; Objective NH33 Ensure the preservation of the uniqueness of a landscape character type by having regard to the character, value and sensitivity of a landscape when determining a planning application; Objective NH34 -Ensure development reflects and, where possible, reinforces the distinctiveness and sense of place of the landscape character types, including the retention of important features or characteristics, taking into account the various elements which contribute to their distinctiveness such as geology and landform, habitats, scenic quality, settlement pattern, historic heritage, local vernacular heritage, land-use and tranquillity.

Chapter 12 – Development Management Standards

Objective DMS03 - Submit a detailed design statement for developments in excess of 5 residential units or 300 sq m of retail/commercial/office development in urban areas.

Objective RF04 (Variation No. 2 of the Plan)

Submit a detailed statement for developments on land zoned residential or mixed use, in excess of 100 residential units outlining:

- Compliance with the sequential approach in relation to development of the area,
- Potential for sustainable compact growth
- The scale of employment provision and commuting flows
- Extent of local services provision i.e. administration, education- particularly third level, health,
- retail and amenities
- Transport accessibility
- Environmental sensitivities, resources and assets and
- Current and planned infrastructure capacity

Other relevant objectives include objectives relating to open space, dual aspect, floor to ceiling heights, lifts per core, minimum floor area, separation distances, daylight and sunlight standards, sound transmission; refuse areas, community facilities, trees and hedgerows, DMURS, cycle and car parking standards, biodiversity and ecological corridors.

7.0 **Observer Submissions**

- 7.1.1. 5 no. submissions on the application have been received from the parties as detailed above. The issues raised in the submissions are summarised below.

Principle/Density/Core Strategy

- Proposal should be refused

- Combined with other SHDs in the area, if approved this application would result in an exceedance of the housing allocation of 776 units for Malahide as set out in the Development Plan.
- Existing infrastructure (schools/roads/sewage/waste management) already at capacity
- Cumulative impacts of other recently completed and planned housing developments in the area on traffic, noise, increased numbers of people and on the environment
- Applicant plans launch a second phase of development
- Detrimental to zoning objective
- Plan limits the density to 5 per ha.
- Density materially contravenes the zoning objective.
- Does not provide a sensitive transition to adjoining sites
- Seeking to bypass the Local Authority
- Sustainable Urban Housing document are 'guidelines' not 'dictates'
- Other developments approved, as cited by the applicants, are substantially below the density of 43 unit/ha applied for/highest was 33 units/ha in Streamstown for 80 units (F19a/0453)/This was in a different context
- Current density for the site is 5 unit/Ha
- Site is not at the edge of Malahide Village – it is 2km from the Village
- A slight reduction in density would mean it could not be considered by An Bord Pleanala
- Site is not an appropriate location for the scale and density of this development
- Section 14.1 of the Plan refers to the need to avoid 'abrupt transitions in scale'/applies to this area
- Site is not a suburban/edge location as defined under 3.4 of the Residential Guidelines

- Criteria under Section 3.2 of the Height Guidelines are required to be met in order to materially contravene the Development Plan/These are not met in this instance
- Overdevelopment of subject site

Design/Layout/Visual Impact

- Visual impact of the development from the surrounding roads and from Malahide Demesne/Request that the 5 duplex units proposed along Back Road be omitted
- Density would be out of character with surrounding development.
- Height of the duplex blocks are excessive.
- Duplex Block 3 and the apartment block should be replaced by two storey houses.
- Visually intrusive
- No 4 storey buildings exist within 5 miles of this area.
- Layout is dominated by large amounts of roads/car parking
- Proposal will be a highly incongruous feature in the local and wider area
- Will be visible from a wide range of views/insufficient viewpoints provided
- Does not address neighbourhood or streetscape

Residential Amenity

- Would overlook houses in Mabestown Housing Estate/separation distance are no adequate.
- Existing trees will need to be replaced in the near future.
- Noise impacts from slamming doors/traffic noise etc
- Loss of morning sunlight to No.s 1-3 Mabestown/due to height

Development Standards

- Public open space has limited amenity and visual value, due to the fragmented and narrow linear nature of the layout
- Open spaces are deficient/ Open space is of poor quality

- Open space is contrary to DMS66 (is located on the periphery of the site)/is contrary to Objective DMS67 (narrow tracts provided/no passive supervision)

Transport

- Impact on the road network/traffic congestion/already heavy congestion in the area
- Site is 2.3km from the Dart Station/is 660m away from the nearest bus stop/policies in relation to increased building heights and densities do not apply in this instance.
- Car parking provision is inadequate/likely to be luxury housing with higher car ownership levels
- Will result in overspill parking/facilitated by the proposed pedestrian entrance onto Mabestown Road/request that this entrance be omitted.
- Road alignment proposed will act as a cul-de-sac/layout is car dominated
- Impact of construction traffic
- Road safety concerns
- Capacity of rail service
- Site is not served by a high capacity public transport services/buses are infrequent/applicant is reliant on cars to serve future residents/poor connections to bus stop/No. 42 to Dublin City only runs every 20 mins at peak times.
- Applicant estimates only 27.2% of future occupiers will use the bus/Dart links
- Inclusion of a pedestrian/cyclist entrance from the proposed development to the Back Road is completely unjustified/will create traffic hazard/is not subject to passive surveillance/high potential for anti-social behaviour
- Cycle infrastructure in the area is poor

Site Services

- Upgrades to the sewer system have not yet happened
- Application is premature pending an upgrade of the sewer system

- Drainage infrastructure requires upgrading/applicant is reliant on the Castleway pumping station/do not have sufficient legal interest to do so
- Insufficient buffer provided for the on-site wastewater pumping station/contrary to Objective WT12 of the Development Plan/only 15m to the nearest residential property (unit 22)
- Section 3.3 of the Development Plan states that underground tanks and storage systems will not be accepted under public open space

Ecology/AA/EIA

- Impact on wildlife/nesting birds and other animals
- Mitigation does not address potential negative impact on the stream and the hydrologically connected Natura 2000 sites downstream
- EIA Screening – reference is made to Waltham Abbey Judgement and paragraph 22 of this judgement in relation to the list of items that should be considered as part of the screening exercise/screening report should scrutinised in this regard
- NIS – question whether impacts on the stream have been fully considered.

Other Issues

- Would depreciate value of property

8.0 Planning Authority Submission

- 8.1.1. Fingal County Council has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016.

Density, Layout and Design

- PA are supportive of increasing densities in the right locations/subject site is constrained by the density restriction of 5 units/Ha/PA maintain that the density proposed would be excessive in relation to the density restriction of 5 units/Ha.
- Scale of development is at the expense of some key amenities/seems at odd with the peripheral setting.
- Lacks a central focal point for open space/provided in a fragmented manner/consists of narrow tracts of land without appropriate surveillance.

- Building line is forward of the building line along Back Road/creating a prominent streetscape that is out of kilter with the established pattern of development in the area
- In the absence of a comprehensive redevelopment of the lands, proposal represents a piecemeal approach to developing the area

Development Standards

- House types B1, B3/B4 appear narrow
- Units 5-22 appear to have constrained rear gardens having regard to the extent of the existing hedge
- No provision made for the inclusion of residential amenity rooms within the apartment block/local shop
- Not anticipated overlooking/overshadowing or over-bearance of existing properties will result
- Contribution required for the shortfall of public open space (based on number of bedspace) which will be used for the upgrade of Malahide Demesne Park).
- Proposed open space is of poor quality/do not conform to open space standards i.e. Table 12.5, DMS66, DMS67 and DMS74/Poor passive surveillance/could lead to anti-social behaviour
- Open spaces are not suitable for taking in charge due to their limited size and layout

Transport

- Proposed parking should be dedicated exclusively to the residential units
- Parking for the apartment units and crèche should not be included in the areas taken in charge by the council
- Cycle parking provision is considerably lower than the National and Planning Guideline requirements/location of cycle parking is inadequate/no passive surveillance
- Crèche would require at least 8-10 set down spaces/ 4 set down spaces provided

- Not clear where staff parking is located/vehicle movement arrangements need improvement
- Parking layout for the apartments requires consideration/concern raised re parking area near entrance to back road
- Width of internal roads is below the required 6m to facilitate proper access/layout not suitable for taking in charge
- Access requirements to pumping station has not been indicated
- Corner radius to the main vehicular access should be increased/close to two blind bends
- Note the contents of the TTA/note junction of Back Road with the Hill will exceeded design capacity/recommended upgrade be addressed as part of this application/or by way of financial contribution towards a future upgrade

Site Services/Ecology

- Surface water headwall is proposed within the ecological corridor in conflict with Objective DMS171 of the Development Plan
- Note submission from IFI that recommends that the culverted section of the stream be de-culverted/PA support this although this may have implications for flood risk modelling and information within the NIS.
- Would contravene Objective WT12 of the Development Plan as relates to appropriate buffers around pumping stations
- Eastern end of Duplex Block 3 appears dominant/more consideration should be given to the northern elevation of Duplex Block 4 which presents as a blank elevation
- Proposed development is located close to trees/hedges to be retained/tree bond recommended
- Ecological clerk of works recommended
- Drainage – significant investment needed by the applicant/missed opportunity that a more sustainable gravity solution could not be identified/that a wastewater masterplan for the area is not in place.

- Surface Water – no above ground attenuation proposed/would benefit from a range of alternative measures/use of underground attenuation tanks should be avoided.
- There is potential for de-culverting of the stream/would have a positive impact/Flood Risk Assessment would need to be updated.

Conclusion

- The proposed development would materially contravene the density restriction
- The proposed layout with insufficient to the constraints of the site presents an inappropriate overdevelopment of the site which is contented to be piecemeal in the absence of a comprehensive development of the entire lands.

Recommendation

8.1.2. The Planning Authority recommend that the application be **refused** for two no. reasons as follows:

1. The proposed development, by reason of density, deficiencies in quality, useable public open space, deficiencies in car and bicycle parking and infringement of the building line, would represent over-development of the site, would be at variance with Objective PM41 of the Fingal Development Plan 2017-2023 and piecemeal approach to development. It would therefore be inconsistent with the established character of the area.
2. The proposed development would contravene materially Objective WT12 of the Fingal Development Plan 2017-2023 which seeks to *Establish an appropriate buffer zone around all pumping stations suitable to the size and operation of each station. The buffer zone should be a minimum 35 metres – 50 metres from the noise/odour producing part of the pumping station to avoid nuisance from odour and noise.*

8.1.3. Section 5 of the PA report sets out conditions (in the event the Board grants permission for the proposed development. Conditions of note include:

- Condition no. 2 – House No's 20, 21 and 22 shall be omitted/are to be landscaped for use as part of the open space.
- Condition no. 6 – Cycle storage to the front of the terraced units.

- Condition no, 7 – Noise insulation having regard to the location of the site within Zone B and C associated with Dublin Airport
- Condition No. 9 – related to Transport requirements and includes but is not limited to, details of maintenance requirements for pumping station and upgrading of the junction of Back Road with The Hill to a signalised junction.
- Condition No. 11 – related to trees/landscaping/open space and includes, but is not limited to, a requirement for a contribution in lieu in respect of open space provision.

Elected Members

8.1.4. The following is a summary of views expressed at the area committee meeting on 4th May 2022.

- Material contravention of plan
- Density may be excessive
- Distance from pumping station
- Scale of development
- Airport noise and safety zones
- Rising main and tie in with works along Kinsealy Lane
- DMURS/Road safety
- Too many car parking spaces
- Needs car parking
- Support the development but 4 storeys is excessive
- Location of the development adjacent to the playground in Malahide
- Refer to the density cap being removed in the Draft Plan
- Increased density would be a better use of lands
- Streetscape views/vistas

Internal Reports

Parks and Green Infrastructure Division

- Comments in relation to open space as referenced in the PA submission summarised above.
- Conditions recommended in relation to Tree Protection/management of communal and open spaces/landscaping/play areas/engagement of an Ecological Clerk of Works

Environmental Health Air & Noise Unit

- Conditions recommended in relation to construction works, noise and vibration, air emissions and odours

Economic, Enterprise, Tourism and Cultural Development

- Condition recommended in relation to a piece of public art to be provided

Transport

- Comments in relation to parking provision, cycle parking, set-down space for crèche, layout, vehicle movements, required junction upgrades as referred to in the summary of the PA submission above. Conditions recommended in relation to same.

Housing Department

- Notes correspondence from applicant in relation to Part V obligations.
- Note costs will be agreed subject to grant of planning.

9.0 Prescribed Bodies

Irish Water:

- The proposed development site crosses the identified alternative corridor route (Northern Pipeline) for the Greater Dublin Drainage Project/project is of strategic national, regional and local importance, has been identified in the National Planning Framework (NPF) as a National Strategic Outcome of the National Development Plan and is a critical piece of infrastructure for the region.
- Notes that the area of the site crossing the GDD alternative corridor route forms part of the proposed wastewater upgrade works to service the site.

- No objections in principle to the development/would request that the applicant liaise with the GDD design team to ensure there are no potential residual impacts on the GDD corridor.

Inland Fisheries Ireland

- Hazelbrook Stream is a tributary of the Sluice River/Sluice River is a locally important salmonid system.
- Salmonid waters constraints apply to any development in this area/potential for release of sediments and pollutants into the surrounding watercourses with negative impacts on the freshwater system.
- Temporary surface water drainage measures should be put in place before construction begins in order to protect the local watercourses/short-term storage and removal / disposal of excavated material must be considered and planned such that risk of pollution from these activities is minimised.
- Works to be completed in line with a site specific Construction Management Plan (CMP).
- Conditions recommended in relation to maintenance of stormwater drainage network and design of surface water outfalls.
- Request that the 60m culverted section of the Hazelbrook stream be removed/in line with the EU Water Framework Directive (2000/60/EC)/would also support the objectives of the Fingal County Development Plan.

Irish Aviation Authority

- Recommend condition in relation to crane operations.

DAU

Archaeology

Condition recommended

Nature Conservation

- Appropriate Assessment of the proposed development identified the possibility for pollutants to be mobilised from the development into surface water runoff into the Hazelbrook Stream which runs along the south eastern boundary of the site

and eventually into the Baldoyle Bay Special Area of Conservation (SAC) and Baldoyle Bay Special Protection Area (SPA), with the possibility of resultant detrimental impacts on these European sites.

- Clearance of vegetation from the site during the main bird breeding season from March to August could lead to the destruction of nests, eggs and nestlings. 40 nest boxes which it is proposed to install in the new development may provide substitute nest sites for some of the birds displaced by the removal of trees and hedgerows.
- Bat surveys of the site have identified a bat roost used by five soprano and common pipistrelle bats in the clock tower of stables on the site which are to be demolished, and a derogation licence has already been obtained from the National Parks and Wildlife Service of this Department to destroy this roost. The incorporation of an artificial bat roost and the installation of bat boxes are proposed to compensate for the destruction of this existing roost.
- Soprano and common pipistrelles and Leisler's bat were also recorded foraging over the development site, and the installation of bat friendly lighting in the development is proposed to maintain such usage of the site by bats.
- Conditions recommended in relation to measures identified in the NIS and the CEMP; Vegetation clearance; procedures for felling bat roost trees; lighting scheme.

DAA

- The proposed development is located within Noise Zone C.
- Note Objective DA07 of the Development Plan.
- Recommend condition in relation to appropriate insulation.

10.0 **Assessment**

10.1.1. The main planning issues arising from the proposed development can be addressed under the following headings-

- Principle of Development
- Design including height, layout and mix

- Proposed Residential Amenities/Residential Standards
- Surrounding Residential Amenity
- Traffic and Transportation
- Ecology/Trees
- Flood Risk
- Site Services
- Other Issues
- Planning Authority's Submission
- Material Contravention

10.2. Principle of Development

- 10.2.1. The Planning Authority have not raised any concerns in relation to compliance with the zoning objective that pertains to the site, although note that the subject site is constrained by the density restriction of 5 units/ha (as per the site specific objective pertaining to the site as indicated in Sheet 9 of the Fingal Development Plan 2017-2013). The Planning Authority are of the opinion that the density proposed would be excessive in relation to the density restriction of 5 units/Ha, with the scale of development coming at the expense of some key amenities. The Planning Authority's Recommended Reason for Refusal No. 1 refers to *inter alia* the proposed density (as well as other concerns that relate to open space, car and cycle parking and building line).
- 10.2.2. Observer submissions state that the proposal materially contravenes the zoning objective, having regard to the density proposed, and note the location of the site some 2km from Malahide Village. It is noted that other developments approved in the area are substantially below the density proposed here. It is stated that the proposal represents an overdevelopment of the site.

Zoning

- 10.2.3. The site is zoned 'RS-Residential', the objective of which is to 'Provide for residential development and protect and improve residential amenity'. Residential and childcare uses are permitted in principle on the site. As such the proposed residential and crèche elements are acceptable in principle, having regard to the zoning objectives.

Core Strategy

- 10.2.4. The Planning Authority have not raised a concern in relation to compliance with the Core Strategy or Settlement Strategy.
- 10.2.5. An observer submission has stated that this proposed development, in combination with other SHD applications in the area, would lead to a breach of the housing unit allocations for Malahide as set out in the Development Plan.
- 10.2.6. In reference to same, Table 2.4 of Variation No. 2 of the Fingal Development Plan sets out the total residential capacity for each of the towns and villages within Fingal, and Malahide is identified as having remaining capacity for 956 no. units (updated as of September 2019). This current proposal of 100 units would account for approximately 10% of those units. The applicant has identified other larger housing developments that have been granted in the area within the lifetime of the current Development Plan, and identifies 776 units that have been granted. Should this proposal be granted permission, the total units permitted over the lifetime of the plan would account for 91.6% of the unit allocations for Malahide. I am satisfied, on the basis of the available information before me, that should this proposal for 100 no. units be granted permission, there would be no breach of the unit allocations for Malahide.

Density

- 10.2.7. The proposed net density is 43 units/ha. In relation to national policy on density, Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. Of relevance, objectives 27, 33 and 35 of the NPF seek to prioritise the provision of new homes at locations that can support sustainable development and seeks to increase densities in settlements, through a range of measures.
- 10.2.8. In relation to regional policy, the site lies within the Dublin Metropolitan Area Strategic Plan (MASP) as defined in the Regional Spatial & Economic Strategy (RSES) 2013-2031 for the Eastern & Midland Region. A key objective of the RSES is to achieve compact growth targets of 50% of all new homes within or contiguous to the built-up area of Dublin city and suburbs. Within Dublin City and Suburbs, the RSES supports the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area and

ensure that the development of future development areas is co-ordinated with the delivery of key water and public transport infrastructure.

10.2.9. In relation to Development Plan objectives on Density, Policy PM41 seeks to *‘Encourage increased densities at appropriate locations whilst ensuring that the quality of place, residential accommodation and amenities for either existing or future residents are not compromised’*. In the supporting text, it is stated that in determining densities, regard should be given to Sustainable Residential Development in Urban Areas (2009) and its companion document Urban Design Manual and that the Council promotes higher densities at suitable locations such as along public transport corridors and in main town centres. While not referring to density specifically, Objective PM42 (as varied) states that it is an objective to *‘Implement the policies and objectives of the Minister in respect of ‘Urban Development and Building Heights Guidelines’ (December, 2018) and Sustainable Urban Housing: Design Standards for New Apartments (March, 2018).*

10.2.10. The proposed development site is located circa 2km outside of Malahide’s Town Centre and within the development boundary as defined in the zoning map ‘Sheet 9’ of the County Development Plan. In relation to Section 28 Guidelines and in particular in relation to the criteria as set out in the ‘Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities’ (Updated December 2022), I am of the view that, having regard to the range of locations as set out in same document, the site can be defined as a ‘Peripheral and/or Less Accessible Urban Location’, given the location and nature of same. These locations are generally suitable for higher density development that can comprise of a minority of apartments at low-medium densities, generally less than 45 units per hectare. The density of 43 units/ha is in line with this density range.

10.2.11. In relation to the Sustainable Residential Development in Urban Areas (2009), I am of the view that the site as a whole can be defined as an ‘Outer Suburban/’Greenfield’ site, as defined in the Guidelines. These are defined as ‘open lands on the periphery of cities or larger towns whose development will require the provision of new infrastructure, roads, sewers and ancillary social and commercial facilities, schools, shops, employment and community facilities’. A density range of 35-50 is encouraged on such lands. The density of 43 units/ha is within this range.

Site Specific Objective in relation to Density

10.2.12. Sheet 9 of the Development Plan includes a site specific objective which sets out that there is a limitation on residential on the wider site (which includes this application site and the adjoining 'Lamorlaye' site) of 5 units/ha. The proposed net density is 42.8 unit/ha. The Planning Authority are of the view that the proposal would materially contravene the density restriction (but have not recommended refusal on the basis of a material contravention *per se*). Observers have contended that the proposal is a material contravention of the Development Plan and note the density restrictions that apply to the site.

10.2.13. The applicant's Material Contravention Statement sets out a justification for this material contravention and refer to the provisions of and various Section 28 Guidelines, including 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2020) and the 'Urban Development and Building Heights – Guidelines for Planning Authorities', including the provisions of SPPR 4.

10.2.14. I refer the Board to Section 9(6)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016 which states:

(b) Where specific planning policy requirements of guidelines referred to in paragraph (a) differ from the provisions of the development plan of a planning authority, then those requirements shall, to the extent that they so differ, apply instead of the provisions of the development plan

10.2.15. SPPR 4 of the Urban Development and Building Heights – Guidelines for Planning Authorities' (2018), states:

It is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure:

1. the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended),

titled “Sustainable Residential Development in Urban Areas (2007)”¹ or any amending or replacement Guidelines;

2. a greater mix of building heights and typologies in planning for the future development of suburban locations; and

3. avoid mono-type building typologies (e.g. two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more.

10.2.16. I am of the view that the site is an edge of town location and as such, SPPR 4 provisions apply. I am also of the view the Board is obliged to apply those density provisions as set out in Sustainable Residential Development in Urban Areas (2009). As noted above a density range of 35-50 units/ha applies to this site. I note also the provisions of parts 2 and 3 of SPPR 4. I have considered the issue of the mix of building heights and typologies in Section 10.3 of this report and I have concluded that the proposal does provide a range of heights and typologies in line the provisions of part 2 above. In relation to part 3, I have considered building typologies in Section 10.3 of this report and I am satisfied that the application has avoided mono-type building typologies by providing three story duplex units and apartment units as well as two-storey and own door housing units. I am satisfied that, overall, the provisions of SPPR 4 have been complied with. Furthermore, I note the provisions of SPPR 4 of the Building Height Guidelines effectively replace those provisions of the Development Plan in this instance, as relates to the density restriction on this site, as per Section 9(6)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016. Notwithstanding, I am of the view the provision of a density such as that proposed may still constitute a material contravention of this site specific objective of the Development Plan. I have dealt with the specific issue of material contravention in Section 10.13 below and I refer the Board to same.

10.3. Design including Height, Layout, Open Space and Mix

10.3.1. In relation to height, the proposed heights range from 2 to 4 storeys. The proposed housing typology comprises of comprising of 34 no. 2 to 3 storey semi-detached, terraced and end of terrace houses (29 no. 3-bedroom houses and 5 no. 4 bedroom

¹ I note the correct reference should in fact be *Sustainable Residential Development in Urban Areas (2009)*”

houses); 4no. 3 storey duplex and own door apartment blocks (24 no. 2-beds and 14 no. 3-beds) and 1 no. 4 storey apartment block (12no. 1-beds and 16no. 2-beds).

- 10.3.2. The proposed layout essentially wraps around the adjoining 'Lamorlaye' site (the site of which is referred to as 'Phase 2' of the overall development in the documentation submitted with the application). Some of the rear garden and outbuildings that are currently part of the 'Lamorlaye' site are within this application site boundary.
- 10.3.3. The main vehicular access is from Back Road with a main (Street 1) with minor streets off of this (Street 2, 3, 5 and 5). A pedestrian access is provided to the north-west of the site, from Back Road, with a linear walkway that to the rear of Duplex Block 3. Public open space is dispersed throughout the site, with two areas of public open space adjacent to Back Road (Public Open Spaces 1 and 2), with a larger linear area of public open space to the south and south-west of the site, that runs to the rear of Duplex Block 3 and the 4 storey Apartment Block.
- 10.3.4. The Planning Authority have stated that the scale of development is at the expense of some key amenities and seems at odds with the peripheral setting. In relation to the layout, the Planning Authority have stated the proposal lacks a central focal point for open space which provided in a fragmented manner and consists of narrow tracts of land without appropriate surveillance. It is further stated that, due to the proposed building line being forward of the building line along Back Road, the proposal creates a prominent streetscape that is out of kilter with the established pattern of development in the area, and in the absence of a comprehensive redevelopment of the lands, proposal represents a piecemeal approach to developing the area. It is also stated that the eastern end of Duplex Block 3 appears dominant and that more consideration should be given to the northern elevation of Duplex Block 4 which presents as a blank elevation. In relation to the proposal areas of public open spaces, the Planning Authority have stated that the proposed open spaces are of poor quality and do not conform to open space standards i.e. Table 12.5, DMS66, DMS67 and DMS74. It is stated that there is poor passive surveillance of the open spaces which could lead to anti-social behaviour. It is further stated that the open spaces are not suitable for taking in charge due to their limited size and layout. The Planning Authority has recommended refusal of the application for 2 no. reasons, the first of which refers to some of the concerns as raised above.

- 10.3.5. Observer submissions have stated that the proposal would be out of character with surrounding development and that the height of the duplex blocks are excessive. It is stated that no 4 storey buildings exist within 5 miles of this area. Concerns are raised in relation to the visual impact of the development from the surrounding roads and from Malahide Demesne. It is stated that the proposal will be a highly incongruous feature in the local and wider area and will be visible from a wide range of views and that insufficient viewpoints are provided. An observer has requested that the 5 duplex units proposed along Back Road be omitted and that duplex Block 3 and the apartment block should be replaced by two storey houses. It is further contended that the layout is dominated by large amounts of roads/car parking and the proposal does not comply with the criteria as set out in Section 3.2 of the Building Height Guidelines.
- 10.3.6. The applicant has submitted a number of documents relating to the design, layout and visual appearance of the development including an Architectural Design Statement, which is required by Objective DMS03 of the Development Plan, a Landscape and Visual Impact Assessment (and associated verified views document), and a Landscape Report. The Design Statement evaluates each aspect of the proposal against the criteria in context of the 12 design criteria set out in s.28 Urban Design Manual – A Best Practice Guide.
- 10.3.7. In relation to Development Plan objectives on height and design, Objective PM31 of the Development Plan states ‘Promote excellent urban design responses to achieve high quality, sustainable urban and natural environments, which are attractive to residents, workers and visitors and are in accordance with the 12 urban design principles set out in the Urban Design Manual – A Best Practice Guide (2009)’. Other relevant objectives, as relate to design, layout and open spaces include Objective DMS66 which seeks to ‘ensure open spaces are not located to the side and rear of housing units’, Objective DMS67 which seeks to ‘ensure open space provision is suitably proportioned and inappropriate narrow tracts are not provided’ and Table 12.5 which requires *inter alia* that pocket parks (Class 2 open space) are not the side or back of houses and are adequately overlooked.
- 10.3.8. In relation to the 12 design criteria set out in s.28 ‘Urban Design Manual – A Best Practice Guide’, I have evaluated the proposal in relation to same below, and have also considered the relevant provisions of the Development Plan, where appropriate.

Criteria 1 Context – How does the development respond to its surroundings?

10.3.9. The site is located in an area that is currently dominated by large houses on extensive site, but one that is changing as residentially zoned sites come forward for development, with the typologies on these development sites reflecting the need for more efficient use of such sites, with corresponding higher densities. As such, the housing typology as proposed here with a mix of two storey housing units, three story duplexes and 4 storey apartment units, is in line within emerging trends, and I am satisfied that the scale of development, in terms of the overall quantum of units and in terms of the heights proposed, are appropriate, with sufficient reference made to the existing heights, but with an acknowledgement of the need to increase densities. I do not consider that there is an infringement of the building line, as in my view, there is no defined building line on the Back Road, and the placement of Duplex Block to the north does not, and cannot infringement on a building line.

Criteria 2 Connections - How well connected is the new neighbourhood?

10.3.10. As noted in the discussion on density above, the site lies some distance from the centre of Malahide, with the overall scale of the development reflecting this. The site, does, however, have pedestrian connections to the centre of Malahide and other locations including the adjacent Malahide Castle and Demesne site. There is acknowledgement also of potential future connections both to the Lamorlaye Site and to the site to the east.

Criteria 6 Distinctiveness - How do the proposals create a sense of place?/ Criteria 7 Layout - How does the proposal create people friendly streets and spaces?/Criteria 8 Public Realm - How safe, secure and enjoyable are the public areas?/ Criteria 11 Parking - How will the parking be secure and attractive?/Criteria 12 Detailed Design - How well thought through is the building and landscape design?

10.3.11. In relation to those criteria above, I share, for the most part, the concerns of the Planning Authority in relation to the overall layout of the proposal, and in particular the somewhat compromised layout of the open spaces, as a result of the piecemeal development of the wider site (which includes the Lamorlaye site). There are numerous references to Phase 1 of the project (this application site) and Phase 2 of the project (development of the Lamorlaye site), with suggested layouts indicating how the two sites would be interlinked. It is stated within the application

documentation, including the Planning Report, that the 'Lamorlaye' site is within the ownership of the applicant, although the site location map does not reflect this i.e. there is no blue line around the entire land in the applicant's ownership. In any event, I concur with the view of the Planning Authority that the proposal lacks a centralised, well-overlooked usable area of public open space that one would normally expect with a development of this nature, and this has come about as a result of the rather confined and comprised nature of this application site, with the layout and allocation of open space determined to a large extent by the somewhat awkward arrangement of the site boundaries. The public open space is instead confined to two smaller, compromised areas, to the north of the site, adjacent to the Back Road, and to a linear area of the site that runs along the southern boundary, giving the overall impression that the open space is being provided on the 'leftover' areas of the site that cannot be developed. In this regard, I also concur with the view of the Planning Authority that the proposal represents 'piecemeal development' and is premature pending the overall development of the wider site. The result of this is that the layout, as currently proposed, fails to find a balance of developing the site in an efficient manner, and providing an appropriate quantum of high quality, usable public open space.

10.3.12. In relation to those two area of public open space adjacent to Back Road, and in particular 'Open Space 2' the limited extent of this open space limits their overall functionality, and to my mind, would be of limited benefit to the future occupiers of the proposed development. Their location adjacent to the relatively heavily trafficked Back Road further compromises these spaces as viable amenities. I also note that Open Space Area 2 would be somewhat overshadowed by Duplex Block 2, and falls short of the target sunlight provision, as set out in the BRE Guidelines (see discussion in Section 10.4 below). In relation to the linear strip of open space to the south of the site, this also acts as a riparian buffer, as required by the Development Plan (Objective WQ05 refers). However much of this space, especially to the south-east of the site, is poorly overlooked and the layout is essentially a narrow tract of open space, contrary to Objective DMS67 of the Plan. The location to, to the side and rear of the housing units, is contrary to DMS66 of the Plan. In addition, the location of this area of open space, at some distance from those units to the north of the site, limits the amenity value of same.

10.3.13. I am also of the view that the proposal is somewhat dominated by the areas of car parking, which comes as a result of the areas of open space being confined to the margins of the site, with the remainder of the site providing little relief from the on-street parking that is provided for the duplex and apartment units. The layout, too, results in the creation of a number of cul-de-sacs, contrary to guidance as set out in DMURS (Section 3.3.1 refers). While these may be resolved as the adjacent development site come forward, this, to my mind at least, is a rather unsatisfactory way of developing the wider site, introducing uncertainty as to how and when these cul-de-sacs would be linked to adjacent developments. As a result of same, I am not of the view that the overall public realm provided would be of sufficient quality in this instance.

10.3.14. I have no objection, however, to the detailed design of the housing, duplex and apartment units, which provide a good variety of dwelling types, and make use of appropriate materials, which I consider are of sufficient quality and draw sufficient reference to the prevailing materials in the surrounding developments.

Criteria 3 Inclusivity - How easily can people use and access the development?/

Criteria 9 Adaptability How will the buildings cope with change?

10.3.15. The proposal provides a wide range of dwelling types facilitating a wide range of potential occupiers. All homes have level access. In terms of adaptability, some of the housing units have adaptable roof spaces to allow for individuals and families to extend their homes if required, subject to planning, which will allow for additional space, including space for home offices, and there is also scope to extend to the rear of some of these properties, subject to planning.

Criteria 4 Variety - How does the development promote a good mix of activities?

10.3.16. Given the nature of the proposal as a Strategic Housing Development, the proposal is, by definition, limited in terms of the mix of uses that can be provided. However, within as well as the residential units, a crèche has been provided.

Criteria 5 Efficiency - How does the development make appropriate use of resources, including land?

10.3.17. I have considered the issue of the quantum of development, in terms of density, in Section 10.2 above, and have concluded that overall the quantum of development is appropriate for the site context, and makes efficient use of the residential zoned

land. A Building Lifecycle Report has been submitted in line with Section 6.12 of the Apartment Guidelines (2022) which set out measures to ensure that the development has incorporated to reduce the long term running and maintenance costs per residential unit, and which includes *inter alia* energy efficient materials and lighting.

Heights

- 10.3.18. Specifically in relation to the heights proposed, I refer to the Building Height Guidelines (2018). Within this document it is set out that that increasing prevailing building heights has a critical role to play in addressing the delivery of more compact growth in our urban areas. (Section 1.21 refers). Furthermore, I note the provisions of Section 1.9 of the guidelines which state that *'the scope to consider general building heights of at least three to four storeys, coupled with appropriate density, in locations outside what would be defined as city and town centre areas, and which would include suburban areas, must be supported in principle at development plan and development management levels'*.
- 10.3.19. Section 3.2 of the Guidelines set out development management criteria to be applied when assessing development proposals for buildings taller than prevailing building heights, although I note the non-mandatory nature of same (given that in this instance there is no restriction within the Development Plan in relation to the heights proposed here and therefore the mandatory provisions of SPPR 3 of the Building Height Guidelines do not apply). They do, however, provide a useful framework to assess the heights proposed here. At the scale of the town, I have considered the accessibility of the site above and note the existing bus links to the Portmarnock and city centre and (as detailed in Section 10.6 of this report). I am satisfied that the site is relatively accessible. At the scale of the district/neighbourhood/street I am of the view that scale and height responds well to the context of the site, as discussed above, although I have serious concerns in relation to the layout and the provision of public open space, and the creation of an attractive public realm. These concerns relate mainly to the compromised nature of the site and do not come about as a result of the heights as proposed here. Criteria 3.2 also sets out that, at the neighbourhood scale, proposals such as these are expected to contribute positively to the mix of use and building dwelling typologies, I have considered the mix and building typologies below in section 10.5, and I have concluded the proposal

complies with this criteria. While the principle of the proposed heights are acceptable, further criteria to be considered within Section 3.2 include the need to ensure that the massing and height of the proposed development is carefully modulated so as to maximise access to natural daylight, ventilation and view and minimise overshadowing and loss of light. I have set out my assessment of the internal amenity of the proposed units, as results to daylight and sunlight in Section 10.5 below, and I am satisfied that a sufficient standard of daylight and sunlight would be provided to the units. I have considered the issue of overshadowing of proposed amenity spaces in Section 10.5 below. I have considered the issues of surrounding residential amenity, in relation to overshadowing, daylight and sunlight in Section 10.6 below, and I am satisfied that there will be no significant adverse impact on surrounding residential amenity, as relates to daylight, sunlight and overshadowing impacts.

10.3.20. In relation to specific assessments, the Guidelines require that such assessments may be required, and refer to an assessment of the micro-climatic effects of the proposed development. In relation to same, I do not consider that the maximum height of 4 no. storeys would have a material impact on wind patterns locally, and I am not of the view that the height is such that any specific technical assessments such as wind study or telecommunications study is required nor are the heights, at a maximum of 4 storeys, such that at a specific bat or bird collision study/assessment is required.

Conclusion on Design Issues

10.3.21. Having regard to the discussion above, there is no issue in principle in relation to the proposed heights, and to the housing typologies proposed. However, the proposed layout is materially compromised by the piecemeal nature of the development, which is premature pending the redevelopment of the wider site, which includes both this site and the adjacent Lamorlaye Site. As a result of this compromised layout, the proposed areas of public open space are of poor quality and are contrary to guidance as set out in the s.28 Urban Design Manual – A Best Practice Guide and contrary to Objectives PM31, Objective DMS66 and DMS67 of the Fingal Development Plan 2017-2023.

10.4. Proposed Residential Amenities/Residential Standards

10.4.1. In relation to the quality of the units, the Planning Authority have stated that house types B1, B3/B4 appear narrow with Units 5-22 appearing to have constrained rear gardens having regard to the extent of the existing hedge. No provision made for the inclusion of residential amenity rooms within the apartment block/local shop. The Planning Authority has recommended refusal of the application for 2 no. reasons, the first of which refers to the concerns as raised above. However, should the Board be minded to grant permission, the PA are of the view that a contribution is required for the shortfall of public open space (based on number of bedspaces) which will be used for the upgrade of Malahide Demesne Park.

Daylight

10.4.2. Section 6.6 of the Apartment Guidelines (as updated December 2022) also state that Planning Authorities should '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)' (my emphasis).

10.4.3. The applicant has submitted a Daylight and Sunlight Assessment Report (March 2022) which considers *inter alia* internal daylight standards to the proposed units, as well as the amenity spaces associated with the proposed development. The submitted a Daylight and Sunlight Assessment Report applies the standards and recommendations of the 2nd edition of BRE - Site Layout Planning for Daylight and Sunlight: a Guide to Good Practice (2011) (the previous edition of the BRE Guidelines). I am satisfied that this approach is reasonable as the Apartment Guidelines allow for a variety of quantitative performance approaches to daylight and sunlight impacts (notwithstanding the reference made to the most recent edition of the BRE Guidelines), and the targets utilised with the applicants Daylight and Sunlight Assessment Report are contained within a document that is considered authoritative on the issue of daylight and sunlight.

10.4.4. The applicant's Daylight and Sunlight Assessment assesses *inter alia* the daylight performance of the proposed duplex/apartment units. In terms of daylight, the report uses the following ADF values in the assessment:

- 2% for a kitchen/living/dining room and 1% for a bedroom.

10.4.5. In relation to daylight the report demonstrates that 100% of the habitable rooms assessed will meet the minimum recommended ADF (Average Daylight Factor).

Amenity Spaces

10.4.6. The BRE Guidelines (2011) recommend that for a garden or amenity area to appear adequately sunlit throughout the year, at least 50% of the area should receive at least two hours of sunlight on March 21st. The report considers the three main areas of public open space (L1, L2 and L3). It is shown that of the three no. spaces, two meet the BRE guidance, including the large area of open space to the south and south-west of the site. The area that does not meet the criteria is the area to the north of the site, and to the north of Duplex Block 2, achieves a total of 40.5% of the area receiving two hours of sunlight on March 21st (a total area of 316 sq. m.). I have considered the overall amenity value of this area of open space, in Section 10.3 of my report, and I refer the Board to same, in coming to a conclusion in relation to the overall amenity value of this area of open space. Of the overall area of open space, it is noted that 95% would achieve over two hours of sunlight on 21st March. I have set out my concerns in relation to the provision of open space above, and I refer the Board to same.

Conclusion on Daylight/Overshadowing

10.4.7. As expected in a scheme of this nature, in which heights are not excessive, with the majority of the built form being 2 and 3 storey in height, with limited 4 storey heights, and where the site is surrounded by low density development, levels of internal daylighting to the apartments/duplexes are shown to be high with full compliance with BRE Standards.

Public Open Space/Communal Open Space/Play Provision

10.4.8. A total of 4,278 sq. m. of public open space is provided, which equates to approx. 18% of the site area. The Development Plan (CPO 16.21 refers) requires a minimum of 15% Public Open Space be provided. The open space is being provided over three principal open spaces. In terms of quantum of open space provided, the proposal achieves the minimum required. I have considered the quality of same in Section 10.3 above.

10.4.9. In relation to communal open space to the apartments/duplexes, a total of 479 sq. m. has been provided (a total of 582 sq. m), exceeding the requirement of 466 sq. m. as set out in the Apartment Guidelines (2022).

10.4.10. I note objectives DMS73 and DMS74 of the Development Plan in relation to SuDS and open space, and that underground tanks and storage systems will not be accepted under public open space. In this regard I note that the storage tank for 'Catchment Area No 1' is located to the south of the site, under 'Public Open Space 3'. The area of the tank is 510.2 sq. m. If this area is discounted from the overall provision of public open space, the remaining quantum is 3,808 sq. m, equivalent to 16% of the site. Therefore, I am satisfied that the minimum area of public open space would still be achieved. While the provision of the tank under the public open space is technically a contravention of the Development Plan (namely DMS74), it is not material in my view, given that the minimum quantum of public open space required, have been met (although I have noted my concerns over the location, layout and quality of this public open space in Section 10.3 above).

10.4.11. Objective DMS75 seeks to 'provide appropriately scaled children's playground facilities within residential development. Playground facilities shall be provided at a rate of 4 sq m per residential unit. This would necessitate the provision of 400 sq. m. of playground space. The proposal provides for 269 sq. m. of playspace. The Planning Authority have not objected *per se* to the quantum of playspace provided, and have not stated that the shortfall represents a material contravention of the plan. While the shortfall is material (67% of the required playspace has been provided), I am of the view that, and should the Board be minded to grant permission, an additional 131 sq. m of playspace could be required by way of condition. Subject to this condition being imposed, I am not of the view that a material contravention of the plan would result.

Private Amenity

10.4.12. The houses, duplex and apartment units are provided with either a terrace or garden area, or balcony of sufficient size and which meet or exceed standards.

Dual Aspect

10.4.13. 82% of the proposed apartment and duplex units within the scheme are dual aspect, in excess of the 50% required by the SPPR 4 of the Apartments Guidelines, for suburban sites such as this one.

Floor Area

10.4.14. The apartment floor areas meet or exceed the minimum standards provided in Appendix 1 of the Apartment Guidelines, with the majority of units 10% larger than the minimum floor area.

Internal Noise Levels

10.4.15. The submitted Acoustic Design Statement concludes that the proposed has a 'low' to 'medium' risk to environmental noise, as a result of its location within Dublin Airport Noise Zone B and C. Therefore order to reduce expected internal noise levels with the residential units, upgraded constructed materials are proposed, including acoustic doubled glazed glazing, with the results that when windows are closed but vents are opened, a good internal acoustic environment is achieved. With the windows open, given the external noise environment, it is not possible to achieve good internal noise levels. However, it is proposed to provide passive vents to ensure rooms are adequately ventilated with windows closed. In relation to same, and while I note that good noise levels are not achieved with the windows open, I share the view that this is not possible to achieve on these sites, where the external noise levels are as set out in the noise assessment. However, residential development on these sites has been deemed acceptable in principle by the Planning Authority, and the sites lie within a noise zone where residential development is deemed acceptable, subject to mitigation measures such as those set out in the Acoustic Design Report.

10.5. Surrounding Residential Amenity

10.5.1. I note the submission by the applicants of a 'Residential Amenity Report' which considers potential impacts on surrounding residential amenity in terms of construction impacts, impacts on daylight, sunlight and overshadowing, visual impacts, transport impact and impacts on surrounding site services and groundwater.

10.5.2. In relation to impacts on surrounding amenity, I note that there are existing houses to the west, south-west and south of the site within a housing development known as

'Mabestown'. These are large detached dwellings on extensive grounds. There is also a large detached dwelling close to the eastern boundary of the site, with a further dwelling to the north-east, set further back from the boundary of the site. To the north of the site is Back Road, with the grounds of Malahide Castle and Demesne beyond.

- 10.5.3. The Planning Authority has not raised any concerns in relation to residential amenity. Observer submissions have raised concerns in relation to overlooking of houses within the Mabestown Housing Estate, loss of morning sunlight and noise impacts from the development. Concerns are raised to in relation to the visual impact of the proposed development.

Loss of Daylight

- 10.5.4. The applicant has submitted a Daylight and Sunlight Assessment Report (March 2022) which considers *inter alia* effects on daylight to surrounding properties, utilising the guidance as contained in the 2nd edition of the BRE Guidance (2011). Since the submission of the application a 3rd edition of BRE 209 has been published (June 2022). The guidance applied (in relation to impacts on existing residential development) is generally the same in both the 2nd and 3rd editions of BRE and, as such, I am satisfied that the approach as set out in the submitted daylight and sunlight report is acceptable.
- 10.5.5. In relation to loss of daylight, BRE guidance (both the 2011 edition and the 2022 edition) given is intended for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens, and bedrooms. Tests that assist in assessing this potential impact, which follow one after the other if the one before is not met, are as noted in the BRE Guidelines:
1. Is the separation Distance greater than three times the height of the new building above the centre of the main window (being measured); (ie. if 'no' test 2 required)
 2. Does the new development subtend an angle greater than 25° to the horizontal measured from the centre of the lowest window to a main living room (ie. if 'yes' test 3 required)
 3. Is the Vertical Sky Component (VSC) <27% for any main window? (ie. if 'yes' test 4 required)

4. Is the VSC less than 0.8 the value of before ? (ie. if 'yes' test 5 required)
5. In room, is area of working plan which can see the sky less than 0.8 the value of before ? (ie. if 'yes' daylighting is likely to be significantly affected)

10.5.6. Sections 3.1 and 5.1 of the Daylight and Sunlight Report considers the impacts on the nearest existing neighbouring properties. In relation to daylight, the report and associated drawings of show that the separation distance to the nearest properties is greater than three times the height of the apartment block all, and that as a result neighbouring properties should retain sufficient levels of daylight amenity. The report has only considered the potential impacts of the 4 storey apartment block to the south, and has not considered the 3 storey duplex blocks. However the separation distance from any of the duplex blocks to the nearest residential dwelling is also greater than 3 times the height of the duplex blocks. The report concludes that there will be no perceivable reduction in available daylight or sunlight to the adjacent properties. In relation to daylight impacts, I concur with the conclusions of the report and I am satisfied that there will be no loss of daylight to any surrounding residential properties as a result of this proposal.

Loss of Sunlight/Overshadowing

10.5.7. In relation to loss of sunlight to surrounding properties *Section 3.2.2 of the BRE Guidelines states "Obstruction to sunlight (to existing dwellings) may become an issue if –*

(i) some part of a new development is situated within 90° of due south of a main window wall of an existing building.

(ii) ...the new development subtends an angle greater than 25° to the horizontal measured from the centre of the lowest window to a main living room.

10.5.8. The report does not explicitly consider these tests, and I note that, while the majority of the closest surrounding residential properties lies to the south some elements of the proposed development lie within 90 degree of due south of some surrounding windows. However the shadow diagrams, as contained within Section 6 of the report, indicates that, even during the 21 December period, (up to 14:00 hrs) there is no loss of sunlight to surrounding windows. The submitted report notes that during the December period after 14:00, the sun is less than 10 degrees in altitude, and as

such impact on this sunlight are not counted for the purposes of impact assessment. This is a reference to Section 3.3.8 of BRE 2nd Edition which states that this sunlight is likely to be blocked by low level planting in any case (Section 3.3.8 of BRE 2nd Edition refers). Having regard to same, I am satisfied there is no potential adverse impact as a result of loss of sunlight or overshadowing.

Conclusion

- 10.5.9. Having regard to the above I am satisfied that there will be no material impact on sunlight and daylight levels to existing properties, nor will the proposed development result in any material overshadowing of existing amenity spaces.

Overlooking/Loss of Privacy

- 10.5.10. The nearest existing dwelling (at No. 10 Mabestown) is setback at 50m from the nearest proposed dwellings (Housing Unit 22). This is a sufficient distance to ensure that no material overlooking occurs. Overall I am of the view that the layout of the proposed development, and its relationship to existing residential properties is such that no material overlooking or loss of privacy will occur.

Visual Impact/Visual Amenity/Impact on Views

- 10.5.11. In relation to visual impact, I have discussed how the proposal relates to its context in Section 10.3 In terms of views from neighbouring residential properties, the proposal will have a minimal visual impact in my view, with the majority of heights limited to 2 and 3 storeys, with a 4 storey apartment block to the south of the site. This 4 storey apartment block is set back at least 75m from the nearest residential dwelling. While the CGIs presented with the application are somewhat limited, and do not show the proposal from areas within Mabestown Estate, I am satisfied that due to the limited scale of the proposal, combined with the setbacks as described above, the proposal would not present an overbearing visual impact on surrounding residential properties.

10.6. Traffic and Transportation

- 10.6.1. The Planning Authority submission, in relation to transport Issues, has noted that the cycle parking provision is considerably lower than the National and Planning Guideline requirements. In addition the location of cycle parking is inadequate with no passive surveillance of same. It is also set out that additional set down spaces for

the crèche are required, and that the parking layout for the apartments requires consideration, with concern raised in relation to the parking area near entrance to back road. Further concerns are raised in relation the width of the internal roads, access requirements to the pumping station and corner radius to the main access. It is also set out that the junction of Back Road with the Hill will require upgrades with this upgrade to be address as part of this application or by way of a financial contribution towards a future upgrade.

- 10.6.2. Observer submissions have raised concerns in relation to the impact on the road network and traffic congestion, and it is stated that there is already heavy congestion in the area. It is further stated that the proposed car parking provision is inadequate, with the development likely to be luxury housing with higher car ownership levels. It is contended that this lack of parking will result in overspill parking, which will be facilitated by the proposed pedestrian entrance onto Mabestown Road. It is requested that this entrance be omitted. The distance of the site from the Dart Station is cited (2.3km), and it is set out that the site is not served by a high capacity public transport services, with buses that are infrequent. An example cited is the No. 42 to Dublin City that only runs every 20 mins at peak times. The poor connections to the nearest bus stop is also raised as a concern. The capacity of the rail service is raised as a concern. It is set out that future occupiers will be reliant on the private car, and reference is made to the TTA where the applicant estimates that only 27.2% of future occupiers will use the bus and rail links. Further concerns raised relate to road safety issues, including safety issues relating to construction traffic. In relation to the proposed layout it is stated that the road alignment proposed will act as a cul-de-sac and that the layout is car dominated. Further concern is raised in relation the proposed pedestrian/cyclist entrance from the proposed development to the Back Road and it is stated that this element is completely unjustified. Concerns in relation to same include the creation of a traffic hazard and the potential for anti-social behaviour due to the lack of passive surveillance. It is also stated that cycle infrastructure in the area is poor.

Existing and Proposed Public Transport

- 10.6.3. It is set out in the TTA that the site is served by the No. 42 Bus Route, which runs between Portmarnock and the City Centre. In the AM and PM peak this runs with a frequency of every 20 minutes. The TTA notes the nearest bus stop is located

approximately 600m north-west of the entrance to the development, which equates to a 5 minute walk. Malahide Station, which is served by Commuter Rail and Dart Services, is located approximately 1.9km from the site, which equates to a 29 minute walk.

- 10.6.4. In terms of proposed public transport, as per of the Bus Connects programme, with the site being served by the 20 bus route, which runs at a 30 min frequency in the AM and PM peak. The Dart Expansion programme will see an increased frequency of rail services with weekday frequency of 15 mins in each direction.
- 10.6.5. The TTA has considered the impacts of the development on the capacity of the local bus and rail services. A bus capacity survey was carried out at the two closest bus stops to the site, which indicated significant space capacity of 1,107 passengers, when compared to the predicted demand of 16 passengers from the proposed development travelling southbound during the AM peak hour (utilising modal split data from CSO, 2016). It is shown too that there is sufficient capacity on the Dart Service to cater for the predicted demand of 16 no. passengers travelling southbound on the Dart.

Existing and Proposed Cycle Infrastructure

- 10.6.6. The site is not currently served by cycle lanes. As part of the Greater Dublin Area Cycle Network Plan, a secondary cycle route is proposed along Back Road, which links with the primary radial route running along Malahide road, 300 m to the west of the site.

Car Parking

- 10.6.7. A total of 151 no car parking spaces are provided at the proposed development, with the provision allocated as follows:
- Apartments/Duplexes – 79 (1 space per unit + 13 visitor spaces)
 - Housing – 68 no. spaces
 - Creche – 4 no. spaces
- 10.6.8. The submission from Planning Authority does not object to the quantum of parking provided for the residential unit, and it is generally in line with Development Plan standards (although I note that there is a reference to a deficiencies in car parking in Recommended Reason for Refusal No. 1). It is set out that additional spaces would

be required for the crèche element. I am of the view that the demand for the crèche would likely be generated by the development itself, minimising the demand for car parking, and as such I am satisfied that the quantum of car parking proposed is acceptable.

Cycle Parking

10.6.9. A total of 118 no spaces are provided (80 for the residential units, plus 34 no, visitor spaces; 4 no. spaces for the crèche units). This is in line with the requirements of the Apartment Guidelines (2022).

Road Safety

10.6.10. In terms of sightlines, the TTA notes that Back Road has a speed limit of 60kph. In accordance with DMURS, sightlines of 65m are provided, in line with those required on such roads with bus routes.

Impacts on the surrounding road network.

10.6.11. The baseline traffic conditions within the TTA are based upon a traffic survey carried out on 8th September 2021, which were then factored up to 2022 traffic counts using growth rates published by the TII (Central Growth Rates). Trip generation rates from the TRICS database were utilised (for the apartments) as well as from an Traffic Impact Assessment prepared by DBFL Consulting Engineers for a nearby residential development at Broomfield lands (Planning Reference F13A/0459) (for the house and duplex trips). The development was expected to generate a total of 45 vehicle movements in the AM peak hour (10 arrivals and 35 departures) and a total of 50 vehicle movements in the PM peak hour (33 arrivals and 17 departures). The future development of the Lamorlaye site (Phase 2) is also considered and this was expected to generate a total 20 vehicle movements in the AM peak hour (5 arrivals and 15 departures) and a total of 22 vehicle movements in the PM peak hour (14 arrivals and 8 departures). This is based on a potential development of 38 no. residential units (12 no. Houses and 26 no. Duplexes).

10.6.12. The TTA utilises central traffic growth factors in order to determine impacts on the following junctions for the opening year (2025), future design year +5 years (2030) and future design year +15 (2040).

- Junction 1: R107 Malahide Road / Back Road

- Junction 2: Back Road / Kinsealy Lane
- Junction 3: Back Road / The Hill
- Junction 4: Site Access Road / Back Road

10.6.13. Junctions 1 to 4 will see an increase in traffic ranging from 1% in the AM and PM Peak (Junction 3), 2% in the AM and PM Peak (Junction 2), 2% in the AM and 3% in the PM Peak (Junction 3) and 7% in the AM and 4% in the PM Peak (Junction 4). Fingal require a more detailed assessment of any sensitive junction that sees an increase of greater than 2.5% (which is over and above the requirements of the TII's Traffic and Transport Assessment Guidelines (May 2014) (which requires more detailed assessment of any sensitive junction that sees an increase of greater than 5% and any junction that sees an increase of greater than 10%). In this instance, the TTA has carried out a detailed analysis of all junctions.

10.6.14. A detailed capacity test was undertaken for these junctions on using the industry recognised junction analysis programme PICADY. This utilises junction geometry and traffic flow data determined Ratio of Flow to Capacity (RFC) and queue length for each link on the junction. RFC values of less than 90% are generally indicative of a junction operating satisfactorily. A range of scenarios were considered in the junction analysis (baseline, do-nothing scenarios for 2025, 2030 and 2040, and with the development in place for the same opening and future design years).

10.6.15. Junctions 1, 2 and 4 are shown to operate satisfactorily in all scenarios considered. Junction 3 (The Hill/Back Road) is shown to have relatively high RFCs in the existing and do-nothing scenarios, most notably in the PM peak, and the Do Nothing 2040 AM Peak, with the highest RFC being the Do Nothing 2040 PM Peak, with an RFC of 1.25. In the 'Do-Something' Scenarios (with the development in place) there is some additional minor additional impact on the RFC values (most notably in the 2025 PM Peak, where RCF values increase from the do-nothing scenario of 1.00 to 1.02, the 2040 AM Peak, where RCF values increase from the do-nothing scenario of 0.91 to 0.95, and from an RCF value of 1.25 to 1.29 in the PM Peak. This indicates that this junction is close to capacity as existing and will eventually be over capacity with or without the development in place. The TTA concludes that the additional impact of this junction is not significant (I note that Section 11.6 of the TTA erroneously refers

to Junction 4 as being over-capacity whereas in fact the analysis shows it is Junction 3 that is over-capacity in some scenarios).

10.6.16. In relation the conclusions of the report, I am satisfied that the additional impact of the development on the capacity of this junction cannot be considered as significant. However, I am of the view that the additional impact on this junction can be classed as 'moderate', given the baseline scenario of the junction approaching capacity, and the emerging trend of increasing traffic volumes in a 'do-nothing scenario'. I note the Planning Authority have requested applicant either undertakes works to upgrade this junction or that a financial contribution towards the eventual upgrade of the junction is made. Should the Board be minded to grant permission, I am of the view the latter is a more feasible approach, given that any upgrades to this junction are outwith the scope of this application, and the fact that development only has a moderate impact on the junction capacity, with growth factors in traffic volumes and other developments also having an impact on same. It would therefore be unreasonable, in my view, to expect the applicant to bear the entire costs of such an upgrade which should increase the capacity of the junction, and reduce traffic congestion locally. I note that some observer submissions have raised traffic congestion on local roads as a concern, in particular at weekend times, citing visitors to Malahide Castle as a cause of same. Other concerns raised include impacts on congestion at peak times, in particular on the 'school-run'. I am not of the view that the occupiers of this development would necessarily add to such congestion at the weekends, given the proximity of the site to Malahide Castle. In terms of weekday impacts, in the AM and PM peaks (which would generally correspond with commuting to schools work etc), the TTA has analysed existing traffic patterns on a typical weekday, and has based the analysis on same, and the impact of the development is as considered above, with generally insignificant impacts on the surrounding junctions, save for a moderate impact on the junction with Back Road and The Hill, which I have considered above, and have suggested appropriate mitigation for same.

10.6.17. I am satisfied, therefore, that any impacts on the surrounding road network will be acceptable, in terms of additional traffic volumes, subject to a condition in relation to a financial contribution to junction upgrades.

10.7. **Ecology/Hedgerow/Trees**

- 10.7.1. The Planning Authority submission notes that the surface water headwall proposed lies within the ecological corridor, in conflict with Objective DMS171 of the Development Plan. The submission from IFI is noted by the PA, which *inter alia* recommends that the culverted section of the stream be de-culverted and the PA support this, although noted that this may have implications for flood risk modelling and information within the NIS. It is further stated that the proposal would contravene Objective WT12 of the Development Plan as relates to appropriate buffers around pumping stations, given that the proposed pumping station is located within x m of the nearest residential unit. Recommended Reason for Refusal No. 2 refers to same.
- 10.7.2. The submission from the DAU refers to the Appropriate Assessment submitted with the application (see Section 12 for discussion of same). Conditions are recommended in relation to measures identified in the NIS and the CEMP, and in relation to vegetation clearance, procedures for felling bat roost trees and a lighting scheme.
- 10.7.3. The submission from Inland Fisheries Ireland notes that protection measures should be put in place in order to protect water quality in surrounding watercourses.
- 10.7.4. Observer submissions have raised concerns in relation to impacts on wildlife including nesting birds and other animals (and have also raised other concerns in relation to Natura 2000 sites which I have considered in Section 12 of this report).
- 10.7.5. The application is accompanied by an Ecological Impact Assessment Report (March 2022). The application is also accompanied by a Hydrological and Hydrogeological Qualitative Risk Assessment, which assesses the likely significant impacts on receiving waters and protected areas, and I have regard to same. The EclA is underpinned by a desk study and field surveys carried out in August and September 2022 and June and October, 2021. Surveys consisted of a habitat and botanical survey including a bat, badger, otter and bird survey. The habitats on site include treelines (WL2) to the north, west and east, earthen bank (BL2) adjoining the Hazlebrook Stream, which is a lowland depositing river (FL2). Other habitats include hedgerow (WL1) and improved agricultural grassland (GA1). No invasive species were recorded on the site. Rabbit burrows were recorded on site and fox would be expected on the site. No evidence of badger or fox were recorded. Bat surveys of surrounding sites recorded 4 no. species of bat (Leisler's bat, Common Pipistrelle,

Soprano Pipistrelle and Brown long-eared bat). In relation to this site, the detector survey recorded three species of bat utilising the property (Leisler's bat, Common Pipistrelle, Soprano Pipistrelle), some of which emerged from the clock tower on the site, confirming it as a bat roost. Bats were also recorded foraging across the site and commuting and hunting along the boundary hedgerow and treelines. In relation to birds, common species were observed as well as buzzard, with swallow nests recorded in the stables. Frogs and newts may utilise the areas of standing water in drainage ditches and portions of the Hazelbrook Stream.

- 10.7.6. Potential Impacts of the proposed development are set out in Section 4 of the EclA. During the construction phase, it set out that all areas of grassland and some sections of hedgerow, shrubs and trees will be removed during the construction phase, with some risk of damage to the retained vegetation and habitats. All structures on the site will be demolished. There will be impacts on bats as a result of the lost bat roost and potentially the lighting design, and impacts on birds and other fauna (including bats) as a result of loss of nesting areas, resting sites, breeding habitat and foraging areas, which will arise as a result of the removal of grassland, and area of hedgerow, trees and shrubs that will be removed. The EclA concludes that there is potential for contaminated surface water run-off (soil/sediment/hydrocarbons) into the adjoining Hazlebrook Stream (and ultimately the Baldoyle Bay SAC/SPA) unless remedial measures are put in place. The conclusion in relation to potential impacts on Baldoyle Bay SAC/SPA is not supported by the submitted Hydrological and Hydrogeological Qualitative Risk Assessment, which rules out potential impacts on any Natura Sites as a result of a deterioration in water quality and I refer to the Board to Section 12 (Screening for Appropriate Assessment) of this report for a detailed consideration of same. During the operational phases the EclA sets out that there is potential for contamination of the Hazlebrook Stream from contaminated surface water run-off.
- 10.7.7. Section 5 of the EclA sets out remedial/reductive measures, which include planting of native species, protective measures for retained vegetation and the stream, which include the retention of existing boundaries and the inclusion of a 10-15m wide riparian buffer strip, in line with Objective WQ5 of the Fingal Development Plan. Measures to control invasive species (including Russian Vine which is present at the northern end of the eastern treeline) are set out.

- 10.7.8. In relation to bats, a derogation licence for the demolition of the clock tower which contains a bat roost has been obtained from the NPWS, with other mitigation measures proposed to accommodate bats within the development, including bat boxes, a dedicated bat roost, the riparian corridor with landscaping, the retention of the site boundaries and appropriate lighting design. It is set out in the EclA that the loss of the bat roost (that accommodates common and soprano pipistrelle bats) is unlikely to have a detrimental effect on the local bat population given the extent of suitable roosting and foraging habitat in the adjoining Malahide Castle and Demesne, and the loss of the roost is highly unlikely to affect the conservation status of either of these species of bat, which is currently 'Favourable' at a national level.
- 10.7.9. In relation to birds, it is noted that 16 no. trees, one small formal hedgerow and the part removal of four formal hedgerows are required to be removed to facilitate the development. The appropriate timing of vegetation clearance and demolition is proposed in order to mitigate impacts on birds (i.e. outside of nesting season). Also proposed are 40 no. bird boxes.
- 10.7.10. Other measures are set out in the EclA including sediment control measures (which are also set out in the CEMP) to prevent sand, soil, cement and other building materials from reaching watercourses such as the Hazelbrook Stream. Any in-stream works will have regard to the IFI guidelines. An Ecological Clerk of works will be appointed to oversee the project.
- 10.7.11. Best practice SUDS measures have been incorporated into the proposal and it is proposed to discharge surface water runoff to Hazelbrook Stream. Outflow will be limited to greenfield storage rates with attenuation storage allowing for up to a 1 in 100 year rainfall event and an additional 20% capacity to take account of climate change.
- 10.7.12. It is concluded in the EclA that the overall impact on flora and fauna on the site is permanent and moderately negative, due to the fact that they are undeveloped and currently offer ecological structure and diversity.
- 10.7.13. In terms of the conclusions set out in the EclA, as relates to impacts, I generally concur with same, save for the conclusions in relation to the potential impacts on Baldoyle Bay SAC and Baldoyle Bay SPA, for the reasons as set out in detail in Section 12 of this report. I am satisfied that sufficient surveys have been carried out,

both in relation to general ecology and in relation to bats, and overall I am satisfied that sufficient survey work was carried out in order to be able to arrive at the conclusions set out in the EclA.

10.7.14. In relation to the loss of trees and hedgerow on the site, I note the submission of an Arboricultural Report, which incorporates a Tree Survey, an Arboricultural Impact Assessment and an Arboricultural Method Statement. This notes that the proposal would result in the removal of 16 no. trees, one formal hedgerow and the partial removal of four formal hedgerows. I note that no category 'A' trees are to be removed and note the conclusions in the report, in relation to the poor quality of the existing tree and hedgerows that are to be removed. The perimeter tree and hedgerow cover is to be retained. In relation to those trees and hedgerows that are to be removed, I note the need to make efficient use of a residentially zoned site and to provide housing at an appropriate density, and I am of the view that the loss of the trees and hedgerows is, on balance, acceptable. Tree protection measures are set out in Section 2 of the Arboricultural Report (Arboricultural Method Statement and Tree Protection Plan) in relation to those trees and hedgerows that are to be retained.

10.7.15. Having regard to the contents of the EclA, the contents of the Arboricultural Report and other relevant information on file, as well as having regard to the submissions from the Planning Authority, from Prescribed Bodies and from observers, I am satisfied that there will be no significant adverse impacts on bats, birds of conservation concern, protected mammals such as badger or otter, or on any other species or habitat of conservation concern, subject to the mitigation measures being put in place. No adverse impacts on the surface water network will result from the proposed development (see further discussion of same in Section 12 of this report). I have discussed the issue of Natura 2000 sites specifically in Section 12 of this report.

10.8. Flood Risk

10.8.1. Section 9.3 of the National Planning Framework (NPF) includes guidance for water resource management and flooding with emphasis on avoiding inappropriate development in areas at risk of flooding. National Policy Objective 57 requires 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”.

- 10.8.2. The Planning Authority have not raised any fundamental objections in relation to Flood Risk although it is noted that support is expressed for the for de-culverting of the stream, as suggested by the IFI, and it is suggested that such a measure would require an updated Flood Risk Assessment.
- 10.8.3. The application is accompanied by a Flood Risk Assessment (March 2022). It is noted therein that the site has a central high point of 10.04m OD, with the lowest level on site (5.75m OD) being adjacent to the Hazelbrook Stream, in the southeast corner of the site. In relation to surface water features, it is noted that there is an existing culverted drainage ditch that runs along the northern boundary of the agricultural field, with a further drainage ditch running along the western boundary, which joins the Hazelbrook Stream. This stream is part-culverted along the southern boundary of the site. The Hazelbrook Stream eventually joins the Sluice River, which then outfalls to Baldoyle Bay.
- 10.8.4. The FRA considers the various flood risks to the site. The risk of tidal flooding was concluded to be extremely low. In relation to Fluvial Flooding, reference is made to mapping produced as part of the Fingal East Meath Flood Risk Assessment and Management Study (FEM FRAMS) which indicates that a small portion of the subject site falls within the 1% AEP flood plain of the Hazelbrook Stream. As part of this FRA, a site-specific flood model was produced to confirm this flood risk. The main difference between the FEM FRAMS modelling and the applicant’s modelling is that the applicant has included the existing culvert running parallel to the watercourse. The applicant’s modelling, with the culvert accounted for, demonstrates a significantly reduced 1% AEP event (1 in 100 year event), which is retained in-bank. In relation to the 0.1% AEP event (1 in 1000 year event), the extent of flooding is also shown to the be reduced, with minor flooding now occurring within the area of proposed green space, bike and bin stores, with all of the proposed residential units located outing of the 0.1% AEP and within Flood Zone C. A minimum freeboard of 0.93m is provided above the highest flood level through the site, which is the 0.1% HEFS Climate Change event. It is concluded that the risk of fluvial flooding is therefore extremely low, and with flood management measures in place, such as

appropriate FFLs, the residual risk is also extremely low. However, in the event of fluvial flooding occur, flow routes are indicated in Fig 5 of the report, indicating that surface water can flow towards the existing Hazelbrook Stream on the south, to the drainage ditch to the north and towards open land to the southeast.

- 10.8.5. In relation to pluvial flooding, the FRA identifies a risk from surcharging of the proposed on-site drainage system, which can be management by adequate sizing of same and SuDs measures, including green roofs and permeable paving, which will slow down and reduce the amount of surface water runoff from the site. The report notes that flooding from the existing drainage system occurred on the Malahide Road in the 2004 but works have been complete to rectify same and no recorded instances of flooding have been recorded at this location since, nor are there any flood instances recorded on the site itself. Any risk of flooding from this source is managed by the overland flood routes referred to above, and by FFLs which are above the adjacent road channel line. Any potential flooding of adjacent site is management by the flow control devices, with sufficient attenuation provided for the 1 in 100 year storm event, which accounts for a 20% increase due to climate change. These measures, as well as regular maintenance of the surface water drainage network, will also serve to reduce the risk of flooding that may occur as a result of human and/or mechanical error.
- 10.8.6. In conclusion, having regard to the fact that the site lies within Flood Zone C, the lack of an evident history of flooding on the site itself and having regard to the surface water management proposals as set out in the application documents, I do not consider that the proposal will increase flood risk on this site or on surrounding sites, subject to conditions. In relation to the suggested de-culverting of the Hazelbrook Stream, as suggested by IFI and supported in principle by the Planning Authority, I am of the view that such a measure would require a materially amended Flood Risk Assessment, that would be outwith the scope of this application.

10.9. **Site Services**

- 10.9.1. The application is accompanied by an Engineering Assessment Report (March 2022) which sets out proposals for the management of foul and surface water, as well as proposals for water supply and any proposed infrastructural improvements. The application is also accompanied by a Hydrological and Hydrogeological Qualitative

Risk Assessment, which assesses the likely significant impacts on receiving waters and protected areas, and which describes the proposals for surface water and foul water disposal.

- 10.9.2. In relation to surface water, the Engineering Assessment Report notes that there is an existing surface watercourse, Hazelbrook Stream, running along the southern boundary, which is partially culverted. It is proposed to discharge surface water runoff from the site to this stream, with outflow limited to greenfield run off rates. It is proposed to utilise SuDs measures and attenuation storage tanks, which will cater for an up to 1-in-100 year rainfall event, with an additional 20% capacity to account for climate change.
- 10.9.3. The wider side (including the Lamorlaye site) is divided into three catchment areas, with catchment area no. 3 developed as part of Phase 2 of this development. It is proposed that Phase 2 will meet its own attenuation requirements but will utilise the surface water drainage network of Phase 1, in order to discharge to Hazelbrook Stream. This has been accounted for in the design of Phase 1. Surface water from storm events will be attenuated in underground storage tanks, with the tank for Catchment Area 1 located in the public open space to the south of the site. The storage tank for the apartment block (Catchment Area 2) is located under the communal open space area. It is noted that the outfall headwall is located in the location chosen due to site topography with no other suitable locations available.
- 10.9.4. SuDs measures have been incorporated to reduce the quantity and quality of surface water run-off and include permeable paving, filter drains, green roofs, roadside tree pits and bio-retention systems/raingardens. In terms of attenuation, detention basins were ruled out as it would not allow for the provision of open space in line with the minimum required by Development Plan policy. Underground attenuation was considered the most suitable solution for this site. A flow control device and petrol interceptor will be utilised prior to outfalling to the stream.
- 10.9.5. I also note the provisions of Objective DMS171 of the Development Plan which seeks to 'Ensure that no development, including clearance and storage of materials, takes place within 10m – 15m as a minimum, measured from each bank of any river, stream or watercourse in the County'. It is proposed to demolish existing structures that are within 10m of the Hazelbrook Stream and to construct the surface water

headwall and connecting network within 10m. The Planning Authority have stated that the construction of the headwall is 'in conflict' with Objective DMS171 of the Plan, but have not stated that the proposal is a material contravention of same. I do not consider the demolition of the structures or the construction of elements of the surface water network to be a material contravention of the plan. I am of the view that to restrict any demolition within 10m of any watercourse in the county, and to restrict the construction of surface water features, where the surface water at operational stage is outfalling to an existing surface water feature, would not constitute proper planning and development, and is not in line with the wider objectives of the plan (including, but not limited to, the provision of housing on residentially zoned land), and I am not of the view that this is the intention of this objective. While technically it could be argued that the proposal is contravening the objective (having regard to the specific wording of same), I am not of the view that this is material, having regard to the wider objectives of the plan, and noting that a restriction on any development whatsoever, including that relating to surface water disposal, within 10m of a watercourse would effectively sterilise large portions of land within the county, which would not tally with the wider aims and objectives of the Development Plan.

Waste Water

- 10.9.6. In relation to waste water proposals, the Engineering Report sets out the existing foul water network. It is stated that there is a gravity sewer on Kinsealy Road to the east of the subject site, which flows to Connolly Avenue pumping station. Foul water is then pumped north-east to the gravity network on St. Margaret's Road, which then drains to the Malahide Wastewater Treatment Plant. The report notes that the pumping station, the gravity foul network in Malahide and the Malahide WWTP all have capacity issues during rainfall events.
- 10.9.7. It is noted in the Engineering Report that works at Chapel Road pumping station have been completed with the plant commissioned and operational. It is proposed that wastewater will be pumped from the site via Back Road and Kinsealy Lane to the recently permitted Castleway pumping station, which will be then pumped to Chapel Road pumping station. While not set out in the Engineering Report, the Hydrological and Hydrogeological Qualitative Risk Assessment sets out that the

Chapel Road pumping station then pumps water to the North Fringe interceptor, which ultimate outfalls to Ringsend WWTP.

- 10.9.8. In their submission on this application, Irish Water have not objective in principle to the proposal on this site and have not stated that any additional works are required. However, the applicant refers Confirmation of Feasibility Letter, as set out in Appendix A of the Engineering Repoer, which notes the requirement of a new pumping station (referred to as Castleway Pumping Station) to accommodate any proposed connection. The applicant has noted that this new pumping station has a planning application has received a grant of Permission on 21st January 2022 (reference number of F21A/0451) (under a different applicant). A letter of consent is included as Appendix E of the Enginerring Report confirming that the subject application site can connect to the Castleway pumping station, and advises that the construction of this pumping station can be undertaken by the subject applicant, should the applicant of the pumping station fail to commence construction. I am of the view that, should the Board be minded to grant permission, occupation of the development should be restricted until after the completion of the Castleway Pumping Station.
- 10.9.9. In relation to on-site proposals for waste water, it is proposed to drain wastewater on the site to a pumping station to the south-east of the site. The septic tank serving the existing Lamorlaye House will be decommissioned, with the house then connected to the proposed foul network. This pumping station will have a 24hr storage tank and will be designed in accordance with Irish Water requirements. The pumping tank is sized to serve both Phase 1 (this application) and Phase 2 (at Lamorlaye House) of the development.
- 10.9.10. I noted that a buffer zone of 15m is proposed between the pumping station and the nearest proposed residential properties, which is in accordance with Irish Water's Code of Practice for Wastewater (Section 5.5 refers). Objective WT12 of the Development Plan states
- “Establish an appropriate buffer zone around all pumping stations suitable to the size and operation of each station. The buffer zone should be a minimum 35 metres – 50 metres from the noise/odour producing part of the pumping station to avoid nuisance from odour and noise.”

- 10.9.11. The Planning Authority state that the proposal materially contravenes this objective and recommended reason for refusal relates to same. Observers have stated that the proposal is contrary to this objective.
- 10.9.12. The proposed pumping station is 15m from the nearest proposed residential property and 35m from the nearest existing residential property. The applicant's Material Contravention Statement refers to the requirements of Irish Water's 'Code of Practice for Wastewater Infrastructure' which set out minimum distance for a range of different pumping station types (5m for a Type 1, 10m for a Type 2 and 15m for a Type 3), with the distance measured from the pumping station to the boundary of the nearest property. It is not explicitly set out what Type the pumping station is but I am assuming that it is a Type 3, in line with a 'worst-case scenario' approach, with a minimum distance of 15 from the nearest proposed residential property.
- 10.9.13. I am of the view that the proposal materially contravenes this objective by virtue of being a distance of 15m away from the nearest property, rather than the minimum of 35m as set out in the Development Plan (see discussion in relation to Material Contravention in Section 10.13 below). However, this distance as the 15m distance is in line with the requirements of Irish Water, the body responsible for the treatment and disposal of waste water where it is intention to connect to the public waste water system, as is the case here. I do not concur with second recommended reason for refusal, as put forward by the Planning Authority for this reason. I am not of the view that it is necessary to omit some of the units to achieve the distance as set down in the Development Plan, again given that the distance is in line with the requirements of Irish Water.
- 10.9.14. It is set out in the report that the design levels of the proposed internal drainage network and proposed on-site pumping station ensure that, should the adjoining lands to the east become developed, that the on-site pumping station can be decommissioned, and the site can then drain by gravity to the Connelly Avenue Pumping station.
- Water Supply
- 10.9.15. In relation to water supply, the proposed development will be connected to the existing public watermain along Back Road.

10.9.16. I am generally satisfied that, subject to details of the proposed foul and surface water infrastructure being to the satisfaction of the Planning Authority and Irish Water, the proposals will be adequate to serve the proposed development.

10.10. **Other Issues**

Archaeology

10.10.1. The application is accompanied by an Archaeological Impact Assessment. This notes a geophysical survey was carried out on the site in August 2020 and which has suggested the remains of a ditched enclosure within the proposed development area. Test trenching has uncovered three archaeological features (an enclosure, a ditch which is possibly associated with the above-mentioned enclosure and a spread of burnt stone). It is set out within the report that the enclosure and all archaeological features will be fully excavated and recorded before groundworks commence on site, and monitoring of groundworks will be undertaken. I note the DAU have recommend a condition in relation to archaeological monitoring.

Social Infrastructure including childcare and schools

10.10.2. Objective PM76 of the Development Plan requires as part of planning applications for new residential and commercial developments that provision be made for appropriate purpose built childcare facilities where such facilities are deemed necessary by the Planning Authority. The Guidelines for Planning Authorities on Childcare Facilities (2001) indicate that Development Plans should facilitate the provision of childcare facilities in appropriate locations, and set out a general requirement based on the size of the proposal. The more recent Apartment Guidelines (2022) however, allow for studio and one bedroom units to be discounted from the overall calculation of childcare demands and allow for demographic data to be utilised in order to calculate demand. I note the submission of a Childcare Needs and Schools Assessment Report. Thos calculates the overall requirement as 24 no. spaces. A crèche is being provided in this instance with a capacity of 29 no. spaces has been made in this instance. I am satisfied therefore that sufficient childcare facilities will be provided to serve the proposed development.

Schools

10.10.3. The Childcare Needs and Schools Assessment Report set out that there are a number of schools either existing, under construction or permitted in the area, and

note that the demand generated by the proposal would be accommodated either by existing or those planned schools in the area, which are being delivered by the Department of Education and Science (DES).

Part V

10.10.4. The proposal provides 10 no. Part V residential units within the scheme and I note the submission of a standalone documentation in relation to Part V proposals. The Housing Department of Fingal County Council notes correspondence from applicant in relation to Part V obligations and note costs will be agreed subject to grant of planning. I am satisfied that the final details of the Part V agreement can be agreed with the Planning Authority and should be Board be minded to grant permission, this can be ensured by way of condition.

10.11. Planning Authority's Submission

10.12. The Planning Authority have recommended that the application be refused for 2 no. reason as set out below.

1. The proposed development, by reason of density, deficiencies in quality, useable public open space, deficiencies in car and bicycle parking and infringement of the building line, would represent over-development of the site, would be at variance with Objective PM41 of the Fingal Development Plan 2017-2023 and piecemeal approach to development. It would therefore be inconsistent with the established character of the area.

10.12.1. In relation to same, I have considered the issue of density in Section 10.2 of my report and I refer the Board to same. In summary I have concurred that that proposed density is appropriate for the site, having regard to the locational characteristics of same, and having regard to relevant national and regional policy documents, and relevant Section 28 guidelines, notwithstanding that the proposed density is a material contravention of a site specific objective of the Development. I have discussed the issue of material contravention in Section 10.13 below. I concur with the view of the Planning Authority in relation to the deficiencies in the quality and functionality of the public open space provided and I have recommended that the application be refused on this basis. I refer to the Board to Section 10.3 of this report for a discussion on same, and I refer to the Board to my recommended reason for refusal below. I am not of the view however that there is a deficiencies in the

quantum of car or cycle parking on the site, as considered in Section 10.6 of this report. I do not consider that there is an infringement of the building line for reasons set out in Section 10.3 of this report. I am not of the view that the proposal would necessarily result in an overdevelopment of the site, rather that the site is constrained by the piecemeal nature of the development, and the failure to bring forward an appropriate layout on the wider site as a whole. In relation to Objective PM41 this refers to increased densities at appropriate locations, and seeks to ensure that, *inter alia*, quality of space is not compromised. I concur that the quality of space is indeed compromised here, but not necessarily as a result of the density proposed.

10.12.2. The Planning Authority's Second Recommended Reason for Refusal is as follows:

The proposed development would contravene materially Objective WT12 of the Fingal Development Plan 2017-2023 which seeks to Establish an appropriate buffer zone around all pumping stations suitable to the size and operation of each station. The buffer zone should be a minimum 35 metres – 50 metres from the noise/odour producing part of the pumping station to avoid nuisance from odour and noise.

10.12.3. I have considered this issue in Section 10.11 above (as related to the principle of same) and in Section 10.13 (as relates to the issue of material contravention), and I refer the Board to same.

10.13. **Material Contravention**

10.13.1. The applicant has submitted a Statement of Material Contravention which refers to potential material contraventions of the Fingal County Development Plan 2017-2023 in respect of the following matters:

- Residential Density and Compact Urban Development
- Location of Pumping Station
- Underground Tanks & Storage Systems under Public Open Space
- Protection of Riparian Corridor
- Provision of Children's Playground Facility

10.13.2. Section 9(6)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 states that Subject to paragraph (b), the Board may decide to grant a permission for a proposed strategic housing development in respect of an

application under section 4 even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned. Paragraph (c) of same states 'Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development'. As noted in Section 10.2, I do not consider that the proposal materially contravenes the zoning objectives that pertain to the site, notwithstanding observer submissions contending that this is the case. The Planning Authority is not of the view that the proposal materially contravenes the zoning objectives relating to the site.

10.13.3. The Planning and Development Act 2000 (as amended) provides that the Board is precluded from granting permission for development that is considered to be a material contravention, except in four circumstances. These circumstances, outlined in Section 37(2)(b), are as follows: (i) the proposed development is of strategic or national importance, (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or (iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28 , policy directives under section 29 , the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

Residential Density (site specific objective)

10.13.4. Sheet No. 9 of the Fingal Development Plan includes a specific objective on the wider site that restricts the allowable density to 5 unit/ha. The proposed density in this instance is 42.8 dwellings per hectare. In relation to principle of the density proposed, I have set out my considerations of same in Section 10.2 of this report and I refer the Board to same. As noted above I am of the view the provision of a density such as that proposed may constitute a material contravention of a site specific objective of the Development Plan. Therefore the Board be minded to grant

permission, I am of the view that the Board should invoke the material contravention procedure, as described above, as I am of the view that this aspect of the proposed development would materially contravene the site specific objective that pertains to this site.

Pumping Station (Objective WT12)

10.13.5. I refer the Board to Section 10.9 of this report for a discussion of same. In summary I am of the view that the proposed location of the pump station materially contravenes Objective WT12 of the Fingal Development Plan 2017-2023. Should the Board be minded to grant permission, I am of the view that the Board should invoke the material contravention procedure, as described above.

Underground Tanks & Storage Systems under Public Open Space (Objectives DMS 73 & 74)

10.13.6. I have addressed this issue in Section 10.4 of this report and I am satisfied that no material contravention has taken place, having regard to the considerations therein.

Protection of the Riparian Corridor (Objective DMS171)

10.13.7. I have considered this issue in Section 10.9 above, and I refer the Board to same. In summary, I have concluded that no material contravention has resulted from the proposal, having regard to the considerations therein.

Playground Facility (Objective DMS 75)

10.13.8. I have considered this issue in Section 10.4 above, and have concluded that, subject to a condition being imposed requiring additional playspace, the proposal would not constitute a material contravention of the plan.

S37(2)(b) considerations

10.13.9. I have set out my considerations of the proposal, as relates to the relevant criteria of 37(2)(b) of the Planning and Development Act 2000, as amended, below.

10.13.10. In relation to the matter of strategic or national importance, (criteria 37(2)(b)(i) of the PDA 2000), the current application has been lodged under the Strategic Housing legislation and the proposal is considered to be strategic in nature, in that it is part of a cumulative response to a strategic issue of national importance (i.e. the provision of housing and compact urban growth). I note the proposal would make

significant contribution to the housing stock, of some 100 no. residential units, and therefore seeks to address a fundamental objective of the Housing Action Plan, and as such addresses a matter of national importance, that of housing delivery.

10.13.11. With reference to section 37(2)(b)(iii) of the Act, I note the contents of 'Housing for All, a New Housing Plan for Ireland' which has four overarching objectives to meet the housing needs of the country, one of which is to increase new housing supply, on serviced land. I note also the contents of Project Ireland 2040: National Planning Framework (NPF), which seeks to deliver on compact urban growth, and National Policy Objective 27 of same seeks to prioritise the provision of new homes at locations that can support sustainable development, and at an appropriate scale of provision relative to location. In relation regional planning guidelines for the area and Section 28 Guidelines, the Eastern & Midland Regional Assembly – Regional Spatial & Economic Strategy 2019-2031 seeks to increase densities on appropriate sites within Dublin City and Suburbs, with a view to delivering the national target of at least 25,000 new homes annually. In relation to relevant Section 28 Guidelines, the 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (Updated December 2020) refer to the need to sustainably increase housing supply, in suitable locations. The 'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009)' also espouses the efficient use of resources when delivering housing, including the efficient use of land, with increased densities encouraged on residentially zoned lands, at appropriate locations. As noted in Section 10.2 of this report, the density proposed here is in line with those densities set out in the aforementioned Section 28 Guidelines. In addition, and as considered in detail in Section 10.2 of this report, I am of the view that the provisions of SPPR 4 of the Urban Development and Building Height Guidelines provisions apply to this site, and therefore I am of the view that the Board is obliged to apply those density provisions that apply to this Outer Suburban/Greenfield site), that is between 35-50 units/ha, as set out in Sustainable Residential Development in Urban Areas (2009).

10.13.12. Therefore, having regard to the considerations above, should the Board be minded to materially contravene the provisions of the Fingal County Development Plan 2017-2023, in relation to site specific objective 'to provide for residential development at a density of 5 units/ha' as set out on Sheet 9 of the Fingal

Development Plan 2017-2023, in principle, it can do so having regard the criteria of 37(2)(b)(i) and (iii) of the PDA 2000, as amended.

10.13.13. In relation to the Objective WT12 of the Development Plan, and having regard to those documents (NPF, Housing for All, RSES ESRA and Section 28 Guidelines) referred to above, I am of the view that the provision of an appropriate quantum of residential units as proposed here, on residentially zoned serviced land, at a scale that is appropriate, having regard to its locational characteristics (as discussed in various sections of this report), in lieu of the imposition of a buffer zone of at least 35m, which would result in the omission of at least 4 no. residential units, is in line with the overarching objectives of National and Regional Policy on housing, and in line with relevant Section 28 Guidelines.

10.13.14. Therefore, having regard to the considerations above, should the Board be minded to materially contravene the provisions of the Fingal County Development Plan 2017-2023, in relation to Objective WT12 of the Fingal Development Plan 2017-2023, in principle, it can do so having regard the criteria of 37(2)(b)(i) and (iii) of the PDA 2000, as amended.

11.0 Environmental Impact Assessment (EIA) Screening

11.1.1. Class 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:

- Construction of more than 500 dwelling units
- Urban Development which would involve an area greater than 2 hectares in the case of a business district*, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

*a 'business district' means a district within a city or town in which the predominant land use is retail or commercial use.

11.1.2. Class 14 relates to works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have

significant effects on the environment, having regard to the criteria set out in Schedule 7.

- 11.1.3. It is proposed to construct 100 no. residential units, a crèche and associated site works. The number of dwellings proposed is well below the threshold of 500 dwelling units noted above. The site has an overall area of 2.83 ha and is located within an existing built up area but not in a business district. The site area is therefore below the applicable threshold of 10 ha. The site is greenfield, located on the edge of the urban area of Malahide. The introduction of a residential development will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage. While I note a Natura Impact Statement (NIS) has been submitted with the application, following a Screening for Appropriate Assessment, I have concluded that that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on any Natura 2000 site (and therefore a Stage 2 Appropriate Assessment is not required), as discussed in Section 12 below. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Fingal County Council, upon which its effects would be marginal.
- 11.1.4. Section 299B (1)(b)(ii)(II)(A) of the regulations states that the Board shall satisfy itself that the applicant has provided the information specified in Schedule 7A. The criteria set out in schedule 7A of the regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that could and should be the subject of environmental impact assessment. The submitted EIA Screening Statement (dated March 2022) includes the information required under Schedule 7A of the planning regulations. In addition, 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 including *inter alia*:

- Planning Report and Statement of Consistency (including Statement of Response), Residential Amenity Assessment
- Childcare Needs and Schools Assessment
- Architectural Design Statement
- Housing Quality Assessment
- Building Lifecycle Report.
- Landscape Report
- Landscape Visual Impact Assessment
- Landscape Works and Maintenance Specification
- Drainage and Watermain drawings
- Energy Statement
- Engineering Assessment Report
- Flood Risk Assessment
- Preliminary Construction, Demolition & Waste Management Plan
- Traffic and Transport Assessment
- Travel Plan
- Preliminary Construction Environmental Management Plan
- DMURS Report
- Flood Risk Assessment
- Outdoor Lighting Report
- Natura Impact Statement
- Ecological Impact Assessment Report
- Archaeological Impact Assessment

- Arboricultural Report
- Daylight & Sunlight Assessments
- Environmental Impact Assessment Screening Report
- Hydrological and Hydrogeological Qualitative Risk Assessment
- Operational Waste Management Plan
- Acoustic Design Statement

11.1.5. Noting the requirements of Section 299B (1)(b)(ii)(II)(C), whereby the applicant is required to provide to the Board a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account, I note that the applicant has submitted a standalone document entitled 'Statement in Accordance with Article 299B(1)(b)(ii)(II)(C) of the Planning and Development Regulations 2001-2021' which notes that, *inter alia*, the following assessments / reports have been submitted: -

- An AA Screening Report, a Natura Impact Assessment, and an Ecological Impact Assessment, in support of the Habitats Directive (92/43/EEC) and Birds Directive (2009/147/EC);
- A Hydrological & Hydrogeological Qualitative Risk Assessment, in support of the Water Framework Directive (Directive 2000/60/EC);
- A Site Specific Flood Risk Assessment has been submitted, which was undertaken in response to the EU Floods Directive (2007/60/EC);
- A Construction and Environmental Management Plan (CEMP) and a Construction, Demolition and Waste Management Plan (CDMP) in support of the Waste Framework Directive (2008/98/EC);
- A Noise Impact Assessment in support of the Environmental Noise Directive (2002/49/EC)

11.1.6. In relation to other relevant EU legislation, the Statement sets out the following:

- A Strategic Environmental Assessment (SEA) was undertaken as part of the preparation of the current Fingal Development Plan 2017-2023 in accordance

with the provisions of the Strategic Environmental Assessment (Directive 2001/42/EC);

11.1.7. I have taken into account the above documentation above when screening for EIA. I have completed an EIA screening assessment of the proposed development with respect to all relevant considerations, as set out in Appendix A to this report. I am satisfied that the location of the project and the environmental sensitivity of the geographical area would not justify a conclusion that the proposed development would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects of which would be rendered significant by their extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances, the application of the criteria in Schedule 7 of the Regulations to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment and that an EIA is not required before a grant of permission is considered. This conclusion is consistent with the EIA Screening Statement submitted with the application. I am satisfied that information required under Section 299B(1)(b)(ii)(II) of the Regulations has been submitted. A Screening Determination should be issued confirming that there is no requirement for an EIAR based on the above considerations.

12.0 Screening for Appropriate Assessment:

- 12.1.1. 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.
- 12.1.2. 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)

- 12.1.3. This section of the report considers the likely significant effects of the proposal on European sites with each of the potential significant effects assessed in respect of each of the Natura 2000 sites considered to be at risk and the significance of same.

The Project and its Characteristics

- 12.1.4. I refer to the Board to the detailed description of development in Section 2.0 of this report. In relation to foul and surface water proposals, I have set out details of same in Section 10.9 of this report and I refer the Board to same.

Relevant Submissions

- 12.1.5. The Planning Authority have not raised any issues in relation to Appropriate Assessment.
- 12.1.6. Observer submissions have raised general concerns in relation to the impact on wildlife including nesting birds and other animals. It is set that the mitigation measures set out in the NIS does not address potential negative impact on the stream and the hydrologically connected Natura 2000 sites downstream. It is also questioned whether impacts on the stream have been fully considered.
- 12.1.7. In relation to relevant submissions from prescribed bodies, Inland Fisheries Ireland, while not raising concerns in relation to impacts on Natura Sites specifically, noted that protection measures should be put in place in order to protect water quality in surrounding watercourses. Irish Water have not raised any objections in principle to the development but have requested that the applicant liaise with Irish Water to ensure there are no potential residual impacts on the Greater Dublin Drainage Project corridor. DAU (Nature Conservation) note the submission of an Appropriate Assessment.

Stage 1 – AA Screening

- 12.1.8. The applicant has submitted a Natura Impact Statement (March 2022). Section 2 of same is a 'Screening for Appropriate Assessment'. The application is also accompanied by a Hydrological and Hydrogeological Qualitative Risk Assessment,

which assesses the likely significant impacts on receiving waters and protected areas, and which describes the proposals for surface water and foul water disposal.

- 12.1.9. AA Screening and Stage 2 Assessment (NIS) is based on a desk study and field surveys which were carried out in August and September, 2020 and June and October, 2021. A description of development is set out in Section 2.1 of the report and is as per Section 2.0 above. In determining which Natura sites could be potentially affected by the proposed project, the report sets out that the sites of most relevance are those in Baldoyle Bay (Baldoyle Bay SAC, 000199 and Baldoyle Bay SPA, 004016), which are hydrologically connected to the site, via the Hazelbrook Stream, which drains into the Sluice River, which in turn discharges to Baldoyle Bay. It is stated in the NIS report that there is a source-receptor-pathway connection from this site to the Dublin Bay Sites (North Dublin Bay SAC (Site Code: 000206), South Dublin Bay SAC (Site Code: 000210), North Bull Island SPA (Site Code: 004006), South Dublin Bay/Tolka Estuary SPA (Site Code: 004024) and Rockabill to Dalkey Islands SAC (Site Code: 003000) due to the wastewater from the site being treated at Ringsend WWTP, which discharges to Dublin Bay. Significant effects on these sites are ruled out as the Ringsend WWTP has sufficient capacity for this connection. Significant effects are ruled out for all other Natura 2000 sites due to a lack of any source-receptor pathways. Significant effects on all other sites, save for Baldoyle Bay SAC, 000199 and Baldoyle Bay SPA, 004016, are ruled out due to lack of direct or indirect pathways for likely significant effects. A pathway for likely significant effects is identified in the Screening Report and it is concluded that a Natura Impact Statement is required. Section 3 of the report contains the NIS and, it is stated that given the potential risk to water quality within Baldoyle Bay SAC (Site Code 000199) and Baldoyle Bay SPA (Site Code 004016) which arises from surface water runoff during construction, a full appropriate assessment has been carried out. The NIS describes in detail the habitats and species on and around the site and these are as described in Section 10.7 of this report. In terms of potential impacts to European Sites, it is noted that Baldoyle Bay SAC and Baldoyle Bay SPA are located approximately 3.8km downstream of this site. In terms of impacts from surface water, the surface water design features (as set out in detail in Section 10.9 of this report) are described in the NIS. It is stated that any potential negative impacts as a result of untreated surface water entering the Hazelbrook Stream have

been addressed by way of this surface water design, which includes the installation of silt-traps and hydro-carbon traps, which will ensure that all surface water leaving the site is treated before it ultimately enters Baldoyle Bay SAC and Baldoyle Bay SPA.

12.1.10. In relation to wastewater, it is noted that wastewater will drain to a new on-site pumping station, which will pump foul water from the site to the proposed Castleway pumping station. This is then pumped to the Chapel Road pumping station, which in turn connects to the North Fringe Interceptor at Clongriffin, which outfalls to the Ringsend WWTP. The NIS notes that the Castleway pumping station will have an emergency overflow outfall to a tributary ditch of the Hazelbrook Stream, which outfalls to the Sluice River, which outfalls to Baldoyle Bay.

12.1.11. During the construction phase, the NIS sets out that the main potential impacts on Natura 2000 sites arise from the physical disturbance of soil within the site, with potential for silt and soil to enter the Hazelbrook Stream, and ultimately Baldoyle Bay SAC and Baldoyle Bay SPA. It is set out that there is also potential for leaks of oil and petrol from machinery and equipment used on site to enter the stream, and ultimately the Baldoyle Bay sites. During the operational phase, there is the potential for contaminated surface water run off to enter the stream, and ultimately Baldoyle Bay, as a result of hydrocarbons and petrol contaminants.

12.1.12. Proposed mitigation measures to avoid or reduce the above impacts are set out in Section 5 of the NIS. At construction phase, measures include sediment control measures, including but not limited to, diversion of contaminated water away from the Hazelbrook Stream, minimising the potential for erosion, and the appropriate measures to handle and dispose of sediment contaminated waters. Measures for the treatment of surface water are also set out, and include the installation of silt traps and hydrocarbon traps, and reference is made to the surface water design features set out in the Engineering Report. In terms of cumulative/in-combination effects, other planning applications in the wider area are referred to but the NIS does not make any further assessment or conclusions on same. The NIS concludes that, provided the mitigation measures as detailed in Section 5 are implemented in full, it the proposed development, individually or in combination with other plans or projects, will not will not adversely affect the integrity of Baldoyle Bay SAC Code:

and Baldoyle Bay SPA (Site Code: 004016), in view of the sites conservation objectives.

Screening for AA

12.1.13. In Screening for AA, I have had regard to the applicant’s AA Screening Report, and NIS, as well as other relevant information on file, including that set out in the Hydrological and Hydrogeological Qualitative Risk Assessment, the EclA, and the Engineering Report. In determining the zone of influence of the project I would note that the site is not within or immediately adjacent to a Natura 2000 site. In identifying potential impact sources and pathways connecting the development to Natura 2000 site, I am of the view that the arbitrary use of the 15km radius is not necessary to determine a Zone of Influence, but rather identification of possible impact pathways should determine same. Having regard to same, I of the view that the sites within the zone of influence of the project are the Baldoyle Bay sites (Baldoyle Bay SAC (Site Code 000199) and Balydole Bay SPA (Site Code 004016) due to the hydrological link as described above, and the Dublin Bay Sites (North Dublin Bay SAC (Site Code: 000206), South Dublin Bay SAC (Site Code: 000210), North Bull Island SPA (Site Code: 004006) and South Dublin Bay/Tolka Estuary SPA (Site Code: 004024)), as treated wastewater from the development will eventually discharge to Dublin Bay via the Liffey Estuary and the Ringsend WWTP. I have set out further details of the above sites in Table 1 below and I have considered the likelihood of significant impacts on these same sites below.

Site (Code)	Distance from Application Site	Qualifying Interests (* denotes a priority habitat)	Conservation Objectives
Baldoyle Bay SAC (000199)	3.1km	1140 Mudflats and sandflats not covered by seawater at low tide	To maintain the favourable conservation condition of the Annex I habitats for which the SAC has been selected

		<p>1310 Salicornia and other annuals colonising mud and sand</p> <p>1330 Atlantic salt meadows (Glaucopuccinellietalia maritimae)</p> <p>1410 Mediterranean salt meadows (Juncetalia maritimi)</p>	
Baldoyle Bay SPA (004016)	3.1km	<p><u>Birds</u></p> <p>A140 Golden Plover (Pluvialis apricaria)</p> <p>A137 Ringed Plover (Charadrius hiaticula)</p> <p>A048 Shelduck (Tadorna tadorna)</p> <p>A046 Light-bellied Brent Goose (Branta bernicla hrota)</p>	<p>To maintain the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:</p> <p>To maintain the favourable conservation condition of the wetland habitat in Baldoyle Bay SPA</p>

		<p>A157 Bar-tailed Godwit (<i>Limosa lapponica</i>)</p> <p>A141 Grey Plover (<i>Pluvialis squatarola</i>)</p> <p><u>Habitats</u></p> <p>A999 Wetlands</p>	
North Dublin Bay SAC (000206)	6.3 km	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glaucopuccinellietalia maritima) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p>	To maintain or to restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

		<p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p><i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p>	
North Bull Island SPA (004006)	6.3 km	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p>	To maintain the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests for this SPA.

		<p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p>	
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		<p>Redshank (Tringa totanus) [A162]</p> <p>Turnstone (Arenaria interpres) [A169]</p> <p>Black-headed Gull (Chroicocephalus ridibundus) [A179]</p> <p>Wetland and Waterbirds [A999]</p>	
<p>South Dublin Bay and River Tolka Estuary SPA (004024)</p>	<p>8.7 km</p>	<p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Oystercatcher (Haematopus ostralegus) [A130]</p> <p>Ringed Plover (Charadrius hiaticula) [A137]</p> <p>Grey Plover (Pluvialis squatarola) [A141]</p> <p>Knot (Calidris canutus) [A143]</p>	<p>To maintain the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests for this SPA save for the Grey Plover. According to the Conservation Objectives for South Dublin Bay and River Tolka Estuary (NPWS, 09/03/2015) Grey Plover is proposed for removal from the list of Special Conservation Interests for South Dublin Bay and River Tolka Estuary SPA.</p>

		<p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Wetland and Waterbirds [A999]</p>	<p>As a result, a site-specific conservation objective has not been set for this species.</p>
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South Dublin Bay SAC (000210)	10.8 km	Mudflats and sandflats not covered by seawater at low tide [1140]. Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]	To maintain the favourable conservation condition of the Mudflats and sandflats not covered by seawater at low tide [1140]. The following habitats are listed as Qualifying Interests on the NPWS website, but are not included in the Conservation Objectives document: [1210] Annual vegetation of drift lines [1310] Salicornia and other annuals colonising mud and sand [2110] Embryonic shifting dunes
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Habitat Loss and Fragmentation

12.1.14. Specifically in relation to habitat loss and fragmentation, I note the site does not overlap with the boundary of any European Site. Having regard to the entirety of information on file, including that in the AA Screening Report, the NIS and within the EclA, I am satisfied the proposed site does not support populations of any fauna species that are qualifying interests or special conservation interests of any European Site. I am satisfied therefore that the proposed development will not result in habitat loss or fragmentation within any European Site, or nor will it result in a loss of any *ex-situ* foraging or roosting site for qualifying species of European sites in the wider area.

12.1.15. There are no other evident impact pathways, noting in particular the lack of suitable habitats on the site for any species of conservation interest associated with any European Site and the lack of habitat suitable for any birds of special conservation interest associated with any European Site. There is no evidence the site lies in a sensitive location as regards to birds nor that the height of the buildings at a maximum of 4 storeys would pose a danger in relation to bird strike. I also note that the site itself, as existing, is not deemed to represent suitable *ex-situ* feeding/roosting habitat for any species associated with a Natura 2000 site, and it is set out in the EclA. I also note that the site is some 1.6km from the nearest SPA (Malahide Estuary SPA).

Habitat degradation as a result of hydrological impacts

12.1.16. At construction phase, I share the view as set out in the applicant's AA Screening Report that pathways to the Baldoyle Bay sites exist at construction stage via potential contaminated run off entering the surface water network (via the Hazlebrook Stream) and eventually outfalling into Balydoyle Bay via the surface water network. At operational stage, surface water outfalls to the Hazelbrook Stream, eventually outfalling into Balydoyle Bay. Therefore the direct hydrological connection of key relevance is that relating to the Natura 2000 Sites in the vicinity of Baldoyle Bay (Baldoyle Bay SAC, 000199 and Baldoyle Bay SPA, 004016).

12.1.17. In relation to surface water, I note that standard construction practices and best practice construction measures, as relates to the prevention of surface water pollution at construction stage, as outlined in detail in the Preliminary Construction Environmental Management Plan, would prevent polluted surface water from entering the surface water drainage network. However, even in the absence of the above measures, I note that the site is at least 3km from the Balydole Bay Sites (direct line distance), with the distance via the surface water network being greater than this. As such the ecological connection is somewhat weak in my view. I note also the conclusions as set out in Section 3.4 of the 'Hydrological and Hydrogeological Qualitative Risk Assessment'. This sets out that the suspended solids from any silt-laden stormwater from the site would naturally settle within the Hazelbrook Stream and the Sluice River (and therefore it is implied they would not reach the Baydoyle Bay sites in significant quantities). In relation to a hydro-carbon leak, a worst case scenario of a leak of 1,000 litres of such material is set out, and it

is stated that this would be diluted to background levels by the time stormwater reaches the Baldoyle Bay Natura 2000 sites. I share the view that any contaminants (i.e. such as oils, hydrocarbons, silt etc) would be sufficiently settled, dispersed and diluted by the point of entry into Baldoyle Bay, so as to rule out any significant impacts on water quality therein. In addition to same I am of the view that further significant dilution and mixing of surface water and sea water would occur, at the point of entry into Baldoyle Bay. I note that this conclusion differs to that set out in the applicant's AA Screening Report, which does not rule out potential significant effects on those Natura Sites in Baldoyle Bay. However, while a hydrological link is identified, there is no discussion, within the applicant's AA Screening Report, in relation to the distance of the site from Baldoyle Bay, particularly in relation to the distance when one follows the course of the surface water network. Nor is there a consideration of the dilution effect, either within the surface water network, nor within the estuarine/marine environment of Baldoyle Bay. These factors have been considered within the Hydrological and Hydrogeological Qualitative Risk Assessment and for these reasons I am accepting the conclusions of the Hydrological and Hydrogeological Qualitative Risk Assessment over and above those of the AA Screening Report. Furthermore, even if one were to accept that significant quantities of silt and/or pollutants would reach Baldoyle Bay (which I have concluded will not be the case), there is little or no discussion within the AA Screening Report (or the NIS) as to the impacts of same on Baldoyle Bay SPA and/or Baldoyle Bay SAC, in terms of their conservation objectives.

12.1.18. As such, and having regard to the considerations above, I am satisfied that likely significant effects, as a result of hydrological impacts at construction phase, on the Baldoyle Bay Natura sites referred to above can be ruled out.

12.1.19. In relation to surface water impacts at operational stage, I am satisfied that the proposed surface water drainage measures as outlined in the Engineering Assessment Report, and the Flood Risk Assessment, will serve to limit the quantity and improve the quality of surface water runoff. These include interception storage measures with on site-attenuation during heavy rainfall events. It is also proposed to restrict outflows from the site. These SuDS measures are proposed to reduce the quantity of surface water discharge from the site, and to improve discharge water quality. These installations have not been introduced to avoid or reduce an effect on

any effect on any Natura site and would be introduced as a standard measure on such housing developments, regardless of any direct or indirect hydrological connection to a Natura 2000 site. They constitute the standard approach for construction works in an urban area. Their implementation would be necessary for a residential development on any brownfield site in order to protect the receiving local environment and the amenities of the occupants of neighbouring land regardless of connections to any Natura 2000 site or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on an urban site whether or not they were explicitly required by the terms or conditions of a planning permission. As such, I am satisfied that the surface water design features proposed at operational stage will ensure the quality of surface water run-off will be sufficient so as not to result in any likely significant effects on any Natura 2000 within Baldoyle Bay, or any other Natura 2000 sites, having regard to the sites' conservation objectives. Notwithstanding, and even if these standard work practices were not employed, or should they fail for any reason, and pollutants enter Baldoyle Bay indirectly via the surface water network, I am of the view that any such contaminants would be sufficiently dispersed and diluted within the surface water network and within the estuarine/marine environment of Baldoyle Bay, such that likely significant effects on those Natura 2000 sites within and adjacent to Baldoyle Bay can be ruled out.

12.1.20. In conclusion therefore, while there is an direct connection to Baldoyle Bay SAC and SPA, via the surface water network, I am of the view that any particulates or pollutants will be settled and/or diluted within the surface water network and the marine /estuarine environment of Baldoyle Bay and would not be seen to be at levels that would cause significant effects on the Baldoyle Bay SAC nor on the Baldoyle Bay SPA. As such likely significant effects on the Baldoyle Bay SAC and on the Baldoyle Bay SPA can be ruled out.

Habitat degradation as a result of hydrogeological impacts

12.1.21. While not discussed within the AA Screening Report, the Hydrological and Hydrogeological Qualitative Risk Assessment notes that the proposed development is within the 'Dublin' groundwater body and is classified under the WFD Status 2013-2018 (EPA, 2021) as having 'Good status'. It is further noted that the site is above a groundwater aquifer that is classified as having a 'high vulnerability'. Notwithstanding

the risk assessment concludes that the potential for impact on this aquifer is low based on the absence of any bulk chemical storage on the site, in combination with the nature of the overlying soil thickness, the low permeability of same and the lack of fracture connectivity within the underlying limestone, all of which indicate that there is no potential for a change in the groundwater body status nor is there a significant source pathway linkage through the aquifer to any Natura 2000 site. Having regard to same, I am satisfied that there no source pathway linkage from the site to any Natura 2000 site, via groundwater.

Foul Water

- 12.1.22. The foul water discharge from the site is treated at Ringsend WWTP which discharges into Dublin Bay (at the point of the River Liffey Estuary). At operational stage, foul water discharge provides a further indirect hydrological connection from the site to Dublin Bay.
- 12.1.23. The indirect hydrological connection of relevance relates to the Dublin Bay Sites (that is North Bull Island SPA (004006), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024) and South Dublin Bay SAC (000210). In relation to other European Sites, it is reasonable to assume that, where the water quality and the conservation objectives of the European sites immediately proximate to Dublin Bay (i.e. North Bull Island SPA (004006), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024) and South Dublin Bay SAC (000210)) are unaffected by the proposed development, having regard to the source pathway model, the conservation objectives of those European sites at a greater distance would also be unaffected.
- 12.1.24. With regard to wastewater, this will discharge to Ringsend WWTP. Information on the Irish Water website indicates that the Ringsend WWTP plant is operating above its capacity of 1.64 million P.E. with the average daily load received at Ringsend Wastewater Treatment Plant in 2019 being 1.98 million population equivalent with peaks well in excess of this. I note that Ringsend WWTP operates under a discharge licence from the EPA (D0034-01) and must comply with the licence conditions. In this regard, upgrade works have been permitted and are underway on the WWTP which will eventually cater for a 2.4 million population equivalent when completed in

2025, with phased upgrades allowing for 2.1 million population equivalent by 2023². However, notwithstanding the proposed upgrading works, I am of the view that the effluent volumes from the proposed development (which would account for 0.03% of the licenced discharge at Ringsend WWTP – as set out in the Hydrological and Hydrogeological Qualitative Risk Assessment) would be insignificant given the overall scale of the Ringsend facility and would not alter the effluent released from the WWTP to such an extent as to have a measurable impact on the overall water quality within Dublin Bay and therefore would not have an impact on the current Water Body Status (as defined within the Water Framework Directive). On the basis of the foregoing, I conclude that the proposed development will not impact the overall water quality status of Dublin Bay and that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of European sites in or associated with Dublin Bay.

In-Combination Impacts

- 12.1.25. In relation to in-combination impacts, given the negligible contribution of the proposed development to the wastewater discharge from Ringsend, I consider that any potential for in-combination effects on water quality in Dublin Bay can be excluded. This is supported by the conclusions of the Hydrological and Hydrogeological Qualitative Risk Assessment which notes that recent water quality assessments for Irish Sea Dublin and Dublin Bay shows that they currently continue to meet the criteria for 'Unpolluted' water quality status, with reference to EPA data up to July 2021.
- 12.1.26. Furthermore, other projects within the wider Dublin Area, including those within the administrative area of Fingal County Council, which can influence conditions in the marine environment, via rivers and other surface water features, are also subject to AA and governing development plans are subject to regional policy objectives and SEA as well as their own local objectives in relation to the protection of European sites and water quality.
- 12.1.27. Having regard to the considerations discussed above, I am satisfied that there are no projects or plans which can act in combination with this development that could give

² <https://www.water.ie/projects/local-projects/ringsend/>

rise to any likely significant effect to Natura 2000 Sites within the zone of influence of the proposed development

AA Screening Conclusion

12.1.28. Notwithstanding the submission of a Stage 2 Natura Impact Assessment (NIS), it is reasonable to conclude that on the basis of the information on the file, which I considered adequate in order to issue a screening determination, that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on Baldoyle Bay SAC (Site Code 000199), Baldoyle Bay SPA (Site Code 004016), South Dublin Bay and River Tolka Estuary SPA (Site Code 004024), South Dublin Bay SAC (Site Code 000210), North Dublin Bay SAC (Site Code 000206) and North Bull Island SPA (Site Code 004006) or any European site, in view of the sites' conservation objectives, and a Stage 2 Appropriate Assessment (and submission of an NIS) is not therefore required.

13.0 Conclusion and Recommendation

13.1.1. Having regard to the above assessment, I recommend that section 9(4)(d) of the Planning and Development (Housing) and Residential Tenancies Act 2016 be applied and that permission be **REFUSED** for the proposed development for the reasons and considerations set out below.

14.0 Recommended Order

Planning and Development Acts 2000 to 2019

Planning Authority: Fingal County Council

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 8th April 2022 by CE Cladewell Estates Limited, care of Stephen Little and Associates, 26/27 Pembroke Street Upper, Dublin, D02 X361.

Proposed Development:

The proposed development on a site of approximately 2.83Ha consists of 100no. residential units in a mix of houses, duplex, own door apartment and apartment

buildings ranging in height from 2 to 4 storeys overall; comprising of 34no. 2 to 3 storey semi-detached, terraced and end of terrace houses (29no. 3-bedroom houses and 5no. 4 bedroom houses); 4no. 3 storey duplex and own door apartment blocks (24no. 2-beds and 14no. 3-beds); 1no. 4 storey apartment block (12no. 1-beds and 16no. 2-beds). The proposed development also includes; 1no. childcare facility (c. 189.5sq m) located at ground floor level of Duplex Block 1 and associated outdoor play space c.142sqm; public open space (c. 4,319sq m); private open space (c. 2,637sqm private rear gardens serving housing and c. 686sqm balconies and terraces serving apartments and duplexes) and communal amenity open space (c. 479sq m); public lighting and street lighting; 151no. car parking spaces (4no. creche spaces, 68no. house spaces, 79no. apartment and duplex spaces (66no. residential and 13no. visitor car parking spaces); 120no. secure bicycle parking spaces (32no. residential apartment spaces, 48no. residential duplex and own door apartment spaces, 4no. creche spaces and 36no. visitor bicycle parking spaces); bicycle storage; bin storage; 1no. ESB substation; provision of temporary foul sewage holding tank and lifting station; provision of internal road network, including new road carriageways, pedestrian facilities; primary vehicular access serving the proposed development is via a new access road off Back Road; a new separate pedestrian and cycle access serving the proposed development to the west of Lamorlaye off Back Road; demolition of out buildings/stables (c. 168sqm) all associated and ancillary site development and infrastructural works including, laying a foul rising main along Back Road from the new access to the development to the junction of Back Road and Kinsealy Lane and 817m southwards along Kinsealy Lane as to connect to Castleway Pumping Station permitted under Fingal County Council Reg. Ref. F21A/0451; all ancillary hard and soft landscaping and boundary treatment works.

Decision

REFUSE 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

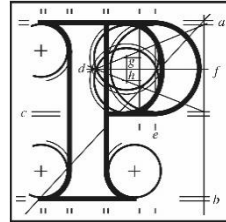
In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

The proposed layout, and the provision of public open space, is compromised by the piecemeal nature of the development, which is premature pending the redevelopment of the wider site, which includes both this site, and the adjacent 'Lamorlaye' site. As a result of this compromised layout, the proposed areas of public open space are of poor quality and would be of limited benefit to future occupiers of the development. Furthermore, the public realm is dominated by large areas of surface car parking, and the layout as proposed results the creation of a number of cul-de-sacs, with uncertainty as to the future resolution of same. As such, the proposal is contrary to guidance as set out in the Urban Design Manual – A Best Practice Guide (the companion document to Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities - 2009), is contrary to Objectives PM31, DMS66 and DMS67 of the Fingal Development Plan 2017-2023, and is contrary to guidance as set out in the Design Manual for Roads and Streets – DMURS (2013).

Rónán O'Connor
22nd February 2023

Appendix A: EIA Screening Form



**An
Bord
Pleanála**

EIA - Screening Determination for Strategic Housing Development Applications

A. CASE DETAILS		
An Bord Pleanála Case Reference		ABP-313265-22
Development Summary		100 no. residential units (34 no. houses, 66 no. apartments), creche and associated site works.
	Yes / No / N/A	
1. Has an AA screening report or NIS been submitted?	Yes	An AA Screening Report and a Natura Impact Statement (NIS) were submitted with the application

2. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	
3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	Please see Section 11 of Inspector's report for a consideration of same.

B. EXAMINATION	Yes/ No/ Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant) (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)			

<p>1.1 Is the project significantly different in character or scale to the existing surrounding or environment?</p>	<p>No</p>	<p>The residential use and other uses proposed and the size and design of the proposed development would not be unusual in the context of this residential area.</p>	<p>No</p>
<p>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</p>	<p>Yes</p>	<p>Such changes in land use and form are not considered to be out of character with the pattern of development in the surrounding area.</p>	<p>No</p>
<p>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</p>	<p>Yes</p>	<p>Construction materials will be typical of such urban development. Development of this site will not result in any significant loss of natural resources or local biodiversity.</p>	<p>No</p>
<p>1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction Environmental Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	<p>No</p>

<p>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction Environmental Management Plan will satisfactorily mitigate potential impacts.</p> <p>Operational waste will be managed via a Waste Management Plan to obviate potential environmental impacts. Other significant operational impacts are not anticipated.</p>	<p>No</p>
<p>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>No</p>	<p>No significant risk identified. Operation of a Construction Environmental Management Plan will satisfactorily mitigate emissions from spillages during construction. The operational development will connect to mains water. The surface water design will ensure that the quality of surface water outfall to the Hazelbrook Stream will be such that no significant impact on water quality will result at operational stage and flow control devices will limit the quantity of surface water run off to greenfield rates</p>	<p>No</p>

<p>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</p>	<p>Yes</p>	<p>There is potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Environmental Management Plan. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts. Lighting design to avoid overspill to adjoining lands</p>	<p>No</p>
<p>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p>No</p>	<p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction, Environmental Management Plan would satisfactorily address potential impacts on human health. No significant operational impacts are anticipated.</p>	<p>No</p>
<p>1.9 Will there be any risk of major accidents that could affect human health or the environment?</p>	<p>No</p>	<p>No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The areas of the site where the residential and crèche elements are proposed is not at risk of flooding. There are no Seveso / COMAH sites in the vicinity of this location.</p>	<p>No</p>

<p>1.10 Will the project affect the social environment (population, employment)</p>	<p>Yes</p>	<p>Redevelopment of this site as proposed will result in an increased population at this location. This is not regarded as significant given the urban location of the site and surrounding pattern of land uses.</p>	<p>No</p>
<p>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p>No</p>	<p>Some residentially zoned land in the wider area has been developed with housing in recent years. However the lands on which housing has been developed are residentially zoned lands, the development of which has been foreseen by the Fingal Development Plan 2017-2023 which has undergone an SEA. Other developments in the wider area are not considered to give rise to significant cumulative effects.</p>	<p>No</p>
<p>2. Location of proposed development</p>			
<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <p style="padding-left: 40px;">1. European site (SAC/ SPA/ pSAC/ pSPA)</p>	<p>Yes</p>	<p>There are no conservation sites located on the site. In relation to potential impacts on NHA's or pNHAs, I note that there is a hydrological link to Baldoyle Bay pNHA via the Hazelbrook Stream. However I</p>	<p>No</p>

<p>2. NHA/ pNHA 3. Designated Nature Reserve 4. Designated refuge for flora or fauna 5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</p>		<p>have ruled out potential significant impacts on water quality in Baldoyle Bay (for the reasons as set out in Section 12 of this report) and as such I am not of the view that there will be any significant impacts on Baldoyle Bay pNHA as a result of this proposed development. There are no other obvious pathway links to any other NHAs or pNHAs. I have considered the impacts on European Sites in Section 12 of this report. In this section I have concluded that, notwithstanding the submission of an NIS, the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, in view of the sites' Conservation Objectives. The site is not a place, site or feature of ecological interest which is referred to in the Fingal Development Plan 2017-2023.</p>	
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	<p>No</p>	<p>No such uses on the site and no impacts on such species are anticipated.</p>	<p>No</p>

<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>Yes</p>	<p>No significant impacts on features of landscape, historic, archaeological, or cultural importance are anticipated, subject to conditions in relation to archaeological monitoring.</p>	<p>No</p>
<p>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>	<p>No</p>		<p>No</p>
<p>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</p>	<p>No</p>	<p>The Hazelbrook Stream runs along the southern boundary of the site. At construction stage, surface water run-off will be controlled by measures as detailed in the CEMP. At operational stage, the development will implement SUDS measures to control the quality and quantity of surface water run-off. The overall site is not at significant risk of flooding.</p>	<p>No</p>
<p>2.6 Is the location susceptible to subsidence, landslides or erosion?</p>	<p>No</p>	<p>There is no evidence in the submitted documentation that the lands are susceptible to lands slides or erosion.</p>	<p>No</p>

2.7 Are there any key transport routes(eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	No	The site is served by a local urban road network.	No
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?	Yes	There is no existing sensitive land uses or substantial community uses 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	No developments have been identified in the vicinity which would give rise to significant cumulative environmental effects.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No trans boundary considerations arise	No
3.3 Are there any other relevant considerations?	No		No

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

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

Having regard to: -

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

(c) The existing use on the site and pattern of development in surrounding area;

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

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

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

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

(g) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Ecological Impact Assessment, the Engineering Report, the Flood Risk Assessment, the Construction Environmental Management Plan (CEMP), the Arboricultural Report, the Archaeological Impact Assessment and the Traffic and Transport Assessment, it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

Inspector: _____ **Ronan O'Connor**

Date: 22/02/2023