



An
Bord
Pleanála

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

Inspector's Report ABP-313331-22

Strategic Housing Development

645 no. apartments, creche and associated site works.

Location

Lands at Fosterstown North, Dublin Road/R132, Swords, Co. Dublin.

Planning Authority

Fingal County Council

Applicant

J Murphy (Developments) Limited

Prescribed Bodies

Irish Water

Dublin Airport Authority

National Transport Authority

DAA

Transport Infrastructure Ireland

Irish Aviation Authority

Observers

Alan and Emir Higgins

Ann Graves

Darragh Butler and Brigid Manton

Dean Mulligan

Eimear O'Regan

Gillian Barry

John Duffy

Kevin Tolan and KT Designs

Lisa-Maria Whiston

Mark and Bronwyn Dowdall

Martin Counihan

Mary Hughes

Mary Maguire and John Paul

McGovern

Sylwia Bauer and Tomasz Dzedzic

William Roarty and Dolories Doyle

Yulia Grishchenko

Date of Site Inspection

3rd March 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 application site approx. 4.4 ha is located to the west side of the Dublin Road in Fosterstown, North Co. Dublin. The site is within the built-up area of Swords approximately 1km south of the town centre, and immediately adjacent to an existing residential development known as Boroimhe. Airside Retail Park is on the opposite side of the Dublin Road. The site is located approximately 3km from Dublin airport.
- 2.1.2. The site is greenfield, consisting of fields under pasture bounded by hedgerows. Its northern boundary is along a stream called Gaybrook. The site includes a section of frontage onto the Dublin Road (the R132) measuring approximately 280m. Site elevation varies, with levels rising from north to south generally.
- 2.1.3. A proposed route under Bus Connects is located along the R132 / Dublin Road, adjacent to the subject site. The proposed Metrolink route runs immediately to the east of the subject site on the opposite side of the R132, with Fosterstown Metro Station proposed at the opposite site of the R132 / Dublin Road to the subject site. Additionally, roads upgrades to the area include upgrading Forest Road and constructing a link road between Forest Road and the Pinnock Hill roundabout, which is located c. 200 metres north of the subject site.

3.0 Proposed Strategic Housing Development

The proposed development comprises a Strategic Housing Development of 645 no. residential units (comprising 208 no. 1 bedroom units, 410 no. 2 bedroom units, and 27 no. 3 bedroom units), in 10 no. apartment buildings, with heights ranging from 4 no. storeys to 10 no. storeys, including undercroft / basement levels (for 6 no. of the buildings). The proposals include 1 no. community facility in Block 1, 1 no. childcare facility in Block 3, and 5 no. commercial units (for Class 1-Shop, or Class 2- Office /

Professional Services or Class 11- Gym or Restaurant / Café use, including ancillary takeaway use) in Blocks 4 and 8.

The development will consist of the following:

Block 1 comprises 29 no. residential units, within a four storey building (with a pitched roof), including 8 no. 1 bedroom units and 21 no. 2 bedroom units. A community facility (191.8 sq.m) is provided at ground floor level.

Block 2 comprises 23 no. residential units, within a four storey building (with a pitched roof), including 8 no. 1 bedroom units and 15 no. 2 bedroom units.

Block 3 comprises 24 no. residential units, within a four storey building (with a pitched roof), including 6 no. 1 bedroom units and 18 no. 2 bedroom units. A childcare facility (609.7 sq.m) is provided at ground floor level.

Block 4 comprises 93 no. residential units, within a part seven, part eight, and part nine storey building, with an undercroft level, including 34 no. 1 bedroom units, 54 no. 2 bedroom units, and 5 no. 3 bedroom units. 3 no. commercial units (with a GFA of 632.2 sq.m) are provided at ground floor level.

Block 5 comprises 91 no. residential units, within a part six, part seven, and part eight storey building, with an undercroft level, including 34 no. 1 bedroom units, 55 no. 2 bedroom units, and 2 no. 3 bedroom units.

Block 6 comprises 54 units, within a part eight, part nine storey building, with an undercroft level, including 13 no. 1 bedroom units, 38 no. 2 bedroom units, and 3 no. 3 bedroom units.

Block 7 comprises 117 no. residential units, within a part seven, part eight, and part nine storey building height, over a basement level, including 40 no. 1 bedroom units, 76 no. 2 bedroom units, and 1 no. 3 bedroom unit.

Block 8 comprises 94 no. residential units, within a part six, part seven, part eight, and part nine storey building, over a basement level, including 33 no. 1 bedroom units, 58 no. 2 bedroom units, and 3 no. 3 bedroom units. A commercial unit (with a GFA of 698.2 sq.m) is provided at ground floor level.

Block 9 comprises 75 no. residential units, within a part seven, part eight, part nine, and part ten storey building, over a basement level, including 23 no. 1 bedroom units, 48 no. 2 bedroom units, and 4 no. 3 bedroom units.

Block 10 comprises 45 no. residential units, within a part nine, part ten storey building, including 9 no. 1 bedroom units, 27 no. 2 bedroom units, and 9 no. 3 bedroom units.

The development includes a total of 363 no. car parking spaces (63 at surface level and 300 at undercroft / basement level). 1,519 no. bicycle parking spaces are provided at surface level, undercroft / basement level, and at ground floor level within the blocks / pavilions structures. Bin stores and plant rooms are located at ground floor level of the blocks and at undercroft / basement level. The proposal includes private amenity space in the form of balconies / terraces for all apartments. The proposal includes hard and soft landscaping, lighting, boundary treatments, the provision of public and communal open space including 2 no. playing pitches, children's play areas, and an ancillary play area for the childcare facility.

The proposed development includes road upgrades, alterations and improvements to the Dublin Road / R132, including construction of a new temporary vehicular access, with provision of a new left in, left out junction to the Dublin Road / R132, and construction of a new signalised pedestrian crossing point, and associated works to facilitate same. The proposed temporary vehicular access will be closed upon the provision of permanent vehicular access as part of development on the lands to the north of the Gaybrook Stream. The proposal includes internal roads, cycle paths, footpaths, vehicular access to the undercroft / basement car park, with proposed infrastructure provided up to the application site boundary to facilitate potential future connections to adjoining lands.

The development includes foul and surface water drainage, green roofs and PV panels at roof level, 5 no. ESB Substations and control rooms (1 no. at basement level and 4 no. at ground floor level within Blocks 2, 4, 7 and 8), services and all associated and ancillary site works and development.

The application contains a statement indicating why permission should be granted for the proposed development, having regard to a consideration specified in Section 37(2)(b) of the Planning and Development Act, 2000, as amended, notwithstanding that the proposed development materially contravenes a relevant development plan or local area plan other than in relation to the zoning of the land.

The application contains a statement setting out how the proposal will be consistent with the objectives of the Fingal County Development Plan 2017-2023.

An Environmental Impact Assessment Report and a Natura Impact Statement have been prepared in respect of the proposed development and accompany this application.

Key Figures

Site Area	4.635 ha
No. of units	645
Density	171 unit/ha (net)
Height	4-10 Storeys
Communal Space	6,100 sq. m.
Part V	65 no. units
Vehicular Access	From R132
Car Parking	363 no. spaces
Bicycle Parking	1,519 no. space
Other uses	Block 1 – Community Facility: 191.8 sq.m; Block 3 – Childcare facility: 609.7 sq.m; Block 4 – Commercial Units*: 632.2 sq.m; Block 8 – Commercial unit*: 698.3 sq.m *Commercial Units: Class 1-Shop, or Class 2- Office / Professional Services or Class 11 Gym or Restaurant / Café use, including ancillary takeaway us

3.1.1. The proposed development provides the following unit mix:

	Apartments
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	Number	%
1 bed	208	32
2 bed	410	64
3 bed	27	5
Total	645	100

4.0 Planning History

Site

No planning history

Other relevant sites

ABP Ref 308366 - Lands at Fosterstown North and Cremona, Forest Road, Swords, Co. Dublin - SHD Application –Grant permission [Decision Date 03/02/2021] - 278 no. apartments, childcare facility and associated site works. (Total units permitted reduced to 265 by way of condition). This decision is current the subject of a Judicial Review.

ABP Ref 314253 - Pinnock Hill, Fosterstown North, Swords, Co. Dublin.- SHD Application - 7 year permission for 219 no. apartments, creche and all associated site works - Not yet decided.

ABP Ref 314724 - Estuary through Swords, Dublin Airport, Ballymun, Glasnevin and City Centre to Charlemont, Co. Dublin (Metrolink) – Railway Order Application - Railway (Metrolink - Estuary to Charlemont via Dublin Airport) Order [2022] – Not yet decided

ABP – 310145-21 - Along existing R132 situated between Lissenhall Interchange and Pinnockhill Junction, to the east of Swords Town Centre, Co. Dublin - Local Authority Development - R132 Connectivity Project, to carry out road alteration works along the R132 at Sword, Co. Dublin – Grant Permission [Decision Date: 20/01/2022]

5.0 Section 5 Pre Application Consultation

5.1.1. A Section 5 Consultation meeting took place via Microsoft Teams on 27th November 2020 in respect of the following development:

705 no. apartments, childcare facility and associated site works.

5.2. In the Notice of Pre-Application Consultation Opinion dated 3rd December 2020 (ABP Ref. ABP-307260-20) the Board stated that it was of the opinion that the documentation submitted **requires further consideration and amendment to constitute a reasonable basis** for an application for strategic housing development to An Bord Pleanála.

5.2.1. 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 the constituting a reasonable basis for an application for strategic housing.

1. Further consideration and justification of the documents as they relate to the provision of vehicular access from the proposed development onto the R132 having regard to, inter alia, the policies and objectives of Fingal County Council as set out in Fosterstown Masterplan 2019 and the implications for the strategic function of the R132 in terms of Bus Connects and Metrolink crossings which are continuing to be advanced. The justification should include, inter alia, alternatives considered/deliverable if applicable. Should the proposed entrance off the R132 be maintained at application stage then a full Traffic and Transport Impact Assessment should be submitted indicating, inter alia, impact assessment on existing and possible future: pedestrian infrastructure; cycle infrastructure; bus infrastructure; the Metrolink station, and vehicular movement on, and in the vicinity of, the R132. In addition, proposals to provide an interim temporary access from the R132 may wish to be investigated/considered. Any such temporary entrance proposal should include proposals for the closure of the vehicular access and the provision of appropriate public realm works following completion of the Fosterstown Link Road and associated road infrastructure to service the site via the lands to the north as identified in the Fosterstown Masterplan (May 2019). It is advisable that any entrance proposal off the R132 be subject of detailed design consultation with Fingal County Council in conjunction with the NTA and TII.

2. Further consideration of the documents as they relate to the design and heights of the proposed buildings. In addition to the local statutory plans, the submitted documentation should have regard to the Guidelines for Planning Authorities on Building Heights and Urban Development, 2018 including its specific planning policy requirements, and the need to provide a sufficient density of development on the site and a high standard of architectural and urban design and residential amenity particularly with respect to adequate amenity areas and sunlight/daylight access. If it is proposed to materially contravene the provisions of the local area plan, then a statement justifying the contravention is required to be submitted.
3. Further consideration of the documents as they relate to foul water drainage proposals to service the development. The documents should provide details of necessary upgrade works required to facilitate the development to include, *inter alia*: plans and particulars, having regard to the significant wastewater network constraints raised by Irish Water in their report dated 3rd July 2020.

Clarity is to be provided concerning who is to deliver the works; the status of any planning and other consents required to deliver the infrastructure; the timelines involved in the delivery of the required infrastructure in the context of the proposed strategic housing development

5.2.2. 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. Visual Impact/ CGIs and photomontages, sections and continuous elevations where relevant, of the main elevation treatment including but not restricted to the following:

- The interface of the development with the R132,
- Relationship with the riparian corridor along northern site boundary,
- Public plaza addressing and connecting with future Metrolink station,
- Relationship between the ground floor and undercroft parking and the treatment along the internal access road.

2. A housing quality assessment which provides specific information regarding the proposed apartments and which demonstrates compliance with the various requirements of the 2018 Guidelines on Design Standards for New Apartments, including its specific planning policy requirements.
3. A building life cycle report in accordance with section 6.3 of the Sustainable Urban Housing: Design Standards for New Apartments (2018).
4. A comprehensive daylight and sunlight analysis addressing existing residential units in proximity to the site and proposed units and open spaces within the development.
5. Submission of a Taking in Charge map.
6. Comprehensive Flood Risk Assessment
7. Details of Part V provision clearly indicating the proposed Part V units.
8. Childcare demand analysis, including but not restricted to the justification for size of the proposed crèche, having regard to the existing childcare facility in the vicinity of the site, the likely demand and use for childcare places and the accommodation of additional requirement resulting from the proposed development.
9. Inclusion of a Social and Community Audit of the schools in the vicinity in particular school going children and the accommodation of additional requirement resulting from the proposed development.
10. A landscape and permeability plan of the proposed open space within the site clearly delineating public, semi-private and private spaces, areas to be gated, treatment of interface areas and provision of future connections to adjoining lands.
11. The landscape masterplan shall also identify existing/future pedestrian and cycle path connections to Swords to the north of the site and lands to the south to include Airside Retail Park, in particular, with regard to Bus Connects.
12. Submission of a Traffic and Transport Assessment to include car parking and cycle parking rationale.
13. Statement of compliance with the applicable standards set out in DMURS, and a mobility management plan which justified the proposed provision of parking for cars and bicycles

14. Details to include plan and cross-section drawings of the proposed reprofiling of Gaybrook Stream.

15. A phasing scheme for the development having regard to the provisions of the Fosterstown Masterplan 2019.

16. The inclusion of all works to be carried out, and the necessary consents to carry out works on lands, within the red line boundary

17. Where the applicant considers that the proposed strategic housing development would materially contravene the relevant development plan or local area plan, other than in relation to the zoning of the land, a statement 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.

Applicant's Statement

The application includes a statement of response to the pre-application consultation (Statement of Response to ABP's Pre-Application Opinion), as provided for under section 8(1)(iv) of the Act of 2016 and within this document the applicant has responded to each of the issues raised in the opinion and to item of specific information raised.

Material Contravention Statement

5.2.3. 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:

- Objective SWORDS 27 of the Fingal Development Plan/Objective PM 14/Objective PM15 (in relation to Masterplans)
- Objectives DM113 and Table 12.8 (car parking/car parking standards)
- Map Sheet No. 8 – map based objectives (indicative route for the proposed Metro North and its stops)
- Objective DMS30 (daylight/sunlight/compliance with BRE)

- Objectives PM52 and DMS57 (public open space)
- Objective NH27 (protection of hedgerows)

5.2.4. I refer the Board to Section 10.9 of this report which summarises the contents of same and considers the issue of material contravention generally.

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)

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”.

Local

Fingal County Development Plan 2017-2023 (including Variations Nos. 1, 2 and 3)

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

The site is zoned for residential development under the RA objective of the Fingal County Development Plan 2017-2023.

Chapter 2 relates to the Core Strategy and Settlement Strategy.

Swords is identified as a Key Town in the settlement strategy. The following objectives are of relevance

Objective SS01 - Consolidate the vast majority of the County's future growth into the strong and dynamic urban centres of the Metropolitan Area

Objective SS01a - Support ... and promote development consistent with the Outcome of Compact Growth as outlined in the NPF and in the RSES.

Objective SS01b - Consolidate within the existing urban footprint, by ensuring of 50% of all new homes within or contiguous to the built up area of Dublin City and Suburbs and 30% of all new homes are targeted within the existing built-up areas to achieve compact growth of urban settlements.....

Objective SS02a - Development will be permitted in principle on lands where there is a Local Area Plan or Masterplan in place and only when these lands are substantially developed will permission be granted for the development of lands without such a framework. Should the lands identified within a LAP or Masterplan not come forward for development in the short term, consideration will be given to other lands.

Objective SS02b - Focus new residential development on appropriately zoned lands within the County, within appropriate locations proximate to existing settlement centre lands where infrastructural capacity is readily available, and they are along an existing or proposed high quality public transport corridors and on appropriate infill sites in the town centres, in a phased manner alongside the delivery of appropriate physical and social infrastructure.

Also Objective SS12:

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

Objectives SS15 – consolidate urban areas through infill and brownfield redevelopment; Objective SS16 – Examine possibilities of higher densities in urban areas adjoining Dublin City.

Chapter 3 relates to Placemaking. Development Plan section 3.4 sets out design criteria for residential development.

Chapter 3 – Placemaking

Objective PM13 Prepare Local Area Plans for areas designated on Development Plan maps in co-operation with relevant stakeholders, and actively secure the implementation of these plans and the achievement of the specific objectives indicated; Objective PM14 Prepare Masterplans for areas designated on Development Plan maps in co-operation with relevant stakeholders, and actively secure the implementation of these plans and the achievement of the specific objectives indicated; Objective PM15 Implement Masterplans prepared in accordance with the Development Plan; 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 PM32 – have regard to DMURS; Objective PM37: Ensure an holistic approach, which incorporates the provision of essential and appropriate facilities, amenities and services, is taken in the design and planning of new residential areas, so as to ensure that viable sustainable communities emerge and grow; Objective PM38 Achieve an appropriate dwelling mix, size, type, tenure in all new residential developments; Objective PM39:Ensure consolidated development in Fingal by facilitating residential development in existing urban and village locations; 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; PM42 'Implement the policies and objectives of the Minister in respect of 'Urban Development and Building Heights Guidelines' (December, 2018) and Sustainable Urban Housing: Design Standards for New Apartments (March, 2018) issued under section 28 of the Planning and Development Act, as amended; Objective PM43 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 PM44: Encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected; 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 PM53 provides: Require an equivalent financial contribution in lieu of open space provision in smaller developments where the open space generated by the development would be so small as not to be viable.

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 4 relates to Urban Fingal. The following development plan objectives relating to Swords are noted:

Objective SWORDS 2:

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

Objective SWORDS 4:

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

Objective SWORDS 6 of the plan refers to the provision of a new road to from the Dublin Road to the Forest Road.

Objective SWORDS 11:

Provide for a comprehensive network of pedestrian and cycle ways, linking housing to commercial areas, to the town centre and to Metro stops and linking the three water bodies (the Ward River Valley, the Broadmeadow River Valley and the Estuary) to each other subject to Screening for Appropriate Assessment if required.

Objective SWORDS 12:

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

Objective SWORDS 15:

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

Objective SWORDS 27 refers to a requirement for a masterplan for development at Fosterstown. The following objectives are set out for the Fosterstown Masterplan:

- Provide for required road improvements including: the construction of the Fosterstown Link Road; realignment and improvements to the Forrest Road and

improvements to the R132 (including Pinnock Hill) as part of the phased development of the Masterplan Lands.

- Provide for a vehicular connection to the adjoining MC zoned lands to the north.
- In order to protect existing residential amenities, where development immediately adjoins existing residential development, the heights of such development shall be restricted to 2-3 storeys.
- Future development shall provide a strong urban edge with attractive elevations which satisfactorily address, overlook and provide a high degree of informal supervision of the R132, the Forrest Road and the Fosterstown Link Road.
- Consider the provision of a hotel at a suitable location at Cremona within the Fosterstown Masterplan Lands.
- Facilitate the indicative route for new Metro North through these lands and an appropriate relationship with the indicative route for new Metro North at this location.
- The existing stream which crosses the lands shall be maintained within a riparian corridor.
- The majority of the public open space shall be provided along the stream and it shall link into the existing public open space at Boroimhe.

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.

Section 11.3 refers to Masterplans. It is stated that a number of Masterplans will be prepared during the Plan period as indicated on the Development Plan maps. It is further stated that the Masterplans will be subject to a public consultation process and presentation to the Elected Members of the Planning Authority for agreement. It is further stated that these plans are subsidiary to their parent plan (i.e. Local Area Plan, County Development Plan) and their associated zoning strategies and objectives.

Objective Z03 – Prepare and Implement Masterplans where required.

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.

Swords Masterplans (including the Masterplan for Fosterstown)

This was adopted in May 2019. This is a non-statutory document which has been prepared in response to objectives in the Fingal Development Plan 2017 - 2023. The Masterplans have been prepared concurrently and the documents have been prepared with a single 'front-end' document (Part A) that sets out the context for the Masterplans and largely focuses on Swords more broadly. Parts B, C, & D present the proposals for each of the Masterplan areas. Part C relates to Fosterstown. The 'Key Principles' contained in Part A apply across all of the Masterplan areas. Each Masterplan then contains Objectives for the Masterplan area, stemming from the overarching Key Principles. Part E contains the appendices.

Part C Fosterstown Masterplan provides a layout for development on lands with the Fosterstown Masterplan area, including the current site, with a new road linking an upgraded junction at Pinnock Hill to an upgraded Forest Road, as well as a linear open space along the stream and a site for a primary school in the south-western part of the site. The Masterplan specifies that net densities should be between 105-115 dph and there should be a mix of building types and heights, with 2 and 3 storey houses along the Forest Road and beside existing houses at Boroimhe Willows. It is also an objective to provide a strong urban edge to the R132 to the north of the site, where taller development, ranging from 5 - 9 storeys will be supported. Figure 6.2 'Height Objectives' of the Plan gives a visual representation of the height objectives with the highest element (9 storeys) to the north-east of the Masterplan Lands, adjacent to the R132. A phasing scheme is set out which states that development is contingent upon the provision of infrastructure including the link road, junction upgrade and school site. It specifies that 24% of the area could be developed for 260 homes before the Metro is provided.

7.0 Observer Submissions

- 7.1. 16 no. observer submissions on the application have been received from the parties as detailed above. The issues raised in the submissions are summarised below.

Principle of Development

- Many contraventions of the Development Plan
- Density far exceeds the allowable density of 105-115 units/ha
- Masterplan is not binding/however is referred to in the Development Plan which is legally binding
- Proposal should be in line with the requirements of the Swords Masterplan/This was agreed after extensive consultation
- Will bring major long-term negative consequences
- Visions and principles of the Swords Masterplans must be adhered to in relation to land use, open space, transport, green infrastructure, typologies, densities, heights, interface areas.
- Contravenes guidelines in relation to road improvements and phases/access/density/typologies/unit mix/heights
- Use of SHD legislation should not allow developers to go above and beyond what would usually be permitted by Fingal Planning Department
- Currently at least 5 new SHDs in Swords/This is the second on Fosterstown Lands
- Look at the cumulative impact of so many SHDs being proposed for Swords
- SHDs have been rushed in before the process was discontinued
- Has been replaced by LRD
- Best if SHDs were refused and applicants can resubmit via the LRD process
- Density is too high
- No supporting infrastructure
- Density proposed is akin to Dublin Docklands
- Highest density application currently in Ireland
- Swords does not have capacity for this density
- Would set a precedent for other developments

- SPPR1 was incorporated into Development Plan by variation no. 1/cannot be used to justify material contravention
- Mix not representative of population needs
- SPPR2 requires an appropriate mix of uses/proposal does not provide this
- Density allowed in the Masterplan is already very high
- Lack of engagement with residents
- Contravenes Masterplan in terms of road improvement, heights, density, residential unit mix, apartment typology, new vehicular access, car parking, daylight, sunlight and overshadowing, public open space, removal of hedgerows
- ABP should uphold the masterplan in the interests of justice
- Not appropriate to approve this development when it will outlive the old and new masterplans

Design

- Heights contravene Development Plan which states that the heights should be 2/3 stories
- Heights close to surrounding housing estates should be in keeping with same
- Not in fitting with the local community
- Size and amount of apartments is not acceptable
- New development will tower over the existing estate
- Heights are reported inaccurately by the developer
- Design and style of the development does not reflect the existing residential character
- Does not comply with the Building Height Guidelines (Section 3.6)
- Apartments are too close together
- Does not meet the criteria for SPPR3
- Scale of the 4 storeys is disproportionate to what is normally considered 4 stories/0.2 m smaller than the Premier Inn Hotel in Airside

- Scale, bulk and height are excessive
- Overdevelopment
- Separation distances are closer than set out in the application
- Area is not a town centre/suburban location outside of Swords Town
- Heights averaging 8-9 storeys/two blocks of 10 storeys
- Does not integrate into the character of the area
- Does not respond to scale of adjoining development
- There is little variety in the heights proposed
- Would be overbearing
- SPPR 3 cannot be invoked in this instance
- Para 3.4 of the building height guidelines make reference to 35-50 unit/ha at locations such as these
- General principles of the DLR Building Height Strategy can be applied here

Transport

- TTA contains a serious flaw/there is no rail transport system/Metro North was cancelled/Metro Link has been postponed many times
- Buses that come in the morning are largely full
- Current transport services serve Airside rather than residents in the area
- Planning Permission for the Metrolink should be granted before any development is allowed to take place on these lands
- Insufficient parking provision/overspill parking
- Metrolink may never happen/SHDs may get approved on the basis of Metrolink
- Impact on traffic congestion
- Fosterstown Masterplan allows for 25% of this development to be built before metro is implemented/must be shown that this is followed
- Bus system is not fit for the current population/is overwhelmed by the current population

- Traffic surveys were carried out at low traffic times
- In relation to material contravention statement – Metrolink north is no longer going ahead/there is no bus corridor/traffic on R132 is extremely heavy in the evenings
- Does not comply with the criteria that allows for a reduced car parking provision
- No cycle lane on the R132
- Proposal does not provide for home charging of EVs/safe parking of EVs
- Proposed access point represents a road safety risk
- Swords Express is a private business which could close/is full by the time it reaches this site
- Access is unacceptable
- Visitor parking will be taken by residents
- Metro won't have the capacity required
- Public transport is already at capacity
- Bus Connects will not have capacity
- Link Road must form part of Phase 1 of developing these lands – no timeline for the development of this Link Road
- Phase 1 is under Judicial Review
- What measures will be used to enforce the left-in/left-out junction?
- Visibility is impaired as a result of the steep incline of the road
- Proposed access would be a traffic hazard
- Does not make clear how the lands will link into the future Fosterstown Link Road
- If this is permitted, phasing does not allow for any of the rest of the lands to be developed until after Metro is completed/therefore the Link Road may not be completed/proposed temporary access would become permanent

Residential Amenity

- Overlooking

- Impact on sky line
- Will block out sky
- Blocks must be moved away from existing estates
- Would be greater impacts on daylight/sunlight if it was determined on a different date to 21st March
- Impact on privacy as a result of the removal of the hedgerow
- Impacts on daylight and sunlight
- Overshadowing of existing gardens
- Development will be oppressive
- Trees and hedgerows will not soften visual impact
- Housing to the north/west and Carlton Court will be impacted by this development
- year permission will mean there will be noise and disruption for 7 years

Residential Standards

- Insufficient open space has been provided
- Playing pitches are too small to accommodate Gaelic Games
- Needs to be additional GAA and soccer facilities
- 1 bed units do not suit families
- Masterplan requires housing as well as apartments
- No need for one bedroom apartments
- Open space provision is less than the minimum/contravention of plan
- Open space beside riverbank is dangerous for kids

Ecology/EIA/AA

- Request that hedgerow boundary be maintained
- Impact on birds and other wildlife as a result of the removal of the hedgerow
- Impacts on wildlife including bats/replacement trees will not accommodate same
- Adverse impacts from storm water

- Not clear if assumptions are reliable (in relation to AA)
- Lack of precautionary principle
- Have DSPCA been consulted?
- Broadmeadow River has a 'poor' status with respect to the Water Framework Directive/it does not have sufficient assimilative capacity – according to AWN consulting report.
- Drawings misrepresents extent of the hedgerows – it is one continuous hedgerow
- Exclusion zone is not extensive enough (i.e. end of H8)
- None of the trees bordering the site are to be retained/will have a devastating impact on wildlife

Site Services/Flood Risk

- Concerns in relation to storm water drainage being proposed for the site
- Adverse impacts from storm water
- Site of the stormwater tank is in a precarious location with respect to flood risk
- Are flood risk projections credible?
- Question success rate of the SUDs infrastructure
- Does not address issue of odour or maintenance
- SUDs and attenuation tanks are dangerous

Other Issues

- School capacity
- Amenities in each phase need to be delivered before subsequent phases are developed
- Lack of community infrastructure
- New Fosterstown Primary School must be delivered before any development proceeds
- Land could be lost to vulture funds
- Builder has no experience of building apartment blocks

- Little detail of boundary treatment
- Interface areas have not been addressed in the application.
- Social and Community Audit is flawed and contradictory
- Impact on rescue helicopter flights to Malahide

8.0 Planning Authority Submission

Fingal County Council has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016. I have summarised this submission below.

Strategic Context

Development shall be phased in order to manage the impact of development on the surrounding area

Proposed site spans Phase 1 (Pre-Metrolink) and Phase 3 of the Fosterstown Masterplan as per the Phasing Schedule

Phase 1 envisages between 240 to 260 no. units and the school.

Development of this area is contingent on essential infrastructure including the Fosterstown Link Road, the north-south internal road linking the school to the Fosterstown Link Road, the provision of a school and associated vehicular access, and upgrade to Pinnock Hill roundabout.

Proposed phasing does not align with the phasing schedule contained in the Fosterstown Masterplan

Zoning and Principle of Development

Is in line with the zoning objective subject to clarification on the intended retail services and resident amenity facility

Notwithstanding, there a number of concerns in relation to layout and design, mix of house types and tenures

Urban Design

Density proposed (171.5 net) would greatly exceed that set out in the masterplan (105-115 net)

Proposals significantly exceed the indicative height of the masterplan throughout the proposed development

Masterplan identified a site in the northern part of the masterplan lands as an appropriate location for taller development adjacent to the new link road

Has not been demonstrated that the proposed 10 storey building (block 10) within the centre of the masterplan lands is an appropriate location for a landmark building

Is within the outer safeguarding boundary for Dublin Airport – consultation is necessary with the airport licensee

Masterplan utilises the topography of the site/envisaged buildings stepping down to the green space at the entrance from the R132

Current proposal does not make use of these key defining characteristics/results in a confused sense of placemaking

Will negatively impact on the envisaged openness of the proposed amenity spaces along the riparian corridor

Block 5 would create a pinch point at this location

Proposed blocks fronting the green riparian corridor should be reduced in height and set back

Proposal presents as monolithic in scale, especially along the R132

Concerns in relation to the street edge of Block 9

Proposed residential amenity space may help activate the corner point to the north of Block 10/clarification required on use of same/more appropriate location may be within the centre of the superblock

Proposed layout does not have sufficient space afforded to the public domain/or suitably designed buildings fronting this space

Bike stores are proposed onto the shared entrance route/reduces the impact of the development as a high quality place

Proposed elevations should be reconsidered in terms of how they address the civic space

Proposed blocks and elevation treatment are repetitive (particularly onto the R132)/design does not relate to context of the site

Block 1 does not adequately respond to the entrance to the lands/visually prominent position

Heights onto Borimhe to the south and west at 4 storeys are excessive

Proposed materials lack coherency/materials should be reduced and simplified

The provision of the open superblock is concerning

Defensible semi-private space should be provided to all units

Clarity is required in relation to the provision of a bridge connection between the subject lands and the adjoining lands to the north

Height contravenes the Fosterstown Masterplan and the Development Plan

Detailed sections should be provided/extent of proposed ground interventions should be outlined/all proposed treatments to the stream and its riparian area should be clearly indicated

External bins are a poor design solution

Green Infrastructure/Public Open Space

Public open space include two all-weather pitches and basketball court area located along the western boundary of the site and a green area at the Public Plaza located along the southern boundary

Remaining areas on the applicant's drawings have been incorrectly included as Public Open Space/include curtilage of private apartments/retail units and a pedestrian access route between buildings 6 and 7/these areas do not meet minimum standards for Open Space Hierarchy and Accessibility as outlined in Table 12.5 of the Plan

Financial contribution required in relation to open space.

Proposal would materially contravene Objective DMS57/plans should be revised to increase the extent of open space provision onsite.

Play provision is acceptable

Proposals should comply with DMS73, DMS74 (in relation to SuDs and public open space) and WQ05 (in relation to riparian corridors)

Should be ensured playing pitches are of a sufficient size

Not clear what trees/hedgerows are to be retained or reduced

Movement and Transport

New junction proposed to the R132 to provide access to the development is contrary to the Transport Objectives set out in the Swords Masterplan/would have a negative impact on the strategic function of the R132, in particular the operation of the Swords-City Centre Core Bus Corridor (which is currently at Design Stage)/the most appropriate and efficient access point to the lands is from the future upgrade of the Pinnock Hill junction and through Forest Road as set out in the Masterplan.

Upgrade of Pinnock Hill being progressed in conjunction with the Metrolink Project/will form part of the Railway Order application for Metrolink

Proposed access will have a negative impact on these public domain improvements/compromise the aim of providing a strong visual and movement connection from the Metro stop to the public space

R132 Connectivity Project to carry out road alteration works along the R132 at Swords was recently approved by ABP (Ref 310145)

Car Parking

Proposed parking provision is too low/Transportation Planning consider the minimum practical provision is one space for units with 2 beds or less/two spaces for larger units/consider there is a deficit of 541 car parking spaces when compared to Development Plan Standards or 312 below what would be the minimum practical provision/does not take into account visitor parking/there is a requirement to provide some level of visitor parking/plans should be revised to address the shortfall in residential and visitor car parking

Shortfall in non-residential parking requirements

Cycle parking provision is acceptable to the Planning Authority

Creche would require at least 12-15 set down car parking spaces/proposed provision of 3 spaces is low/set-down arrangements are unacceptable to the Planning Authority.

Details of basement car parking required

Level of perpendicular parking should be revised

TIA is considered unsatisfactory as it has taken account of the new proposed access junction/which is contrary to the objectives of the masterplan

Assessment indicates that there are significant capacity issues with the junctions assessed/these are outside the applicant's control/will be address as part of the planned junction upgrades as part of Bus Connects and Metro Link.

Minumum 10% EV charging required

Proposed access would undermined Strategic Policy 15 and 16 of the Development Plan (in relation to a high quality transport system)/would undermine designs for public domain proposals and carriageway design for Metrolink/would materially contravene Objective MT33 and Objective DMS120 of the Development Plan.

Consideration was given to the operation of a temporary access/pending delivery of a permanent access off the SHD lands to the north/this would also have a negative impact on the operation of the R132/arrangement would encourage illegal right-hand turning manoeuvres/would impact on bus lane

Proposal is premature

Residential Amenity

Blocks do not meet BRE requirements/heights are in excess of Masterplan Requirements

Significant number of units within the scheme will not accord with standards as outlined in DMS30

Will impact negatively on the amenity of occupants

Not all surrounding properties have been considered, in terms of daylight/sunlight (83-95 Boroimhe Birches)

Block 3 will overlook Boroimhe Laurels

Childcare facilities should be sited away from existing residential properties

Separation distances between blocks do not meet the minimum of 22m in all instances.

Noise assessment should be undertaken to ensure internal noise guidelines have been met/external noise assessment should also be carried out.

Site Services

Note correspondence with Irish Water in relation to foul water

Welcome green roofs

Use of underground tanked attenuation should be avoided/additional storage in the green roof areas and podium is required in its place

Proposal is acceptable with regards to flood risk

Conclusions

Revisions are required to establish appropriate character, in line with the masterplan

Does not provide for appropriate transitions towards residential dwellings to the south and west/excessive scale along the R132

Concerns in relation to the junction as expressed above

Would materially contravene Objectives 6 of the Fingal Development Plan 2017-2023, PM14 and PM 15 of the Fingal Development Plan 2017-2023

Recommendation

The planning authority recommend that permission is **REFUSED** for the following 5 no. reasons:

1. The proposed SHD, does not comply with the Fosterstown Masterplan (May 2019). The SHD proposal if permitted and constructed would undermine the plan led approach for a controlled, sustainable build out of these strategically important lands as envisaged in the Fosterstown Master Plan with timely provision of community infrastructure. The proposed development by virtue of its non-compliance with the provisions of the Masterplan has undermined the potential of these lands to achieve the aspirations of sustainable placemaking as set out in chapter 3 of the Fingal Development Plan 2017-2023. The SHD

in contravening height, density, and phasing objectives would if permitted by ABP and constructed, impact negatively on the visual and residential amenity of the area and as a result be contrary to the proper planning and sustainable development of the area. The proposed SHD if permitted by ABP would contravene materially Objectives SWORDS 6 of the Fingal Development Plan 2017- 2023 which sought the early construction of the Fosterstown Link Road, and PM14 and PM15 of the Fingal Development Plan 2017-2023 which make it an objective to secure implementation of the Masterplan.

2. Having regard to the Fingal Development Plan 2017-2023 which promotes excellence in urban design responses and the promotion of high quality, well designed entries into towns and villages, and to the Sustainable Residential Development In Urban Areas Guidelines for Planning Authorities and Urban Design Manual A Best Practice Guide (2009), it is considered that the proposed development by virtue of the scale, design and massing does not represent a satisfactory urban and architectural design response for the site, is unsympathetic to the character of the area and of the Fosterstown Environs. The proposal would for those reasons be contrary to Ministerial Guidelines issued under Section 28 of the Planning and Development Act 2000 as amended.
3. Having regard to the strategic function of the R132, in particular in relation to the operation of the Swords-City Centre Core Bus Corridor and the location of the site adjacent the R132, it is considered that the siting of the proposed vehicular access on the subject site would adversely affect the R132 operating efficiency and would prejudice its strategic traffic function. The proposed SHD if permitted and constructed as proposed with particular reference to the access onto the R132 would undermine Strategic Policy 15 and 16 of the Fingal Development Plan 2017-2023 which seeks the development of a high quality public transport system and would undermine the efficient use of existing and future expenditure of public moneys on assets of national importance. The proposed development would undermine junction upgrades, crossing points on the R132, future public domain proposals and carriageway design for the Metrolink. The proposal if permitted would therefore materially contravene Objective MT33 and Objective DMS120 of the

Fingal Development Plan 2017-2023. The proposed development would, therefore, be contrary to the principles of good traffic and transport management, would adversely affect the use of a regional road and would, therefore, be contrary to the proper planning and sustainable development of the area.

4. The layout of the proposed development, with 4 storey apartment blocks situated to the east and north of the Boromhe residential scheme, would result in significant overlooking of the private amenity spaces of these dwellings as well as creating a sense of overbearing which would significantly adversely affect the residential amenity of these properties and would be contrary to the proper planning and sustainable development of the area.
5. Having regard to the design and layout of the proposed development, it is considered that the proposed SHD would fall short of the standard of residential development envisaged in national and local policy for future occupants and would materially contravene Objective DMS30 of the Fingal Development Plan 2017-2023 which seeks to ensure all new residential units comply with the recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.209, 2011) and B.S. 8206 Lighting for Buildings, Part 2 2008: Code of Practice for Daylighting or other updated relevant documents. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

8.1.1. Section 4.3 sets out recommended conditions in the event that the Board decides to grant permission. Conditions of note are as follows:

- Phasing of childcare facility
- Internal noise levels/noise mitigation measures
- Transport details include crèche parking, public light, taking in charge drawing, road construction details, cycle path details
- Landscaping – details of play spacing, landscape phasing
- Site services – no occupation without the necessary infrastructure upgrade/use of underground tanks to be avoided

Internal Reports

Water Services – Issues as per the summary within the Planning submission above/recommended conditions.

Parks and Green Infrastructure – – Issues as per the summary within the Planning submission above/recommended conditions.

Environment Section (Waste Enforcement & Regulation) – Recommend condition in relation to a CEMP

Conservation Officer – refers to Objective CH34 (historic plots/street patterns), DMS80 (retention of trees/hedgerows etc), CHS 34 (naming of developments).

Economic, Enterprise, Tourism & Cultural Development – Recommend a condition in relation to a piece of artwork.

Housing – Revised Part V to be submitted for review/Part V units should not be all in one block/applicant should liaise with Housing Department

Transportation Planning – Issues/Concerns as per Planning Summary above.

Heritage Officer – Concurs with approach taken by the applicant in relation to archaeology.

Elected Members

- Height is not appropriate
- Overlooking of school playgrounds
- Material contravention of height and density, open space provision, distance to stream
- Access arrangement will push traffic and parking to existing residential areas
- Sports provision too restricted
- Walking and cycling connections required including to the main street in Swords
- Additional school places required
- Density should be reduced
- Swords Masterplan should be adhered to in full

- Access should be provided from the River Valley Junction /Permission for Metrolink should be granted before any development is allowed to take place on these lands

9.0 Prescribed Bodies

Dublin Airport Authority (DAA) – Recommend condition in relation to operation of cranes.

Irish Aviation Authority (IAA) - The applicant should be directed to engage directly with daa Dublin Airport and the IAA's Air Navigation Service Provider (ANSP) to assess the impact of the proposed development on Dublin Airports obstacle limitation surfaces, flight procedures and flight checking. This should also incorporate the proposed utilisation of any cranes that would be necessitated during construction. In addition, the completed Glint and Glare study should be submitted to daa / Dublin Airport and IAA-ANSP for their review and comment prior to the finalisation of the application.

NTA

- Proposed development is consistent with the principles of the Transport Strategy for the Greater Dublin Area 2016-35/welcome the provision of cycle tracks, permeability should be provided throughout the scheme/recommendations made in relation to both
- Note junction provided on the R132 which has implications for Metrolink carriageway design at this location
- Proposed pedestrian crossing is not coordinated with Metrolink
- Two bus stops proposed by Metrolink should be provided for
- Redline boundary is clashing with Metrolink redline boundary along the R132
- NTA recommends that the applicant is required to continue liaison with the NTA in advance of and during construction in order to ensure that the proposed development is undertaken in a manner which facilitates both the BusConnects
- Swords Core Bus Corridor and the MetroLink project and to liaise with FCC with regard to the R132 Connectivity Project

Irish Water

Waste Water – local upgrades required/note statement of Design Acceptance was issued by issued 01.04.22/recommends conditions.

TII – No observations to make.

10.0 **Assessment**

10.1.1. The main planning issues arising from the proposed development not dealt with in the EIA (Section 11 of this report) can be addressed under the following headings:

- Principle of Development
- Design including Heights and Layout
- Traffic and Transport
- Residential Amenities/Residential Standards
- Surrounding Residential Amenity
- Planning Authority's Recommended Reason for Refusal
- Other Issues
- Material Contravention

10.2. **Principle of Development**

Zoning

10.2.1. The subject site is zoned Residential Area (RA) with the objective "Provide for new residential communities subject to the provision of the necessary social and physical infrastructure" in the Fingal County Development Plan 2017 – 2023.

10.2.2. There is no objection in principle to the proposed development, having regard to the zoning designations as described above. However, the delivery of residential development on the site is subject to a consideration of existing and proposed social and physical infrastructure, and I have considered these issues in the relevant sections of this report.

Core Strategy/Settlement Strategy

10.2.3. I consider that the proposed development in line with the overall development settlement strategy for Swords, as set out in Objectives SS01, SS01a, SS01b, and SS12 of the Fingal County Development Plan (as varied) which is to consolidate the vast majority of Fingal's Growth into towns such as Swords, to promote compact growth and to promote Swords (and Blanchardstown) as Fingal's primary growth centres for residential development, in line with the County's Settlement Strategy.

Density

10.2.4. In relation to national policy on residential 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.

10.2.5. 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. In relation to Section 28 Guidelines, the 'Urban Development and Building Height, Guidelines for Planning Authorities' (Building Height Guidelines), 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (Apartment Guidelines) and Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (Sustainable Residential Development Guidelines) all support increases in density, at appropriate locations, in order to ensure the efficient use of zoned and serviced land.

10.2.6. Having regard to the Sustainable Residential Development in Urban Areas Planning Guidelines (2009), this document notes that it is important that land use planning underpins the efficiency of public transport services by sustainable settlement patterns – including higher densities – on lands within existing or planned transport

corridors. The subject site is located on a 'Public transport corridor', where increased density is supported. These are defined with the guidelines as lands within 500m walking distance of a bus stop or 1km of a light rail / rail station. In such locations, the guidelines encourage that increased densities are promoted, and in general, minimum densities of 50 dwellings per hectare should be applied, with the highest densities being located at rail stations / bus stops, and decreasing with distance away from such nodes. The capacity of public transport should also be taken into consideration when considering appropriate densities.

- 10.2.7. The proposed development has a density of c.171 units per hectare. In terms of public transport, there 7 no. Dublin Bus routes and 1 no. Go Ahead route serving stops on the R132 and on Forest Road, with the nearest stop located 100m from the site. The Swords Quality Bus Corridor (QBC) runs along the R132. The most frequent bus routes are the 33 (Balbriggan – Lwr Abbey St), which runs every 20-30 minutes at peak hour, and the 33e (Swords – Balbriggan) which runs every 10-20 minutes at peak hour. The site is also served by the Swords Express which runs to the City Centre via the Port Tunnel, and the closest stop is 450m from the site entrance on the L2300 in Boroimhe and another 350m from the site entrance in Airside Retail Park. These services runs every 5-15 minutes at peak hours. In relation to the capacity of same, the Public Transport Capacity Assessment indicates that all buses were operating at approximately 50% capacity or less (survey carried out on Tues 1st March 2022). The site is also a short walking distance to the Airside Retail Park with access to a range of retail amenities and employment opportunities there. The site can be therefore categorised as a 'Central and/or Accessible Urban Location' under the Apartment Guidelines. These include areas within walking distance of employment locations and/or walking distance (up to 10mins) of high-frequency bus services. These locations are stated to be generally suitable for small to large scale and higher density development that may wholly comprise apartments.
- 10.2.8. I note Circular NRUP 02/2021 advising of residential density guidance for towns and villages, intended to clarify the application of Sustainable Residential Development Guidelines, with a graduated and responsive, tailored approach to the assessment of residential densities, as defined in the Apartment Guidelines. Swords is defined as a Key Town under the Development Plan and therefore appropriate for higher density in this context.

10.2.9. In relation to local policy, Objective PM 41 of the Fingal Development Plan supports increased densities at appropriate locations, whilst also ensure quality design and protection of amenity. I have considered the issue of design and amenity in the relevant sections below. The Development Plan does not set out a limitation on residential density. Objective PM42 of the Development Plan seeks to 'Implement the policies and objectives of the Minster in respect of 'Urban Development and Building Heights Guidelines' (December, 2018) and Sustainable Urban Housing: Design Standards for New Apartments (March, 2018) issued under section 28 of the Planning and Development Act, as amended'.

10.2.10. The submission from the Planning Authority states that the density proposed (171.5 net) would greatly exceed that set out in the Fosterstown masterplan (105-115 net).

10.2.11. The non-statutory Fosterstown Masterplan sets out a number of built form objectives, including the provision of residential accommodation at a net density of 105-115 units hectare. The proposal does not comply with this density range. However, given the site's location to existing and proposed public transport routes, and its proximity to the town of Swords, I do not consider that the lower densities as set out in the non-statutory Fosterstown Masterplan, are appropriate in this instance, given the suitability of the site for higher densities, in principle, having regard to those criteria in the relevant Section 28 Guidelines, and having regard to Objective PM 42 of the Development Plan which seeks to implement the policies and objectives of the Design Standards for New Apartments.

10.2.12. However, the acceptability of the density proposed is subject to subject to appropriate design and amenity standards, which are considered in the relevant sections below.

10.3. **Design including height, layout and open space**

10.3.1. In relation to design issues, the Planning Authority state that the proposals significantly exceed the indicative height of the Fosterstown Masterplan throughout the proposed development. It is noted, in the Planning Authority submission, that the masterplan has identified a site in the northern part of the masterplan lands as an appropriate location for taller development adjacent to the new link road. In relation to the current proposal, the Planning Authority are of the view that it has not been demonstrated that the proposed 10 storey building (block 10) within the centre of the

masterplan lands is an appropriate location for a landmark building and that the presents as monolithic in scale, especially along the R132 and concerns are raised in relation to the street edge of Block 9. Furthermore, the Planning Authority state that the heights onto the Borimhe residential estate, to the south and west, at 4 storeys are excessive. It is also stated that the proposed blocks fronting the green riparian corridor should be reduced in height and set back. Concerns are also raised in relation to the quality of the public domain. In relation to the proposed materials, it is stated that these lack coherency and that the palette of materials should be reduced and simplified. It is stated that the proposed height contravenes the Fosterstown Masterplan and the Development Plan.

10.3.2. Observer submissions state that the heights contravene the Development Plan which states that the heights should be 2 to 3 stories and that the new development will tower over the existing estates. It is further stated that the heights are reported inaccurately by the developer and the scale of the 4 storeys is disproportionate to what is normally considered 4 stories i.e. they are 0.2 m lower than the 6 storey Premier Inn Hotel in Airside. It is stated that the design and style of the development does not reflect the existing residential character and the proposal does not comply with the Building Height Guidelines (Section 3.2) as it does not integrate into the character of the area and does not respond to scale of adjoining development, and therefore does not meet the criteria for SPPR 3. It is stated that the area is not a town centre rather it is a suburban location outside of Swords Town. Generally it is stated that the scale, bulk and height are excessive and the proposal represents and overdevelopment of the site.

10.3.3. In relation to the nature of the proposal, the proposed heights range from 4 storeys to part 10 storeys, with the 4 storeys heights along the western and southern boundaries of the subject site, near the Borimhe residential estate, and the 10 storey height at the north-eastern corner of the site. There are 10 no. blocks in total. The heights are as follows:

Block	Height	No. of units/Residential Mix/Other uses
1	4 storeys	29 no. units/8 X 1bed; 21 x 2 bed/community facility

		(191.8 sq. m) at ground floor
2	4 storeys	23 no. units (8 X 1 bed; 15 x 2 bed)
3	4 storeys	24 no. units (6 x 1 bed; 18 x 2 bed); Childcare facility (609.7) at ground floor
4	Part 7; Part 8; Part 9 storeys (over undercroft)	93 no. units (34 X 1 bed; 54 x 2 bed and 5 X 3 bed); 3 no. commercial units at ground floor level (GFA 632.2 sq. m).
5	Part 6; Part 7; Part 8 storeys (over undercroft)	91 no. units (34 X 1 bed; 55 X 2 bed; 5 X 3 bed)
6	Part 8; Part 9 Storeys (over undercroft)	54 no. units (13 x 1 bed; 38 X 2 bed; 3 X 3 bed)
7	Part 7; Part 8; Part 9 Storeys (over basement)	117 no. units (40 X 1 bed; 76 X 2 bed and 1 X 3 bed);
8	Part 6; Part 7; Part 8; Part 9 storeys (over basement)	94 no. units (33 X 1 bed; 58 x 2 bed and 3 X 3 bed)/1 no. commercial unit at ground floor level (GFA 698.2 sq. m)
9	Part 7; Part 8; Part 9; Part 10 storeys (over basement)	75 no. units (23 X 1 bed; 48 X 2 bed; 4 x 3 bed)
10	Part 9; Part 10 storeys	45 no. units (9 X 1 bed; 27 X 2 bed; 9 X 3 bed)

10.3.4. In relation to specific design related objectives that pertain to this site, Objective SWORDS 27 of the Fingal Development Plan refers to the preparation and implementation of Local Area Plans and Masterplans, including the Fosterstown Masterplan. The main elements of to be included within each plan are outlined in the Development Plan, and for the Fosterstown Masterplan, the objectives, as relates to design, are set out below (I note also transport related objectives which I have considered in Section 10.4 of this report):

- In order to protect existing residential amenities, where development immediately adjoins existing residential development, the heights of such development shall be restricted to 2-3 storeys.
- Future development shall provide a strong urban edge with attractive elevations which satisfactorily address, overlook and provide a high degree of informal supervision of the R132, the Forrest Road and the Fosterstown Link Road.
- The existing stream which crosses the lands shall be maintained within a riparian corridor.
- The majority of the public open space shall be provided along the stream and it shall link into the existing public open space at Boroimhe.

10.3.5. 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)’. Objective PM 42 (as varied) seeks to ‘Implement the policies and objectives of the Minster in respect of ‘Urban Development and Building Heights Guidelines’ (December, 2018) and Sustainable Urban Housing: Design Standards for New Apartments (March, 2018) issued under section 28 of the Planning and Development Act, as amended’.

10.3.6. In relation to height, the proposed heights range from 4 storeys to part 10 storeys, with the 4 storeys heights along the western and southern boundaries of the subject site, near the Boroimhe residential estate, and the 10 storey height at the north-eastern corner of the site. Of the objectives above, and as acknowledged by the applicant, it is my view that the proposal materially contravenes Objective SWORDS 27 of the Fingal Development Plan, which seeks to *inter alia* implement the

Fosterstown MasterPlan, and it is set out in the supporting text for same that '*where development immediately adjoins existing residential development, the heights of such development shall be restricted to 2-3 storeys*'. As such it can be interpreted that the Development Plan has a stated objective that the heights along the south and west of the site, which is adjacent to the existing residential development at Boroimhe, be restricted to 2-3 storeys. I have discussed the issue of material contravention in Section 10.9 below.

- 10.3.7. In relation to national policy on height, the National Planning Framework sets out that general restrictions on building heights should be replaced by performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth (NPO Objectives 13 and 35 refer). The principle of increased height on a particular site, over and above any specific restriction in height such as that set out in the Development Plan, such as that proposed here, is supported by the NPF, subject to compliance with the relevant performance criteria. Such relevant performance criteria can be found in Section 3.2 of the Urban Development and Building Height Guidelines (2018), which I have discussed below.
- 10.3.8. In relation to Section 28 Guidelines, the most relevant to the issue of building heights, is the Building Height Guidelines (2018), referred to above. 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). It is stated that increasing building height is a significant component in making optimal use of the capacity of sites in urban locations where transport, employment, services or retail development can achieve a requisite level of intensity for sustainability (Section 2.3 refers). It is further stated that such increases in height help to optimise the effectiveness of past and future investment in public transport serves including rail, Metrolink, LUAS, Bus Connects and walking and cycling networks (Section 2.4 refers). The Height Guidelines also note that Planning Authorities have sometimes set generic maximum height limits across their functional areas. It is noted that such limits, if inflexibly or unreasonably applied, can undermine wider national policy objectives to provide more compact forms of urban development as outlined in the National Planning Framework. It is also noted that such limitations can hinder innovation in urban design and architecture leading to poor planning outcomes.

10.3.9. SPPR 3 of the Building Height Guidelines states that where a planning authority is satisfied that a development complies with the criteria under section 3.2 of the guidelines, then a development may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise. As such, should the Board consider the proposed height materially contravenes the Development Plan in relation to height, and should they wish to grant permission, they are required to be satisfied that the criteria under Section 3.2 have been met, if they intend to rely on SPPR 3 for the material contravention.

10.3.10. Section 3.2 of the Building Height Guidelines sets out detailed development management criteria, which incorporate a hierarchy of scales, (at the scale of the relevant city/town, at the scale of the district/neighbourhood/street; at the scale of the site/building), with reference also made to specific assessments required to be submitted with application for taller buildings. In relation to same I note the following.

City Scale

The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.

10.3.11. The first criterion relates to the accessibility of the site by public transport and refers to the need for a high capacity, frequent public transport service. I have considered this issue above of public transport, including frequency and capacity, in Section 10.2, and in Section 10.4 of this report, and as concluded therein, I am of the view that the site can be considered to be an accessible urban location, in light of the demonstrated frequency and capacity of the local bus services.

Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/ enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.

10.3.12. As noted in the applicant's documentation, the lands that make up the Fosterstown Masterplan are one of the few relatively large undeveloped sites between the airport and the city centre. In relation to the existing character of the area, the frontage of the site is dominated by the R132, which is a relatively wide and busy thoroughfare.

It lacks a defined character and, as such, there is scope for development on these sites to create their own character. The two storey housing at Boroimhe Willows can be seen from the R132 and this scale of residential development is typical of what is found in the wider area, although there are some examples of 3 storey duplex units within the wider Boroimhe residential estate. Views from the south take in the Airside Retail Park, with development therein being warehouse type development that is typically two or three storeys in scale. The Premier Inn hotel, east of the R132, is 6 storeys in height.

10.3.13. The site is not within an architecturally sensitive area and the current public realm is somewhat inhospitable, being dominated by the R132 road, and narrow pedestrian footpaths providing little relief from same. There are no key or protected views, as defined in the Development Plan. A standalone visual impact assessment has not been submitted, but visual impact is addressed in Chapter 3 of the EIAR 'Landscape and Visual Impact' and I have summarised the contents of same here. I am satisfied this chapter has been prepared by a suitably qualified practitioner as required by Section 3.2.

10.3.14. In relation to assessing the visual impacts of the proposed development, the EIAR makes reference to the A3 Photomontage Report (submitted under separate cover) which includes a total of 13 no. viewpoints. Having regard to same, no negative visual impacts are identified by the impact assessment. Significant, neutral impacts are identified in relation to View 3 (from the western edge of Pinnock Hill) and from View 4 (from R132 adjacent to the Airside Retail Park). It is set out in the EIAR that the significant impacts result from the visibility of the 8-10 storey elements, with mitigation being provided by way of variation in the roofline, coupled with the façade treatment. No other significant impacts are identified, with other impacts generally concluded to be slight to moderate and positive (Views 2, 5 and 6) and slight to moderate and neutral (Views 1, 7, 8, 9 and 11).

10.3.15. No significant cumulative impacts on landscape or visual effects are expected, with the only permitted development of note that being located on the Fostertown North Lands (ABP Ref 308366-20 – which is currently being judicially reviewed). It is set out that if both developments were constructed, it has the potential to diminish the direct visual impacts associated with View 13 (from Hawthorn Park) rather than increase it.

10.3.16. In relation to the conclusions of same, and notwithstanding the conclusions of the EIAR, and notwithstanding the current less than appealing character of the R132 frontage, I am of the view that significant negative visual impacts arise when the proposed development is viewed from shorter and longer views along the R132, with reference, in particular, to Views 3 and 4, as set out in the A3 Photomontage Report. In relation to View 3, the development appears overscaled, with little relief from the scale, bulk and massing of the proposal. I am not of the view that some corner elements of the proposal should not reach a height of possibly 8 or 9 storeys, but this height should be the exception rather than the rule. The appearance of the blocks from the R132 is overbearing as a result of the majority of these blocks reaching 8, 9 or 10 storeys, with little variation, and with the variation in roof form and materiality failing to achieve a breakdown in the massing of the development. The visual prominence of the proposed development is exacerbated by the lack of any development of scale in the surrounding area, and this may well change in the future, with the development of the masterplan lands to the north, and the development of the metro station to the east. Notwithstanding, even if such development were in place, and was of a scale that is greater than the existing low to mid rise development that is dominant at present, the scale of this proposed development is still excessive, in my view. The visual impact from the south of the site, from the R132, is not as stark, as a result of the lower scale of the development (4 storeys) adjacent to the Boromhe residential estate. Notwithstanding, there is again little visual relief from the excessive scale and from the visual dominance of the 8, 9 and 10 story blocks. I refer to the indicative layout in the Fosterstown Masterplan (noting the non-statutory nature of same), which sets out a block layout for this site that incorporates buildings of up to 7-8 storeys fronting onto the R132. As such, increases in height and density, over and above surrounding sites, are foreseen by the Planning Authority. However, in relation to this proposed development, and in relation to views from the R132, a reduction in the overall heights is required, and possibly the introduction of additional spacing between blocks, which would result in a development that is more appropriate in my view, and would provide some visual relief, when considering visual impacts from the R132, but this would require a material redesign of the scheme that is outwith the scope of this application, and outwith the scope of any conditions that could be imposed, in my view.

10.3.17. I have concerns also in relation to visual impacts from other locations, namely those from View 8 (The Birches). This view is taken from some distance from the boundary of the site, yet the 7-8 storey height of Block 5 appears excessive, even when compared to the three storey duplexes, and noting the significant setback from the western boundary (of some 70m). This block seen in the context of the existing two storey development adjacent to the western boundary of the site. I am not suggesting that a replication of this height is necessary, or desirable, given the need to ensure increased efficiency of the use of residential land, but there does need to be an appropriate transition, in my view. The visual impact from this view point, and from viewpoints closer to the western boundary of the site, would be negative as a result. So too would the visual impact from the green space associated with Borimhe Pines/Boroimhe Poplars (View 7), with the viewpoint taken masking the scale of the higher elements as a result of the existing housing. Views taken from other areas of the open space associated with this estate, and from areas closer to the boundary of the site, would show a scale of development that is overbearing and excessive. It would have been desirable to include a viewpoint towards the development from Boroimhe Willows, which face north towards the four storey units of Block 1 and 2. I concur with the view expressed by an observer that the scale of these elements as a result of the pitched roof design is larger than that of a standard 4 storey block, with the height to the ridge being 18.7m. A comparison is drawn to the 6 storey height of the Premier Inn hotel, and it is stated that this is approximately 18.7m in height. While I cannot confirm the height of the Premier Inn hotel, I do share the view that the 18.7m ridge height of the 4 storey blocks on the southern and western boundaries is excessive, and while the principle of a 4 storey height may be appropriate, this is subject to a design which provides an appropriate transition in height, and which has not been achieved in this instance.

10.3.18. A further criteria set out in Section 3.2 of the Guidelines is as follows:

On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.

10.3.19. The proposal does introduce new streets and provides some public spaces, with layouts broadly replicating those indicative layouts in the non-statutory masterplan. Permeability, so far as it is possible for the applicant to provide, is delivered through potential linkages to adjoining sites, and through the scheme itself via the main access vehicular route and via the pedestrian and cycle north-south thoroughfare. In relation to the pedestrian cycle thoroughfare however, I am of the view that the scale of the built form on either side, with blocks up to 9 storeys height, would present an overbearing form of development, of a nature that would normally be found in an inner-city location rather than on a site such as this one. A reduction in the height of these blocks is also necessary in my view.

10.3.20. Objective DMS57 (and PM52) requires a minimum public open space provision of 2.5 hectares per 1000 population. For the purposes of this current application proposal, this would equate to 2.55ha. DMS57A and DMS57B require a minimum provision of 10% of a proposed site area to be provided as open space, with DMS57B explicitly stating that the Council has discretion to accept a financial contribution in lieu of the remaining open space requirement. The applicant has stated that a total of 9,779 sq. m of public open space (excluding the Riparian Strip) has been provided as part of this development. This equates to 22% of the overall site area (excluding FCC lands). A total of 30% has been provided including the riparian strip (which is 3,355 sq. m in area). The public open space includes the provision of 2 no. playing pitches (3,706 sq. m), which the applicant states that will be used by the future school to be delivered on the lands to the north. The applicant has included the central route between Blocks 6 and 5, linking the riparian strip to the public plaza, as Public Open Space. The bank of the Gaybrook Stream will be reprofiled, with seating terraces incorporated on the bank, with safety fencing/knee rail demarcating the bank and the stream areas, with development kept back from the stream bank by a minimum of 10m.

10.3.21. In relation to the quantity of public open space provided, I am satisfied that the 10% provision has been achieved on site with the remaining requirement to be met by way of *in lieu* financial contribution, should the Board be minded to grant permission. As such I am not of the view that the proposal would represent a material contravention of Objectives PM52 nor DMS57, nor are the Planning Authority of that view. In relation to the quality of the public open space provided, I note the concerns

of the Planning Authority in relation to the inclusion some areas of the development as public open space, and I share those concerns. While the proposed walkway route between Blocks 5 and 6 provides some level of amenity, its primary function is a through route and should not be defined as public open space in my view (I note that even if this area were excluded the minimum of 10% open space would still be achieved). The public plaza that is provided appears somewhat small in scale, relative to the size of the proposal, and should be increased in area, in my view, not in order to achieve a required quantum but rather to improve the overall quality of same. While the provision of the playing pitches is generally in line with the indicative layout of the non-statutory masterplan, these areas will not be universally used by residents of the development (and it stated that these pitched will also be utilised by the school if and when this is provided on the masterplan lands), and as such the plaza is essentially the only formal area of universally accessible public open space within the proposal, and therefore assumes additional importance, in terms of its overall contribution to the quality of the development, and its contribution to the overall amenity of future occupants of the development, and the amenity of the wider area as a whole.

10.3.22. In relation to the detailed design and materials proposed, the Design Statement sets out the approach to same. A wide variety of materials are proposed including yellow, red and grey brick, natural stone, cladding and render finishes. In terms of materials, I am satisfied this of a sufficient quality, and are sufficiently varied so as to add visual interest to the proposal. In relation to those blocks that front onto the R132, I note the varied roof forms that are designed to break down the massing of the buildings. However, I do not consider this has been successful in achieving this aim, mainly due to the excessive heights and insufficient physical separation of the blocks, as referred to above.

10.3.23. Criteria 3.2 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. The proposal provides for a sufficient mix of uses in my view, given the limitations on 'non-residential uses' in SHD applications, with 3 no. commercial units provided at ground floor level of Block 4 (GFA 632.2 sq. m), 1 no. commercial unit at ground floor level of Block 8 (GFA 698.2 sq. m) and a childcare facility provided at ground floor level of Block 3.

- 10.3.24. In terms of building typologies, the proposal provides for apartment units of varying sizes, which provides variation and choice to an area which is at present, predominantly two and three storey residential dwellings. As such the proposal contributes positively to the provision of a mix of building dwelling typologies.
- 10.3.25. At the scale of the site/building, it is expected that the form, massing and height of the proposed development should be carefully modulated so as to maximise access to natural daylight, ventilation and view and minimise overshadowing and loss of light. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out.
- 10.3.26. I have set out my assessment of the internal amenity of the proposed units in Section 10.6 below, and I am satisfied that a sufficient standard of daylight would be provided to the units, with BRE targets been achieved for the majority of units. Where targets have not been achieved, the proposal has provided sufficient compensatory design measures as discussed in detail in Section 10.6 below. I have also 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 10.5 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.
- 10.3.27. 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 note that a Wind Microclimate Modelling Study has been submitted (dated July 2022) which has concluded that the proposed development does not impact or give rise to negative or critical wind speed impacts and each of the proposed spaces is demonstrated as being suitable for its purposes, having regard to predicted wind speeds.
- 10.3.28. In locations in proximity to sensitive bird and / or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight -lines and /or collision. There is no evidence on file, or within any of the submissions received, that the location is particularly sensitive location having regards to the potential for bird or bat flight lines and

collision, including in relation to birds associated with any European Sites (See further discussion on same in Section 12 below). The Energy Statement has considered the potential impacts on telecommunications. While some impacts on existing masts cannot be ruled out, it is noted that provision will be made in the proposed development for the inclusion of microwave repeater (hop-site) that can be utilised if an existing microwave link is found to be impacted by the development. I am satisfied that this is sufficient to ensure no negative impacts on surrounding telecommunications, noting also that no submissions on the application have raised this issue as a potential concern.

10.3.29. While I have considered the proposal within the framework of the Building Height Guidelines, the companion Urban Design Manual to the Sustainable Residential Development in Urban Areas (2009) shows how design principles can be applied in the design and layout of new residential developments, at a variety of scales of development and in various settings. In particular, the Design Manual sets out a series of 12 criteria which should be used at in the assessment of planning applications and appeals. In relation to same, having regard to the discussion above, I am of not of the opinion that the proposal as submitted responds well to its context, due to the excessive height and massing of the proposed blocks, as discussed above. In terms of layout and public realm, I have set out my concerns in relation to same above, and I refer the Board to same. Connections and permeability are discussed in this section and in Section 10.2 above (and in Section 10.4 below) and I am of the view that the site is well connected by virtue of a high quality, high capacity bus services. Permeability through the site, as far as is possible, is provided for as discussed above. In relation to inclusivity, the residential units will allow for a wide range of future occupants. The proposal has been designed for ease of access throughout the site, in terms of gradients. In relation to efficiency, the proposal makes efficient use of land, as discussed above with sufficient daylight and sunlight penetration to the proposed units, and to the open spaces as a whole.

Conclusions on Design and Layout

10.3.30. Notwithstanding some positive elements of the proposal, as noted above, overall I am of the view that the proposed development, by virtue of the excessive height, scale and massing of the proposed residential blocks, and by virtue of poor quality of proposed public realm, as a result of the limited scale of the public plaza, and as a

result of the overbearing nature of the proposed residential blocks and would result in significant, negative visual impacts when viewed from the R132 and when viewed from adjoining residential estates. I am also of the view that proposal represents a material contravention of Objective SWORDS 27, the supporting text of which sets out that, *inter alia*, in the Fosterstown Masterplan area, heights adjacent to existing residential development shall be restricted to 2-3 storeys. Such a material contravention cannot be justified, and the provisions of SPPR3 of the Urban Development and Building Heights Guidelines (2018) cannot be applied, as the proposed development fails to meet the criteria set out in Section 3.2 of the Urban Development and Building Heights, Guidelines for Planning Authorities (December 2018), in that the proposed development would result in a visually dominant, monolithic and overbearing form of development when viewed from the surrounding public realm, from within the development, and from surrounding residential development, and fails to provide public spaces of sufficient scale and quality, relative to the quantum of development proposed.

10.4. Traffic & Transportation

- 10.4.1. In assessing transportation impacts I have had regard Chapter 13 of the submitted EIAR considers transportation impacts associated with the proposed development (in the context of Material Assets), as well as other transport related documentation submitted under separate cover including the Traffic Impact Assessment, the Public Transport Capacity Assessment, the DMURS Statement of Consistency, the Car Parking Rationale and Mobility Management Plan, the Stage 1 Road Safety Audit and the Response to An Bord Pleanala Opinion relating to Transportation and Drainage.
- 10.4.2. Relevant policies and objectives as relate to transport include, but are not limited to, Objective SWORDS 27 of the Fingal Development Plan which refers to the preparation and implementation of Local Area Plans and Masterplans, including the Fosterstown Masterplan, with main elements to be included within the Fosterstown Masterplan, as relates to Transport, as follows: (I note also design related objectives which I have considered in Section 10.3 of this report).
- Provide for required road improvements including: the construction of the Fosterstown Link Road; realignment and improvements to the Forrest Road and

improvements to the R132 (including Pinnock Hill) as part of the phased development of the Masterplan Lands.

- Provide for a vehicular connection to the adjoining MC zoned lands to the north.
- Facilitate the indicative route for new Metro North through these lands and an appropriate relationship with the indicative route for new Metro North at this location.

10.4.3. In relation to transport issues, the Planning Authority have stated that the development of this area is contingent on essential infrastructure including the Fosterstown Link Road, the north-south internal road linking the school to the Fosterstown Link Road, the provision of a school and associated vehicular access, and upgrade to Pinnock Hill roundabout. It is set out that the proposed phasing does not align with the phasing schedule contained in the Fosterstown Masterplan. The Planning Authority have serious concerns in relation to the proposed access junction on the R132, and it is stated that it is contrary to the transport objectives set out in the Swords Masterplan and would have a negative impact on the strategic function of the R132, in particular the operation of the Swords-City Centre Core Bus Corridor (which is currently at Design Stage). The Planning Authority is of the view that the most appropriate and efficient access point to the lands via the proposed Fostertwon Link Road. It is set out that the proposed access will have a negative impact on permitted and proposed public domain improvements and compromise the aim of providing a strong visual and movement connection from the Metro stop to the public space. In relation to car parking, it is set out that the proposed parking provision is too low and that Transportation Planning consider the minimum practical provision is one space for units with 2 beds or less, and two spaces for larger units. As such the Planning Authority are of the view that there is a deficit of 541 car parking spaces when compared to Development Plan Standards, or 312 below what would be the minimum practical provision. Additional visitor parking is also required, as well as additional set down parking spaces. It is stated that the TIA is considered unsatisfactory as it has taken account of the new proposed access junction/which is contrary to the objectives of the masterplan. The Planning Authority conclude that the proposed access would undermine Strategic Policy 15 and 16 of the Development Plan (in relation to a high quality transport system), would undermine designs for public domain proposals and carriageway design for Metrolink and would

materially contravene Objective MT33 and Objective DMS120 of the Development Plan. The Planning Authority note that consideration was given to the operation of a temporary access, pending delivery of a permanent access off the SHD lands to the north. It was concluded that this would also have a negative impact on the operation of the R132 and the arrangement would encourage illegal right-hand turning manoeuvres and would impact on bus lane.

10.4.4. The NTA note that the proposed development is consistent with the principles of the Transport Strategy for the Greater Dublin Area 2016-35 and welcome the provision of cycle tracks. It is stated that the junction provided on the R132 has implications for Metrolink carriageway design at this location and that the proposed pedestrian crossing is not coordinated with Metrolink. It is further stated that the two bus stops proposed by Metrolink should be provided for. It is also stated that the redline boundary is clashing with Metrolink redline boundary along the R132. It is recommended that the applicant is required to continue liaison with the NTA in advance of and during construction in order to ensure that the proposed development is undertaken in a manner which facilitates both the BusConnects Swords Core Bus Corridor and the MetroLink project and to liaise with FCC with regard to the R132 Connectivity Project.

10.4.5. Observer submissions raise concerns in relation to the capacity of the existing and proposed public transport system. It is stated that state that buses that come in the morning are largely full and that current transport services serve Airside rather than residents in the area, and that neither Bus Connects nor the proposed Metrolink will have the required capacity. It is also stated that Swords Express is a private business which could close, and also that it is full by the time it reaches this site. It is further stated that Metrolink may never be delivered and that planning permission for the Metrolink should be granted before any development is allowed to take place on these lands. It is stated that the link road must form part of Phase 1 of developing these lands and that Phase 1 (Fosterstown North – permitted under ABP Ref 308366) is under Judicial Review. It is set out that the proposal will increase traffic congestion, and that the traffic surveys as cited in the TTA, were carried out at low traffic times. It is stated that there is insufficient parking provision and that this will result in overspill parking to the surrounding residential estates. It is stated that the proposal does not comply with the criteria that allows for a reduced car parking

provision. It is also stated that the proposed access point represents a road safety risk and it is questioned if the left-in/left-out junction can be adequately enforced. It is further stated that visibility is impaired as a result of the steep incline of the road. It is also set out that, if this is permitted, phasing does not allow for any of the rest of the lands to be developed until after Metro is completed and therefore the Link Road may not be completed and the proposed temporary access would become permanent.

Existing Transport Infrastructure

- 10.4.6. The nature of the existing road network is set out in the EIAR and it is noted that the site lies directly adjacent to the R132. To the north of the site the R132 intersects with the R124 at the Pinnock Hill Roundabout. The speed limit of the R132 adjacent to the site is 60kph. There are bus lanes on both sides of the road.
- 10.4.7. In terms of public transport, it set out that there are 7 no. Dublin Bus routes and 1 no. Go Ahead route serving stops on the R132 and on Forest Road, with the nearest stop located 100m from the site. The Swords Quality Bus Corridor (QBC) runs along the R132. The most frequent bus routes are the 33 (Balbriggan – Lwr Abbey St), which runs every 20-30 minutes at peak hour, and the 33e (Swords – Balbriggan) which runs every 10-20 minutes at peak hour. The site is also served by the Swords Express which runs to the City Centre via the Port Tunnel, and the closest stop is 450m from the site entrance on the L2300 in Boroimhe and another 350m from the site entrance in Airside Retail Park. These services runs every 5-15 minutes at peak hours. In relation to the capacity of same, the Public Transport Capacity Assessment indicates that all buses were operating at approximately 50% capacity or less (survey carried out on Tues 1st March 2022).

Proposed Transport Infrastructure

- 10.4.8. Planning permission was granted by An Bord Pleanála for the R132 connectivity project in February 2022. This will provide pedestrian connectivity improvements on the R132 from Pinnock Hill Roundabout to Lissenhall. The proposals will convert existing roundabout junctions to signal controlled junctions with pedestrian crossings/phasings as well as standalone signalised pedestrian crossings on the R132.

10.4.9. In relation to future bus proposals, the BusConnects proposals include footpaths, cycle lanes and bus lanes on the R132 directly adjacent to the subject site, with a segregated cycle lane proposed along the site boundary with the R132. The Bus Connects project will improve current journey times to the city centre by 40 to 50%, with this route running every 10-15 minutes with 40 minute journey time to the City Centre.

10.4.10. The EIAR refers to the Metrolink project running between Swords and Sandyford. I note that this project was amended following a period of public consultation (as per information the Metrolink website) to terminate at Charlement (with a tunnel bore completed to allow future connection to the Green Line), with this information being set out in the preferred route document 2019.¹ In any event, the proposed Fosterstown Station is located opposite the site, running mostly underground and to connect to the upgraded Luas Green line in Dublin City Centre. Travel time from the city centre to Swords will be 25 minutes. I note a Railway Order was submitted to An Bord Pleanála for this project on 30th September 2022.

Proposed Access

10.4.11. It is proposed to access the site off the R132 via a left-in/left-out junction. This will be delivered as a temporary arrangement prior to the completion of the Fosterstown Link Road, which is proposed on the lands to the immediate north of the site (and is an Objective of the Development Plan – Objective SWORDS 6 refers. It is also indicated on Sheet 8 of the Development Plan). Once this road is completed, it is proposed that the development will link into this road, and this proposed temporary access will then be decommissioned. It is stated that the site access from the R132 will have a 2.4m X 2.4 m sightline provided, which is the recommendation for a road design speed of 60 km/h, as per DMURS. A signal controlled pedestrian crossing is proposed to the immediate north of the proposed junction, which will provide access to the proposed Metrolink Station. The proposal also provides for additional cycle and pedestrian access points along the R132, with future connections also provided for to the lands to the north, and potential connections to the lands to the west (subject to landowner agreement).

¹https://www.metrolink.ie/media/pk4n3bkl/public_consultation_document_for_the_preferred_route_hr.pdf

- 10.4.12. Objective SWORDS 6 refers to *inter alia* the need to prioritise the early construction of critical infrastructure, including, but not limited to, the Fosterstown Link Road. Map No. 8 'Swords' of the Fingal Development Plan indicates the route of the Fosterstown Link Road, which runs to the north of these site, linking the Pinnock Hill Roundabout to Forest Road.
- 10.4.13. Objective SWORDS 27 refers to a requirement for a masterplan for development at Fosterstown. Such a masterplan was adopted in May 2019 although I note the non-statutory nature of same (which is highlighted on Page 3 of Part A of the Swords Masterplans). It provides an indicative layout for development on the Fosterstown lands, including the subject site, with a new road linking an upgraded junction at Pinnock Hill to an upgraded Forest Road, with a north-south internal access road linking these lands to the Link Road. Access to the Forsterstown Masterplan lands, including the subject application lands, is therefore via this Link Road, and as such it would appear delivery of same is a critical piece of infrastructure that is required in order to deliver development on the masterplan lands, in the absence of a viable alternative.
- 10.4.14. The applicant has submitted a standalone document entitled 'Response to An Bord Pleanála Opinion relating to Transportation & Drainage'. This considers the proposed access onto the R132 and seeks to respond to concerns raised in relation to such access. Within this document, it is set out that the applicant's lands would be effectively landlocked, if the only access to the site was via the Link Road, which traverses third party lands. This is despite having a frontage of some 250m directly onto the R132. Restricting development on this basis would not be in line with Government policies which promotes increased densities on sites well served by existing and future public transport.
- 10.4.15. While I recognise the predicament of the applicant, I am of the view that such a fundamental element of any development proposal, the point at which it is accessed from, is required to be agreed, in principle at least, by the Planning Authority, prior to any grant of permission being forthcoming. As per the zoning objective for the site, the delivery of residential development on this site is subject to the provision of the necessary physical infrastructure, and to my mind at least, this would include the necessary roads infrastructure, i.e. the Fosterstown Link Road. The Planning Authority appear to be steadfast in their opposition to the proposed left-in, left-out

access point onto the R132, for the reasons as set out in their submission, and as summarised above. I tend to agree with the points made by the Planning Authority, and note that the R132 has a key strategic function, and provides for the operation of the Swords-City Centre Core Bus Corridor, and the impact of this access point on the operation of this bus corridor is raised as a concern by the Planning Authority. The NTA notes that the proposed junction has implications for MetroLink carriageway design at this location, although have recommended that further liaison with the NTA take place in relation to the delivery of Bus Connects and the Metrolink, should permission be granted. The implications for the Metrolink project appear to relate to the details of the proposed pedestrian crossing, which diverge from those proposed by the applicant.

10.4.16. In relation to the merits, or otherwise, of the proposed access from the R132, I note that the overall development of these lands is guided by the Fosterstown Masterplan (although I note the non-statutory nature of same). This foresees development occurring on a phased basis with 'essential infrastructure' being delivered in Phase 1, which includes, *inter alia*, the Fosterstown Link Road. The delivery of this link road also required by the statutory Development Plan, as referred to above. Development of the subject lands are proposed in Phases 2 and 3 of the masterplan roll-out. The Planning Authority have stated that the most appropriate and efficient access to the lands is via the proposed Link Road. As such, the development of these subject lands appear to be reliant on this the delivery of the Link road, in order to avoid an access point onto the R132.

10.4.17. I share the view that of the Planning Authority that an access point at this location may impact on the operation of the proposed Bus Connects with the R132 facilitating a Spine Route (A4), as well as a local routes. There is also segregated cycle routes proposed under this project, running along both sides of the R132. I am also of the view that the proposed left-in, left-out junction results in a rather convoluted access arrangement to the development, in my view, as detailed in Figure 4 'Access Routes' of the report entitled 'Response to An Bord Pleanála Opinion relating to Transportation & Drainage'. Those wishing to access the development, travelling from the north-west of the site, from the Pinnock Hill Roundabout, approximately 400m by road from the proposed access point, are required to take the R125, the L2305, and then a right onto the R125 via a signalised junction, a distance of

approximately 1.3km. For those exiting the development, who wish to travel south, there is a requirement to travel north along the R132, circle the Pinnock Hill Roundabout, and then access the southbound lane of the R132, a distance of approximately 850m until you reach a point on the southbound R132 opposite the access junction. These proposed access routes, with the increased journey times they create, especially in the peak AM and PM hours, increase the potential for vehicles doing U-turn manoeuvres to avoid the central median barriers preventing such manoeuvres, or U-turn manoeuvres at the R132/L2300/L2305 junction, with impacts on road safety. This possibility is identified as an issue within the submitted Stage 1 Road Safety Audit (April 2022), with the applicants noting the above access arrangements as a solution to overcome same. However, I am not of the view that the proposed access measures would sufficiently rule out the potential for such U-Turn manoeuvres, given the additional journey times necessitated via the routes proposed. As such. I am of the view the proposed arrangements are also unsatisfactory from this perspective.

10.4.18. In relation to the temporary nature of the access point, I have concerns in relation to same. Notwithstanding that the Planning Authority have an 'in-principle' objection to same, the indeterminate period of time that this 'temporary' access point will operate is a concern, with no definitive timescale for the completion of the Link Road. The permitted development to the north (ABP Ref 308366 – currently the subject of a Judicial Review) is delivering a partial segment of the link road, to the north east of the Masterplan lands. There is no permission in place, or any proposals that are on file at least, to deliver the additional segment of the road, linking it to the Pinnock Hill Roundabout. There may be scope to link to the partial segment of the road that has permission, and to access the development from the Forest Road, but this would require a north-south link over lands that are outside the control of the application, and would be subject to an assessment, including a Traffic Impact Assessment, in relation to the capacity of this link to accommodate traffic from both the permitted development, and the development proposed here.

Proposed Pedestrian Crossing/Implications for Metrolink

10.4.19. As set out in the application documentation, including the 'Response to An Bord Pleanála Opinion relating to Transportation & Drainage', it is proposed to provide a signal controlled pedestrian crossing on the R132, which will provide access to the

bus stop as existing, and for future access to the Metro Station. The applicant's refer to Metrolink proposals from 2018, which indicated that a pedestrian/cycle bridge was to be provided at a similar location to the crossing proposed here. I note that this no longer appears to be the case, and I have made reference those drawings submitted under the current Railway Order Application, which show a proposed Toucan Crossing, that is part of the Metrolink Project, in a similar location to the crossing proposed here². Reference is also made to the R132 Connectivity Project which proposes a total of 9 pedestrian crossing points along the R132, six of these being at new signalised road junctions with a further three separate signalised pedestrian crossing points between the junctions. An extract from the proposed plans indicate a crossing at the Pinnock Hill Roundabout.

10.4.20. Having regard to the above, I am not of the opinion that there is a fundamental conflict with the proposals for the Metro, or with those for the R132 Connectivity Project, although it would appear that further discussions with both the NTA and the Planning Authority may be necessary to further align the exact nature and position of the proposed crossing with other transport projects along the R132. However, given the substantive reasons for refusal as I have recommended below, this matter is perhaps better addressed in any future application that may come forward on this site.

Car Parking

10.4.21. Chapter 12 of the Fingal Development Plan sets out objectives and requirements in relation to transport, and I note the requirements of the Development Plan, as relates to car parking provision and Table 12.8 of the Fingal County Development Plan outlines 'norm' and 'maximum' parking rates. The supporting text for same state that car parking standards provide a guide as to the number of required off-street parking spaces acceptable for new development, in the context of existing Government policy aimed at promoting modal shift to more sustainable forms of transport.

10.4.22. Table 12.8 sets out the following 'norm' standards:

- Apartment, townhouse 1 bedroom - 1 space

²

<https://downloads.metrolink.ie/documentsro/Alignment%20Details%20Book%201%20of%202%20Fingal%20County%20Council.pdf>

- Apartment, townhouse 2 bedroom – 1.5 space
- Apartment, townhouse 3+ bedroom – 2+ space

10.4.23. The car parking standards are split into Zone 1 which allows fewer car parking spaces and Zone 2 which allows a higher number of car parking spaces. Zone 1 applies to areas which are:

- Within 1600m of DART, Metro, Luas or BRT, (existing or proposed),
- Within 800m of a Quality Bus Corridor,
- Zoned MC, Major Town Centre, or
- Subject to a Section 49 scheme.

10.4.24. The site is located in Zone 1 as it is located opposite the site of the proposed Fostertown Metrolink station and Swords QBC runs to the eastern boundary of the site, and therefore the principle of a reduced car parking rate is acceptable, as per the Development Plan.

10.4.25. I note also the guidance as set out in the Apartment Guidelines which notes that for central and/or accessible locations the following guidance is relevant:

‘In larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. The policies above would be particularly applicable in highly accessible areas such as in or adjoining city cores or at a confluence of public transport systems such rail and bus stations located in close proximity.

These locations are most likely to be in cities, especially in or adjacent to (i.e. within 15 minutes walking distance of) city centres or centrally located employment locations. This includes 10 minutes walking distance of DART, commuter rail or Luas stops or within 5 minutes walking distance of high frequency (min 10 minute peak hour frequency) bus services’

10.4.26. I am of the view that the while site is within a central and accessible location, it is not located in or adjoining a city core, and is not yet at a confluence of public transport systems, notwithstanding the proposals for the Metrolink. I am also of the view, which is supported by evidence in relation to residential car ownership and usage

data, as presented within the applicant's TTA (Table 8 of the TTA refers), that a level of car storage is required, for those households that do not use the car on a frequent basis, but do so for bulky shopping trips etc (which is cited as at least 38% of car owners in the local area). As such, while a reduced provision is appropriate, given the locational characteristics of the site, the provision as cited by the applicant is not sufficient in my view, and has the potential to lead to overspill parking, should there not be parking controls in place in the surrounding area.

10.4.27. The TTA notes that it is proposed to provide 300 no. car parking spaces at basement level 30 no. car parking spaces at ground level (for the residential element), a ratio of 0.51 spaces per apartment. The TTA notes other SHDs in which a reduced parking provision has been provided, citing examples in Foxrock, Tallaght, Santry, and Swords (Fosterstown). The most relevant example in my view that that at Fosterstown (also located with the boundary of the Fosterstown Masterplan), in which a ratio of 0.74 is provided. I note that the PA have stated that additional parking is required, with the minimal practical provision being 642 no. spaces (which is essentially a ratio of 1:1. I am of the view that given the Board has previously accepted a ratio of 0.74, on the site to the immediate north, a similar provision should apply here, and therefore, should the Board be minded to grant permission, a total of 477 residential car parking spaces, should be required by way of condition.

10.4.28. In relation to the non-residential car parking, I note that 10 no. spaces have been provided for the childcare facility and 23 no. spaces for the commercial units. Notwithstanding the concerns of the Planning Authority in relation the provision for the crèche, I am satisfied that the site is accessible, as considered above, and the level of provision is satisfactory, noting the risk of overspill parking is considerably lower when considering the demand for the crèche and commercial elements.

Cycle Parking

10.4.29. A total of 1519 no. cycle spaces are provided, with 828 provided at basement level, and an additional 691 at ground floor level. The overall provision exceeds that required by the Apartment Guidelines (which would require a total of 1432 spaces) and exceed that required by the Development Plan (which would require a total of 809 no. spaces). The Planning Authority are satisfied with the quantum of cycle parking provided.

Predicted Impacts at Construction Stage and Operational Stage

10.4.30. In terms of predicted impacts of the proposed development, the EIAR refers to the TTA and notes that construction traffic will have a minimal impact on the surrounding road network, but notes the potential for noise and dust. There is some potential for traffic congestion, particularly during the construction of the new signalised junction and also due to increased construction traffic on the road network which may also perform turning movements in areas that impact on traffic. There is also potential for inappropriate parking, particularly along R132 Road whilst vehicles are waiting to access the site. There is also potential for workers to park in the surrounding residential roads. There is a potential for conflict between construction traffic and pedestrians/cyclists using the existing facilities on R132. It is concluded that there is potential for construction traffic to have a moderate effect on the surrounding environment, although it is set out that the duration of the impact is short-term (up to 4 years).

10.4.31. At operational stage, reference is again made to the findings of the TTA, which carries out an analysis of the impact of this proposed development on the surrounding road network. A total of 6 no. junctions were analysed as follows:

- Junction 1: Dublin Road/Forest Road/Main Street;
- Junction 2: R132/R125/R132/R836;
- Junction 3: R132/L2305 Nevinstown Lane/L2300;
- Junction 4: Forest Road/L2300/Rathingle Road;
- Junction 5: Forest Road/Hawthorn Road;
- Junction 6: Forest Road/River Valley Road.

10.4.32. The assessment considered three scenarios; no development (do nothing), do something (the proposed development and Phase 1 development on lands to the north) and do maximum (the proposed development, Phase 1 development on lands to the north and the completion of the Fosterstown Link Road).

10.4.33. Traffic surveys were carried out to inform the baseline scenario, carried out on Thursday 27th February 2020 between the hours of 07:00 – 19:00. These base flows were then adjusted to the predicted Year of Opening (2024) and the Design

Year (2039), using medium range NRA growth factors. Utilising the industry standard TRICS database the traffic generating potential of the development was assessed, with this estimated additional traffic assigned to the local road network, and its impact was assessed, utilising industry standard software as well as relevant guidance from the NRA, CIHT and the Design Manual for Roads and Bridges (DMRB).

- 10.4.34. It is noted in the TIA that, with the proposed temporary access in place, the development does not require the Fosterstown Link Road to be in place, having regard to traffic impacts. It is noted that the link road is an objective on lands not in the ownership of the applicant.
- 10.4.35. Reference is made to TII guidance which notes the need for a detailed analysis of any junction where traffic generated by the development exceeds 10% of the existing traffic movement, or exceeds 5% of existing traffic movements in congested areas. Fingal County Council imposes more onerous standards of 5% and 2.5% respectively. The traffic analysis indicated that most junctions exceeded the threshold of 2.5%, and the TTA subsequently carried out a detailed analysis of all junctions.
- 10.4.36. In the opening year, at Junction 3 (R132/L2305 Nevinstown Lane/L2300) it is shown that this junction exceeds its capacity during the AM and PM peaks, even in a do nothing scenario with a do something scenario having only a minor impact on same. All other junctions, including the access junction, experience only minor impacts, with most operating well within capacity in the 'Do Something' and 'Do Maximum' scenarios. In the Design Year, Junction 1 is approaching capacity in the do nothing, with the proposed development (and Phase 1) having some a noticeable impact on DOS values for the PM Peak hour on Main Street North (an increase from 89 to 98). Although with the development of the Link Road these DOS values are seen to decrease. At Junction 2, DOS Values are shown to exceed capacity in most scenarios. It is noted in the TTA that no allowance for the introduction of Bus Connect and Metro Link through and adjacent to this junction has been made and this may see a reduction in traffic volumes. In additional, it is noted that the bus priority measures being put in place by Fingal County will see an increase in DOS for other traffic users. It is further noted that the analysis assumes the future buildout of the masterplan plans, as well as applying growth factors, which may mean that there

is significant double counting within the analysis, with the result that traffic flow may not reach the levels set out in the TTA. Junction 3, while operating above capacity in the Do Nothing Scenario does not see a significant increase in the Do Something or Do Maximum Scenario save for an increase from a DOS of 121 in the AM Peak hour to 136 in AM Peak Hour in the Do Something Scenario. However this is seen to reduce to 98 in the event that the Fostertown Link Road is constructed. Other junctions analysed are shown to be operating within capacity at most arms in all scenarios. Cumulative impacts were concluded to be negligible impact. In relation to the temporary site access on the R132, queuing times were not seen to be significant. The TTA concludes that there are no traffic or transportation reasons that should prevent the granting of planning permission for the proposed development.

10.4.37. Section 13.9 considers mitigation measures. At construction stage, measures related to construction traffic management, include but not limited to, the submission of a detailed Construction and Traffic Management Plan to the submitted to, and agreed with, the Local Authority prior to commencement of works on the site. At operational stage, the implementation of a Mobility Management Plan will help to encourage more sustainable modes of transport, with the subsequent effect of reducing the impact of the development on the surrounding road network. No significant residual impacts are expected.

Conclusions on Traffic and Transport Issues

10.4.38. I general concur with the conclusions of the TTA in relation to the impact of road traffic generated by the development on surrounding road network, and I am not of the view that significant impacts on the capacity of surrounding junctions (Junctions No. 1 to 6) would result. Queuing times at the temporary access onto the R132 were also shown not be significant. However, as noted above I do share the concerns of the Planning Authority, in relation to the proposed access junction onto the R132 and the impact that this may have on the operation of the Bus Connects bus corridor, and without the agreement of the Planning Authority, and other relevant stakeholders, including the NTA, in relation to the principle of same, this issue appears to be unresolved. I also share the Planning Authority's concerns in relation to the potential for illegal right hand turns, as discussed above, and the implications of same on road safety. As noted above, I am of the view that the vehicular access point to a development of this scale must, at the very least, be agreed in principle by the

Planning Authority, prior to a permission being forthcoming. In the absence of such an agreement, the only appropriate access to the subject lands is then via the proposed Fosterstown Link Road, and therefore I am of the view that the proposal is premature pending the delivery of same.

10.5. Residential Amenities/Residential Standards

- 10.5.1. The Planning Authority have stated that the public open space include two all-weather pitches and basketball court area located along the western boundary of the site and a green area at the Public Plaza located along the southern boundary. The remaining areas on the applicant's drawings have been incorrectly included as Public Open Space and include curtilage of private apartments and the retail units and a pedestrian access route between buildings 6 and 7. These areas do not meet minimum standards for Open Space Hierarchy and Accessibility as outlined in Table 12.5 of the Development Plan. In this regard it is stated that the proposal would materially contravene Objective DMS57 and that the plans should be revised to increase the extent of open space provision onsite. The Planning Authority consider the overall play provision to be acceptable. It is stated that proposals should comply with DMS73, DMS74 (in relation to SuDs and public open space) and WQ05 (in relation to riparian corridors) and it should be ensured playing pitches are of a sufficient size. It is stated that it is not clear what trees and hedgerows are to be retained or reduced.
- 10.5.2. Observer submissions on the application have stated that insufficient open space has been provided and that the playing pitches are too small to accommodate Gaelic Games. It is stated that there needs to be additional GAA and soccer facilities. It is stated that the open space provision is less than the minimum and is therefore a contravention of the Development Plan. It is stated that the open space beside riverbank represents a safety hazard. In relation to the mix of units it is stated that the 1 bed units do not suit families and that the Masterplan requires housing as well as apartments. It is stated that there is no need for one bedroom apartments.

Daylight, Sunlight and Overshadowing

- 10.5.3. Section 6.6 of the Apartment Guidelines (as updated December 2022) 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). I note that this edition of the BRE Guide was published after the submission of this application (which was submitted to An Bord Pleanála on 14th April 2022).

10.5.4. I note that the criteria under section 3.2 of the Building Height Guidelines include the performance of the development in relation to daylight in accordance with BRE criteria, with measures to be taken to reduce overshadowing in the development. However, it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria. I also note that the Fingal Development Plan includes Objective DMS30 'Ensure all new residential units comply with the recommendations of Site Layout Planning for Daylight and Sunlight: A Good Practice Guide (B.R.209, 2011) and B.S. 8206 Lighting for Buildings, Part 2 2008: Code of Practice for Daylighting or other updated relevant documents.'

10.5.5. A 'Daylight and Sunlight Assessment Report' (April 2022) has been submitted with the application and describes the performance of the proposed apartment units against BRE guidelines in relation to daylight and sunlight. The 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. The Building Height Guidelines and the Development Plan refer to the 2nd Edition of the BRE.

Daylight

10.5.6. In relation to internal daylight standards, the BRE guidelines describe ADF targets of 2% for kitchens, 1.5% to living rooms and 1% to bedrooms. In the proposed development, where kitchens form part of living areas the applicant has applied an ADF of 2% to these areas. A total of 1753 no. habitable rooms were considered, and a total of 1610 no. habitable rooms meet or exceeded the BRE target values, which is a compliance rate of 92%. The report concludes that for a scheme of this scale

and density, this could be seen as a good level of compliance and could be seen as favourable. Compensatory measures are set out in the report and these include the provision of public open space and communal open space which exceeds the minimum requirements, the provision of a community facility for residents, the provision of larger size units, increased head heights and widths to some windows, reductions in the depths of rooms to improve the levels of day and a majority of apartments having a westerly, southerly or easterly outlook.

10.5.7. In relation to the conclusions of the report, I concur that a compliance rate of 92% is a relatively good performance for a scheme of this nature, and where there are shortfalls when assessed against BRE targets I am not of the view any of these shortfalls are significant. Again I note the non-mandatory nature of same. While I note this, in and of itself a compliance rate of 92% is acceptable, and I would not recommend refusal or changes to the scheme on this basis alone. However, I have set out my concerns in relation to the overall height and massing of the scheme above, and note that if the height and massing were reduced there may well be an improvement in the overall compliance rate. Notwithstanding, both the Building Height and Apartment Guidelines state that where a proposed development cannot demonstrate that it meets the BRE daylight provisions, compensatory measures should be described:

“Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.” (page 14 section 3.2 criteria Building Height Guidelines).

10.5.8. The applicant has set out compensatory design solutions which apply to the overall development as a whole. There are also wider planning objectives which apply to this site (as set out in the Fingal Development Plan, with indicative objectives as set out in the non-statutory masterplan) which seek to develop the site at an appropriate density, and to deliver an appropriate urban design and streetscape

10.5.9. However, it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria. Paragraph 1.6 of the BRE guidelines state that the advice it contains should not be used as an instrument of planning policy. In this regard, flexibility needs to be applied when using the relevant guidance document, particularly in the context of redeveloping the site to accommodate a sustainable level of development and I am satisfied that the daylighting to the proposed development would adequately meet the residential amenity levels for future residents, and as such accords with Objective DMS30 of the Development Plan. Even it were argued that objective DMS30 requires 100% compliance with BRE targets for all schemes, the level of shortfall demonstrated under this application is not material, in my view, and therefore there is no material contravention of DMS30 in this instance.

Sunlighting

10.5.10. I note that no analysis of internal sunlight performance of the units is set out in the report. In relation to same I note that there are there are no overarching requirements (as contained with the Building Height Guidelines and the Apartment Guidelines) to demonstrate compliance with BRE sunlighting guidelines (the requirement is for daylight). While Objective DMS30 requires compliance with BRE Daylight and Sunlight Guidelines, Objective PM42 requires the application of the Apartment Guidelines and Objective PM43 states that regard should be had to the Apartment Guidelines. The Apartment Guidelines refer to daylight standards, and not sunlighting standards. Notwithstanding, I note the general orientation of the apartments blocks, which allow for the units to achieve high levels of sunlight either from an southerly, easterly or westerly direction, and 69% of these units are dual aspect. There are no north-facing single aspect units. As such I am satisfied that it is likely that good levels of sunlighting will be achieved in the apartment units.

Overshadowing

10.5.11. The BRE Guidelines (2nd Edition) recommend that for a garden or amenity area to appear adequately sunlit throughout the year, at least half of it should receive at least two hours of sunlight on March 21st. I note that this standard is the same as that in the BRE 3rd Edition (2022).

10.5.12. In relation to the proposed development, the report has assessed 7 no. distinct areas of amenity space, as well as the public open space, with 100% of these spaces receiving at least 2 hours of direct sunlight on 21st March, in compliance with BRE Standards.

Dual Aspect

10.5.13. 69% of the apartments are dual aspect. The Apartment Guidelines state that in SPPR 4 that a minimum of 33% dual aspect apartments is required in central and accessible locations, such as where the subject site is located. Objective DMS20 of the Development Plan require the provision of a minimum of 50% of apartments in any apartment scheme are dual aspect. However, I noted the prelude to Chapter 1 of the Fingal Development Plan (as varied) which states 'Where any objectives of the Development Plan are considered to be materially inconsistent with.....Specific Policy Requirements of Guidelines issued under Section 28 of the Act, the aforementioned documents shall take precedence'. As such, the Development Plan makes clear that any objectives which are not in line with the SPPRs within Section 28 Guidelines are not applicable, notwithstanding that the proposal complies with DMS20 in this instance.

Open Space

10.5.14. Relevant Development Plan Objectives include Objective PM52 'Require a minimum public open space provision of 2.5 hectares per 1000 population; Objective PM60 – 'Ensure public open space is accessible, and designed so that passive surveillance is provided'; Objective PM61 'Ensure permeability and connections between public open spaces including connections between new and existing spaces, in consultation to include residents'; Objective PM62 - Provide multifunctional open spaces at locations deemed appropriate providing for both passive and active uses'; Objective PM63 – 'Facilitate the provision of appropriately scaled children's playground facilities within new and existing residential development' and 'Objective PM65 - Ensure all areas of private open space have an adequate level of privacy for residents through the minimisation of overlooking and the provision of screening arrangements; Objective DMS89 - Require private balconies, roof terraces or winter gardens for all apartments and duplexes comply with or exceed the minimum standards set out in Table 12.6 [of the Development Plan]; Objective DMS90 -

Require balconies, ground floor private open space, roof terraces or winter gardens be suitably screened in a manner complimenting the design of the building so as to provide an adequate level of privacy and shelter for residents; Objective DMS91 - Require communal amenity space within apartment developments, in the form of semi-private zones such as secluded retreats and sitting out areas, complies with or exceeds the minimum standards set out in Table 12.6 [of the Development Plan]; Objective DMS92 - Permit in appropriate layouts (e.g. courtyard layouts) the provision of a combination of private and semi-private open spaces; Objective DMS117 - Require new developments to be designed in accordance with DMURS.

Public Open Space

10.5.15. I have considered the issue of the quality and quantity of Public Open Space in Section 10.3 above.

10.5.16. In relation to other Development Plan objectives that relate to public open space, 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 relation to same, the proposed development integrates SUDS elements within landscaped open space on the site, although the retention basin located to the west of Block 10 has been excluded from the calculation of public open space. No underground tanks are proposed. The pitches incorporate permeable playing surfaces with a stone reservoir beneath to attenuate surface water, before discharging to the stream.

10.5.17. 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. All residential schemes in excess of 50 units shall incorporate playground facilities clearly delineated on the planning application drawings and demarcated and built, where feasible and appropriate, in advance of the sale of any units'. In relation to same, a number of play areas have been provided within the development and includes areas within the communal and public open space, as well as the 2 no. playing pitches. These are widely dispersed throughout the site, and with the inclusion of the playing pitches, the total equates to 3,706 sq. m. of playspace exceeding the DMS75 requirement of 2,580 sq. m. I am satisfied, therefore, that the overall provision is appropriate.

Communal Open Space

10.5.18. Communal amenity space is provided for apartment blocks and duplex units complying with the minimum requirements as set out in the Apartment Guidelines (and with the requirements of Objective DMS91 of the Development Plan).

Private Amenity Space

10.5.19. All apartment and duplex/triplex units within the proposed development have access to private amenity space in the form of a balcony or terrace and all of these amenity spaces meet minimum space standards described in the Apartment Guidelines and the Development Plan.

Mix

10.5.20. SPPR 1 of the Apartment Guidelines state that developments may include up to 50% one bedroom units, with no minimum requirement for apartments with 3 or more bedrooms.

10.5.21. The proposed development provides the following unit mix:

	Apartments	
	Number	%
1 bed	208	32
2 bed	410	64
3 bed	27	5
Total	645	100

10.5.22. The proposed development is formed of apartments, duplexes and houses. In relation to the total apartment units proposed 32% are 1 bed. The proposed development therefore complies with SPPR 1.

Floor Area

10.5.23. Objective DMS24 requires that new residential units comply with or exceed the minimum standards as set out in Tables 12.1, 12.2 and 12.3 of the Development Plan. Objective DMS25 requires that the majority of all apartments in a proposed scheme of 100 or more apartments must exceed the minimum floor area standard

for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10%.

10.5.24. The individual floor area for apartments meets the standards outlined in the Apartment Guidelines (which supersede the Development Plan Standards) and 50% are greater than 10% larger than minimum standards, also complying with minimum standards in the guidelines, and as contained in the Development Plan.

Floor to Ceiling Height

10.5.25. The proposed development provides for acceptable ground to ceiling heights of a minimum 2.7m at ground floor as described in SPPR 5 Apartment Guidelines, noting also the proposal complies with Objective DMS22 of the Development Plan, which requires a minimum floor to ceiling height of 2.7 metres in apartment units, at ground floor level.

Number of Apartments to a Core

10.5.26. The proposed apartment blocks at the Local Centre do not have more than 12 apartments per core and as such are in accordance with SPPR 6 of the Apartment Guidelines. I note Objective DMS23 in the Development Plan refers to a maximum of 8 apartments per core. There are no more than 5 apartments per floor per core and as such is compliant with the above requirements.

Privacy

10.5.27. I note Objective DMS28 in relation to a separation distance of at least 22m between directly opposing rear first floor windows. This has been achieved in this instance.

Storage

10.5.28. The minimum storage space area requirements are set out as an appendix to the Apartment Guidelines as follows:

- Studio – 3 sq.m; 1 Bed Apartment – 3 sq.m; 2 Bed Apartment (3 persons) – 5 sq.m; 2 Bed Apartment (4 persons) – 6 sq.m; 3 Bed Apartment – 9 sq.m

10.5.29. The proposed development meets or exceeds the above standard.

Communal Uses/Community Facility

10.5.30. Objective PM70 of the Development Plan states '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 DMS34 seeks to provide facilities for the communal use of residents as deemed appropriate by the Council. Objective DMS35 require the provision of communal laundry rooms and storage facilities in high density apartment type developments where deemed appropriate. The proposals include a community facility of 191.8 sq. m of at ground floor of Block 1 As such I am satisfied that the requirements of Objective PM70 and Objective DMS34 have been meet. In relation to communal laundry rooms, I am not of the view that this is necessary or appropriate in an apartment scheme given the units will likely incorporate laundry facilities, as is standard in such apartments. I note the Planning Authority has not requested the inclusion of such facilities within this scheme

Childcare

10.5.31. 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 (2020) however, allow for studio and one bedroom units to be discounted from the overall calculation of childcare demands, and for a demographic analysis of predicted demand to be carried out. As such the overall requirement in this instance, as set out in the Social and Community Infrastructure Audit, is calculated as between 116 no. spaces. A total provision 138 no. spaces has been made in this instance, within a childcare facility of 609.7 sq. m located on the ground floor of Block 3.

Schools

10.5.32. The non-statutory Fosterstown Masterplan seeks to the provision of a school as part of Phase 1 of the development of the masterplan lands. In relation to the need for a school, the Social and Community Infrastructure Audit concludes that the demand from the development will not be significant in relation to local capacity. An indicative site for a school is located to the north of this site on the masterplan lands, and the

applicant has noted that should this school come forward, the playing pitches can be utilised by this facility and the delivery of this proposed development would not prejudice the future delivery of a school on the masterplan lands.

Refuse Arrangements

10.5.33. Objective DMS36 and DMS37 relate to appropriate provision of refuse facilities. The Operational Waste Management Plan submitted with the application sets out details of proposed refuse arrangements and the locations of the communal bin storage areas are set out on the submitted drawings. I am satisfied that appropriate refuse arrangements have been put in place serve the development.

Management Company

10.5.34. Objective DMS33 relates to the need for a management company in apartment schemes. The requirement for a management company is set out in the Multi-Unit Developments Act 2011 and as such no specific condition is required in this regard.

Building Lifecycle Report

10.5.35. A Building Lifecycle Report has been submitted, in compliance with Section 6.12 of the Sustainable Urban housing: Design Standards for New Apartments (2022), which considers long-term management and maintenance of the proposed development, with reference to the materials proposed for the elevations and for the public realm, and I am satisfied as to the contents of same.

10.6. **Surrounding Residential Amenity**

10.6.1. The nearest residential dwellings are located to the south and west within the Boroimhe residential estate.

10.6.2. The Planning Authority state that not all surrounding properties have been considered within the daylight and sunlight assessment and note that 83-95 Boroimhe Birches have not been considered. It is stated that Block 3 will overlook Boroimhe Laurels. It is further stated that the childcare facilities should be located away from existing residential properties.

10.6.3. Observer submissions state the proposed development would result in overlooking, and would impact on daylight and sunlight, and would overshadowing existing gardens. It is stated that the development would be visually oppressive and that the trees and hedgerows will not soften the visual impact. Noise and disruption at

construction stage is cited as a concern. It is stated also that housing to the north and west will be impacted and at Carlton Court will be impacted by this development.

10.6.4. Generally speaking, potential impacts on surrounding residential developments resulting from a proposal such as this one include impacts on the levels of daylight and sunlight experienced by surrounding residential dwellings, impacts on overlooking and privacy, noise impacts, as well visual impacts. The potential impacts of noise on surrounding residential properties is considered within the EIAR and I refer the Board to Section 11.6 of this report for a consideration of same. A consideration of visual impacts and on visual amenity is set out in Section 10.3 of this report.

Daylight and Sunlight

10.6.5. In relation to daylight and sunlight impacts on surrounding properties, a Daylight and Sunlight Assessment Report (April 2022) has been submitted with the application. This 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.

10.6.6. In relation to daylight, the effect on daylight (VSC) on the following neighbouring properties was assessed:

- 2 to 24 Boroimhe Willows
- 16 to 18 Boroimhe Oaks
- 41 to 51 Boroimhe Laurels

10.6.7. A total of 96 windows were assessed, and it is set out in the report that 'imperceptible' impacts were expected at 82 no. windows, 'not significant' impacts on 8 no. windows and 'slight' impacts on 1 no. window. For that window where a slight impact was expected (Window no. 24C3 at No. 24 Boroimhe Willows), I note that this is a side pane of a main front window, comprised of 3 elements, 2 side panes and 1 no. front panel. This side panel has an existing VSC of 22.73% which reduces to

16.10% with the development in place, 71% of its former value. The window overall however (all elements combined) has a VSC of 31.89% which reduces to 24.92% with the development in place, 78% of its former value, just below the BRE target of 80%. I concur with the view expressed in the report that the impact on the side window can be considered 'slight' and the impact on the overall window can be considered 'not significant'. I also concur that the impacts on the remaining windows, where BRE targets have not been achieved can be considered 'not significant'. I note the Planning Authority have stated that No.'s 83 to 95 Boroimhe Birches have not been considered in the assessment. I note that these dwellings are located to the north-west of the site, and the rear elevation of the closest dwelling (No. 95 Boroimhe Birches) is some 90m from the closest built form (Block 5 which is 7 to 9 storeys in height). Utilising those tests outlined in the BRE Guidance, I am satisfied I can rule out impacts on same, namely as the closest rear window at No. 95 passes the '25 degree test'. (i.e. the new development does not subtend an angle greater than 25° to the horizontal measured from the centre of the lowest window to a main living room). As such, it is reasonable to conclude that there will be no perceptible impacts on daylight to No. 95 Boroimhe Birches or properties at a greater distance from the development.

Amenity Spaces

- 10.6.8. 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 daylight and sunlight report has considered impacts on the rear gardens of 16 and 18 Boroimhe Oaks (located to the south of the site) and there is no impact on same. The report also considers impacts on the rear gardens of 41 to 51 Boroimhe Laurels, located to the west of the site, and there is only very minor impacts on same, with the impact all of the rear gardens well within the BRE Target Range.

Overlooking

- 10.6.9. The closest properties are located to the south at Boroimhe Willows and to the west of the site at Boroimhe Oaks, with the front elevation of No. 22 Boroimhe Oaks being the closest being 33m from Block 4, a 4 storey block. Other properties are at greater

distances from the development. I am satisfied that the distances are such that no material overlooking of surrounding properties from the development will result.

10.7. Other Issues

Part V

10.7.1. The proposal provides 65 no. Part V residential units within Block 7 of the proposal and I note the submission of a standalone document entitled 'Part V Proposals'. This sets out indicative Part V proposals. I note the submission from the Housing Department of FCC which states that revised Part V proposals should be submitted for review and that Part V units should not be all in one block. It is stated that the applicant should liaise with Housing Department in relation to the Part V proposals. 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.

Objective RF04 (Variation 2) of the Fingal Development Plan 2017-2023 (as varied)

10.7.2. I note firstly there is in fact two objectives with the title 'Objective RF04'. Notwithstanding, RF04 of relevance in this instance is set out in Adopted Variation No. 2 of the Fingal Development Plan and the requirements of same are as follows: 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

10.7.3. It is not stated if the applicant is required to submit the statement but it is likely that this is the case. In any case. I note that no standalone statement has been submitted

in relation to this objective. However I am of the view that the information required by the objective is set out within other documentation as submitted with the application and in this regard I note the following:

10.7.4. The EIAR, the Planning Report and the Statement of Consistency and Statement of Response to Opinion from An Bord Pleanála, the Architectural Design Statement, the Traffic and Transport Assessment, the Mobility Management Plan and the Community and Social Infrastructure Audit address the issues of sequential development, compact growth, the scale of employment provision and commuting flows, the extent of local services provision and transport accessibility. The EIAR, including the relevant appendices, and the AA Screening Report and NIS, consider the issue of environmental sensitivities, resources and assets. The EIAR, the Traffic and Transport Assessment and the Engineering Assessment Report consider the issue of current and planned infrastructure capacity. I have set out a detailed consideration of all of the above issues within the relevant sections of this report. I am satisfied that Objective RF04 of Variation No. 2 of the Plan has been complied with.

10.8. **Planning Authority's Recommended Reason for Refusal**

10.8.1. The Planning Authority recommend that the proposed development is refused permission for 5 no. reasons as set out below.

1. *The proposed SHD, does not comply with the Fosterstown Masterplan (May 2019). The SHD proposal if permitted and constructed would undermine the planned approach for a controlled, sustainable build out of these strategically important lands as envisaged in the Fosterstown Master Plan with timely provision of community infrastructure. The proposed development by virtue of its non-compliance with the provisions of the Masterplan has undermined the potential of these lands to achieve the aspirations of sustainable placemaking as set out in chapter 3 of the Fingal Development Plan 2017-2023. The SHD in contravening height, density, and phasing objectives would if permitted by ABP and constructed, impact negatively on the visual and residential amenity of the area and as a result be contrary to the proper planning and sustainable development of the area. The proposed SHD if permitted by ABP would contravene materially Objectives SWORDS 6 of the Fingal Development Plan*

2017- 2023 which sought the early construction of the Fosterstown Link Road, and PM14 and PM15 of the Fingal Development Plan 2017-2023 which make it an objective to secure implementation of the Masterplan.

10.8.2. In relation to same I note the following. I note the non-statutory nature of the Fosterstown Masterplan, although I am of the view that those elements that are referred to in the Development Plan (namely within the supporting text of Objective Swords 27) and indicated on the statutory mapping (namely Sheet no. 8 of the Development plan) have a statutory basis. In relation to the issue of material contravention and the non-statutory masterplan, I note the provisions of Section 9(6)(a) and (c) of the Planning and Development (Housing) and Residential Tenancies Act 2016. These provisions specifically refer to material contraventions of development plans or local area plans only, and do not refer to masterplans. I am of the view, however, that the proposal, that in the absence of an agreement with the Planning Authority, in relation to an alternative access point from the R132, the proposal is premature pending the delivery of the Fosterstown Link Road, but I am not of the view that the proposal materially contravenes Objectives SWORDS 6, which seeks to 'prioritise the construction of the following critical infrastructure [including] the Fosterstown Link Road'. The link road is to be delivered on lands not within the applicant's control and as such it is not within the applicant's gift to deliver same. I am of the view that there is a material contravention of Objective SWORDS 27 as a result of the 4 storey heights (see discussion in Section 10.3 and Section 10.9 Material Contravention).

2. Having regard to the Fingal Development Plan 2017-2023 which promotes excellence in urban design responses and the promotion of high quality, well designed entries into towns and villages, and to the Sustainable Residential Development In Urban Areas Guidelines for Planning Authorities and Urban Design Manual A Best Practice Guide (2009), it is considered that the proposed development by virtue of the scale, design and massing does not represent a satisfactory urban and architectural design response for the site, is unsympathetic to the character of the area and of the Fosterstown Environs. The proposal would for those reasons be contrary to Ministerial Guidelines issued under Section 28 of the Planning and Development Act 2000 as amended.

10.8.3. In relation to same I have considered the issues above and generally concur with same, as reflected in recommended reason for refusal no. 1.

3. Having regard to the strategic function of the R132, in particular in relation to the operation of the Swords-City Centre Core Bus Corridor and the location of the site adjacent the R132, it is considered that the siting of the proposed vehicular access on the subject site would adversely affect the R132 operating efficiency and would prejudice its strategic traffic function. The proposed SHD if permitted and constructed as proposed with particular reference to the access onto the R132 would undermine Strategic Policy 15 and 16 of the Fingal Development Plan 2017-2023 which seeks the development of a high quality public transport system and would undermine the efficient use of existing and future expenditure of public moneys on assets of national importance. The proposed development would undermine junction upgrades, crossing points on the R132, future public domain proposals and carriageway design for the Metrolink. The proposal if permitted would therefore materially contravene Objective MT33 and Objective DMS120 of the Fingal Development Plan 2017-2023. The proposed development would, therefore, be contrary to the principles of good traffic and transport management, would adversely affect the use of a regional road and would, therefore, be contrary to the proper planning and sustainable development of the area.

10.8.4. In relation to same, I have considered these issues in Section 10.4 of this report and I refer the Board to same. In summary I concur that the access/egress arrangements as proposed by the applicant are not appropriate, and this is reflected in recommended reason for refusal no. 2.

4. The layout of the proposed development, with 4 storey apartment blocks situated to the east and north of the Boraimhe residential scheme, would result in significant overlooking of the private amenity spaces of these dwellings as well as creating a sense of overbearing which would significantly adversely affect the residential amenity of these properties and would be contrary to the proper planning and sustainable development of the area.

10.8.5. In relation to same I have considered surrounding residential amenity in Section 10.6 (and visual amenity in Section 10.3) of this report, and I refer the Board to same. In

summary I concur that the ridge height of the 4 storey dwellings would be overbearing when viewed from neighbouring properties, and this is reflected in the recommended reason for refusal no. 1. I am not of the view that any material overlooking would result from the proposed development.

5. *Having regard to the design and layout of the proposed development, it is considered that the proposed SHD would fall short of the standard of residential development envisaged in national and local policy for future occupants and would materially contravene Objective DMS30 of the Fingal Development Plan 2017-2023 which seeks to ensure all new residential units comply with the recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.209, 2011) and B.S. 8206 Lighting for Buildings, Part 2 2008: Code of Practice for Daylighting or other updated relevant documents. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

10.8.6. In relation to same I have considered this issue in Section 10.6 of my report and I refer the Board to same.

10.9. **Material Contravention**

10.9.1. 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:

Objective SWORDS 27 of the Fingal Development Plan

10.9.2. This objective states 'Prepare and/or implement the following Local Area Plans and Masterplans during the lifetime of this Plan...[including the Fosterstown Masterplan].

The main elements to be included within the Masterplan are as follows:

- Provide for required road improvements including: the construction of the Fosterstown Link Road; realignment and improvements to the Forrest Road and improvements to the R132 (including Pinnock Hill) as part of the phased development of the Masterplan Lands.
- Provide for a vehicular connection to the adjoining MC zoned lands to the north.

10.9.3. In relation to same, it is not within the applicants control to deliver the above infrastructure projects and I am of the view that no material contravention in relation to same results from this proposal.

- In order to protect existing residential amenities, where development immediately adjoins existing residential development, the heights of such development shall be restricted to 2-3 storeys.

10.9.4. I have considered same in Section 10.3 above, and I am of the view that the proposal materially contravenes same, and that this material contravention cannot be justified having regard to the requirements of SPPR 3 of the Building Height Guidelines. I refer the Board to my considerations of same in Section 10.3 above.

- Future development shall provide a strong urban edge with attractive elevations which satisfactorily address, overlook and provide a high degree of informal supervision of the R132, the Forrest Road and the Fosterstown Link Road.

10.9.5. While I am not of the view that this has necessarily been achieved in this instance, given my concerns in relation to the visual appearance of the proposal, I am not of the view that a material contravention of same has occurred.

- Facilitate the indicative route for new Metro North through these lands and an appropriate relationship with the indicative route for new Metro North at this location.

10.9.6. As set out in Section 10.4 of this report, there are elements of the proposal that appear to conflict with proposals for a pedestrian crossing to the proposed Fosterstown metro station but I am not of the proposal that this misalignment is material, and could be resolved by way of condition (if the Board were minded to grant permission).

- The existing stream which crosses the lands shall be maintained within a riparian corridor.

10.9.7. This has been provided in this instance.

- The majority of the public open space shall be provided along the stream and it shall link into the existing public open space at Boroimhe.

10.9.8. The provision of a link is not within the control of the applicant, and I note open space has been provided along the stream, in general compliance with the above, and I am not of the view the proposal represents a material contravention of same.

Objective DM113 and Table 12.8

10.9.9. The above relates to car parking and to the implementation of the car parking standards as set out in Table 12.8 of the Development Plan. A total of 330 no spaces have been provided, which for reasons I have set out in Section 10.4 of this report, I have not considered this provision to be sufficient. However, should the Board be minded to grant permission, I am of the view that additional car parking could be required by way of condition.

10.9.10. The Planning Authority are not of the view that the proposal materially contravenes the Development Plan, having regard to car parking standards, and the report of the Transportation Planning Department recommend a total of 642 no. spaces be provided (although I note that the submission from the Planning Authority do not suggest condition in relation to same).

10.9.11. In relation to the proposed car parking, I have assessed this against planning policy requirements in Section 10.4 of my report. I am satisfied that as the standards are described as a 'guide' in the Development Plan, and that this indicates some flexibility. Indeed this flexibility is demonstrated by the submission from the Planning Authority which recommends an overall provision that is below the standard set out in Table 12.8. As such, a material contravention does not arise in this instance.

Map Sheet No. 8 map-based objectives

10.9.12. The Material Contravention Statement refers to a potential material contravention occurring having regard to indicative route for the proposed Metro North and its stops. I am not of the view that a material contravention has resulted for the same reasons as set out in 10.8.6 above.

Objective DMS30

10.9.13. This objective refers to daylight and sunlight standards. I am not of the view that a material contravention of same has resulted for the reasons as set out in Section 10.6 above.

Objectives PM52 and DMS57

10.9.14. These objectives refer to public open space. I am not of the view that a material contravention of same has resulted for the reasons as set out in Section 10.3 and 10.6 above.

Objective NH27

10.9.15. This relates the protection of existing hedgerows of amenity or biodiversity value of the Development Plan. I note some minor sections of hedgerow are to be removed but the majority are to be retained. There is no evidence on file that the hedgerow that is to be removed is of particular biodiversity or amenity value and as such I am not of the view that a material contravention of the above objective has occurred in this instance.

11.0 Environmental Impact Assessment (EIA)

11.1.1. This section sets out an Environmental Impact Assessment (EIA) of the proposed project. A full development description is set out in Section 3 of this report. In summary, the proposed development will consist of 645 no. residential units (comprising 208 no. 1 bedroom units, 410 no. 2 bedroom units, and 27 no. 3 bedroom units), in 10 no. apartment buildings, with heights ranging from 4 no. storeys to 10 no. storeys, including undercroft / basement levels (for 6 no. of the buildings). The proposals include 1 no. community facility in Block 1, 1 no. childcare facility in Block 3, and 5 no. commercial units (for Class 1-Shop, or Class 2- Office / Professional Services or Class 11- Gym or Restaurant / Café use, including ancillary takeaway use) in Blocks 4 and 8.

11.1.2. The proposed development also includes road upgrades, alterations and improvements to the Dublin Road / R132, including construction of a new temporary vehicular access, with provision of a new left in, left out junction to the Dublin Road / R132, and construction of a new signalised pedestrian crossing point, and associated works to facilitate same. The temporary vehicular access will be closed when vehicular access to the lands is made available from the lands to the north. The proposal includes internal roads, cycle paths, footpaths, vehicular access to the undercroft / basement car park, with proposed infrastructure provided up to the application site boundary to facilitate potential future connections to adjoining lands.. The site is located within the area of Fingal County Council.

- 11.1.3. Paragraph 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:
- i) Construction of more than 500 dwelling units;*
 - iv) Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built up area and 20 hectares elsewhere.*
- 11.1.4. The proposed development provides for some 645 residential units on an application site of some 4.635 ha and therefore exceeds the statutory threshold, in relation to dwelling units, under paragraph 10(b), triggering the mandatory requirement for EIA. Accordingly, an Environmental Impact Assessment Report (EIAR) has been submitted with the application.
- 11.1.5. The EIAR comprises a non-technical summary, a main volume and supporting appendices. Chapter 15 of the main volume provides a summary of the mitigation measures & monitoring described throughout the EIAR. Each chapter describes the expertise of those involved in the preparation of the EIAR.
- 11.1.6. As is required under Article 3(1) of the amending Directive, the EIAR describes and assesses the direct and indirect significant effects of the project on the following factors: (a) population and human health; (b) biodiversity with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape. It also considers the interaction between the factors referred to in points (a) to (d). Article 3(2) includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and / or disasters that are relevant to the project concerned are considered.
- 11.1.7. I am satisfied that the information contained in the EIAR has been prepared by competent experts and complies with article 94 of the Planning and Development Regulations 2000, as amended. The EIAR would also comply with the provisions of Article 5 of the EIA Directive 2014. This EIA has had regard to the information submitted with the application, including the EIAR, and to the submissions received

from the council, prescribed bodies and members of the public which are summarised in Sections 7, 8 and 9 of this report above.

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

- 11.2.1. The requirements of Article 3(2) of the Directive include the expected effect deriving from the vulnerability of the project to risks of major accidents and/or disaster that are relevant to the project concerned.
- 11.2.2. Sections 3.3.6 and 3.5.10 of the EIAR deals with this issue directly and it is concluded that, considering the nature of the proposed development and its receiving environment, it was not considered that the proposed development site presents risks of major accidents or disasters, either caused by the scheme itself or from external man made or natural disasters. This conclusion is based on an examination of the natural environment (as discussed in various chapters of the EIAR) as well as a consideration of the operation of Dublin Airport. In relation to the latter, the proposed development was not considered to give rise to any aviation safety issues, subject to a condition in relation to the operation of cranes on the site.
- 11.2.3. I am satisfied that the proposed uses, i.e. primarily residential, is unlikely to be a risk of itself. Having regard to the location of the site and the existing land use, I am satisfied that there are unlikely to be any effects deriving from major accidents and or disasters.

11.3. Alternatives

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

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

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

2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an

indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.

11.3.3. Chapter 2 of the EIAR provides a description of the main alternatives considered., the alternatives considered included:

- Do-nothing; Alternative Locations; Alternative Designs; Alternative Processes

11.3.4. The do-nothing alternative would result in not delivering residential development, infrastructure and other uses, and not responding to the demand for housing the area. Such a scenario would leave a zoned, serviced and accessible site empty, with would be an inefficient use of the site and contrary to national, regional and local policy documents. Alternative locations were not considered relevant in this instance given that the site has been zoned for a development of this nature.

11.3.5. Alternative designs and iterations of the project are set out in the report. It is noted that discussions with the Planning Authority and the publication of the Fosterstown Masterplan had a bearing on the overall design, as did the site context and constraints including but not limited to, the existing stream, tree and hedgerows, and the proximity of neighbouring residential dwellings. Alternatives considered includes a consideration of the pre-application submissions to the Planning Authority and An Bord Pleanala.

11.3.6. Overall, I am satisfied that, the Directive requirements in relation to the consideration of alternatives have been satisfied, noting that the non-statutory Fosterstown Masterplan has set out a indicative layout which has provided a template for the type of development that is appropriate for the site.

11.4. Consultations

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

11.5. Likely Significant Direct and Indirect Effects

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

11.6. Population and Human Health

- 11.6.1. Population and Human Health is considered in Chapter 3 of the submitted EIAR. This chapter uses census population data, economic activity data and the identification of SEVESO III sites in the vicinity of the development in order to inform the potential impacts of the proposed development upon population and human health. In relation to SEVESO III sites it is noted that the closest SEVESO site is located approximately 1.4km north of the application site, and the site is not within the consultation zone of this site.
- 11.6.2. The EIAR notes that, during the construction phases, there is potential for moderate to significant noise impacts, in the absence of mitigation, with the closest noise sensitive locations being within 20m of the site. At distances of 50m or greater the impacts are not considered to be significant. It is noted that, given that the majority of construction works will take place at distances greater than 50m it is expected that for the majority of the construction period the nearby receptor will experience a moderate effect in the absence of mitigation. Impacts in relation to vibration, air quality and climate, landscape and visual impact, economic activity, social patterns, health and safety, and land-use and settlement patterns are also considered in this chapter, with no potential significant impacts identified (positive or negative), save for a direct, positive and significant impact on the future residents of the proposed development a result of the delivery of 645 residential units.
- 11.6.3. Avoidance, remedial and mitigation measures are set out in Section 3.8 and include best practice construction measures, as set out in the Construction and Environmental Management Plan (CEMP). With these measures in place the impact at construction phase is concluded to be short-term, temporary and neutral (although the wording is slightly ambiguous in the EIAR, as it is stated that the overall predicated likely and significant impact will be neutral).
- 11.6.4. In relation to those conclusions of the report, I generally concur with same. Potential impacts of note at construction stage relate to significant noise impacts within 20m of the site. The impacts are also short-term, and would only result during certain time periods during the build. I am of the view that the applicant has set out sufficient mitigation to reduce residual impacts, but I am the view it is not possible to eliminate noise impact entirely, at construction stage. In relation to aircraft noise, at operational stage, design measures such as acoustic glazing can reduce noise to acceptable levels. On balance, therefore, and having regard to the need to facilitate construction

to deliver housing, I am of the view that the overall impacts on population and human health are acceptable.

11.7. Biodiversity

- 11.7.1. Chapter 5 of the submitted EIAR addresses biodiversity. It describes a desktop study and on-site surveys of habitats, invasive species, bat surveys, bird surveys, mammal surveys and other fauna, including a dedicated amphibian survey.
- 11.7.2. The Planning Authority, in relation to Biodiversity, state that the proposals, should comply with Objective WQ05 (in relation to riparian corridors). It is also stated that it is unclear that trees and hedgerows are to be retained.
- 11.7.3. Observer submissions raise concerns in relation to impacts on birds and wildlife as a result of the removal of the hedgerows and trees. It is stated that the existing hedgerows are misrepresented in the drawings. Concern is also raised in relation to impacts on bats, and it is stated that replacement trees will not accommodate same.
- 11.7.4. The EIAR notes that there are no designated conservation areas occurring within or in the immediate vicinity of the site of the proposed development. Impacts on European Sites are considered in a separate Appropriate Assessment Screening Report (See Section 12 of this report). In terms of nationally designated sites, the nearest proposed Natural Heritage Area (pNHA) is the Feltrim Hill pNHA, which is located approximately 2.1km to the southeast of the site. It set out that there are no impact pathways from the site to this pNHA. An impact pathway to Malahide Estuary pNHA is identified via the Gaybrook Stream. No other impact pathways to any other nationally designated sites are identified.
- 11.7.5. The habitats within the site are set out in the EIAR and consists of the Gaybrook Stream (which is classified in the EIAR as a drainage ditch, WF4), dry meadows (GS2), arable crops (BC1), scrub (WS1), hedgerows (WL1), treelines (WL2), buildings and artificial surfaces (BL3) and amenity grassland (GA2). The stream, hedgerow and treeline were concluded to be of local importance (higher value), with the scrub and dry meadows of local importance (lower value). The arable crop habitat (which makes up the vast majority of the site, in terms of area) was considered to be of negligible ecological value, due to its limited vegetation cover and its disturbed nature. A number of invasive species were observed during the habitat survey including Himalayan Honeysuckle (*Leycesteria formosa*) and Butterfly

bush (*Buddleja davidii*) in the northern and western boundary vegetation. No rare or protected mammal species were recorded during the surveys. The hedgerows provide potential habitat for hedgehog and pygmy shrew. Fox is most likely to be present in the area. The stream does not offer suitable habitat for otter due to its small size, limited flow and connectivity and overgrown nature, and no signs of otter were observed.

11.7.6. In relation to bats, the EIAR notes that there are no man-made structures present on the site, and the site as a whole supports little to no suitable bat roosting habitat. The majority of treelines/hedgerows at the site do not provide any roost potential due to the lack of mature trees, major crevices or other suitable features. There are several semi-mature Ash trees to the north-east which have the potential to support roosting bats, but no evidence of any bat roosts was observed. The hedgerows and treelines provided suitable commuting and foraging habitat. It is noted that the majority of the existing boundary vegetation at the site is being retained. The dusk activity survey recorded a low level of bat activity at the site, with two bat species recorded Soprano Pipistrelle (*Pipistrellus pygmaeus*) and Brown Long-eared Bat (*Plecotus auritus*), with Soprano Pipistrelle the most frequently recorded at the site. In relation to Birds, no waterfowl or shorebird species of Special Conservation Interests (SCI) were recorded on the site, which was as expected due to the lack of *ex-situ* feeding habitat for such species. No evidence of Light-Bellied Brent Goose was recorded on the site. It is also noted that for those species that do utilise farmland/arable field there are considerably more suitable sites that surround the Malahide and Rogerstown Estuaries. It is also stated that the site's urban location and proximity to several busy roads and large residential area renders it largely unsuitable for the above species. In relation to other bird species, largely common species were recorded as well as three red listed (meadow pipit, yellowhammer and snipe) and two amber listed species (linnet and goldcrest). As a result, the site was deemed to be of local ecological importance for birds.

11.7.7. In relation to amphibians, frog may be present within the site. There is no suitable breeding habitat for smooth new. In relation to fish, European Eel could potentially use the Gaybrook Stream.

11.7.8. Potential impacts on biodiversity, in the absence of mitigation, includes impacts on the Gaybrook Stream and Aquatic species. It is noted that the proposal will involve

the re-profiling and replanting of the southern bank of the Gaybrook Stream, which will involve some loss of minor sections of hedgerow. While the stream was considered to be of low biodiversity value, it was concluded that there was potential to have negative, short-term significant impacts through potential contaminant/sediment mobilisation. The landscaping will have a positive, permanent, significant impact through the opening up of the stream, providing new potential foraging habitats for bats. Other significant impacts identified include a positive, permanent, significant impact on trees and hedgerows, as a result of the replacement planting proposed, which will increase habitat connectivity and provide habitat for passerine bird species. No significant impacts on mammals or bats were identified, although some short term negative moderate impacts on same were predicted, in the absence of mitigation. If appropriate site clearance measures were not adhered to, a negative, short-term, significant impact on birds could result, as a result of injury and mortality during vegetation clearance.

- 11.7.9. Mitigation measures are set out in Section 5.9 and consist of hedgerow management, controlled vegetation removal, protection of Yellowhammer habitat, noise control measures as well as measures relating to the protection of surface waters, namely the Gaybrook Stream. Specifically in relation to bats, measures include pre-felling bat surveys and appropriate lighting. With mitigation measures in place, no significant negative impacts on local ecology or any designated nature conservation sites are predicted.
- 11.7.10. I concur with the conclusions described in the EIAR and consider there to be no negative residual impact on biodiversity, with mitigation in place. While there will be removal of some habitat areas, including tree and hedgerow removal, as well as related disturbance, the provision of replacement trees as well areas of planted open spaces provide substantial benefit. I am satisfied that the proposed replacement planting and landscaping will be adequate in terms of compensatory value for any negative impact arising from the development. I also note that the site is zoned for residential and thus this zoning supports redevelopment of the lands which in any form, will invariably lead to some disturbance and clearance of habitats on the site. Specifically in relation to bats, the EIAR notes that, at operational stage the proposed lighting scheme for the development has had regard to the relevant guidelines, as relates to appropriate lighting to reduce impacts on bats. I am satisfied that, with

these measures in place, that no significant residual impacts on bats will result, either at construction stage, nor at operational phase. In conclusion therefore, with the mitigation measures as outlined above, and within the EIAR, I am satisfied that, while there may be temporary negative impacts on biodiversity at the initial phases of development, as a result of removal of some habitats, I am satisfied that these impacts will not be significant, and I am also satisfied that as the proposed landscaping matures, these impacts will be rendered negligible.

11.8. Landscape and Visual Impact

- 11.8.1. Chapter 6 of the EIAR considers the likely effects of the proposed development on the landscape and visual aspects of the environment. Potential impacts on Landscape are considered in Section 6.5 of the EIAR. In relation to the impact of the new buildings and associated infrastructure on the site, it is stated that the retained hedgerow boundaries screen views into the site from adjacent housing developments. Notwithstanding, potential negative impacts could result, in the absence of mitigation, in the absence of mitigation. Mitigation measures, at operational stage, include those design measures that seek to reduce negative impacts on landscape (and visual amenity) including, but not limited to, siting the smaller scaled blocks closer to existing residential units, retention of vegetation and the introduction of replacement planting, appropriate landscape design and the inclusion of public open spaces. Predicted landscape character impacts at construction stage are slight negative short-term impacts at construction stage. The magnitude of impact at operational phase is not considered in the EIAR, rather there is a general discussion on impacts, including when viewed from adjoining estates. It is noted that the existing open views into the site (where not obscured by existing hedgerows) would no longer be available. It is noted that the inclusion of a number of taller residential blocks introduces a changed characteristic within the local landscape that will be visible from the R132 and also from greater distances. The inclusion of open space amenities where none currently exist is noted.
- 11.8.2. In relation to assessing the visual impacts of the proposed development, the EIAR makes reference to the A3 Photomontage Report (submitted under separate cover) which includes a total of 13 no. viewpoints. I refer to the Board to Section 10.3 of this report for a consideration of same. In summary I have concluded therein that, notwithstanding the conclusions of the EIAR in relation to visual impacts, there will

be significant negative visual impacts resulting from the proposed development as a result of the excessive bulk, scale and massing of the proposal, both from the R132 and from adjoining residential estates.

Land and Soils

- 11.8.3. Chapter 7 of the EIAR considers Land and Soils. The topography of the site is described with the site falling from the existing high point in the southwest corner (47.88 m OD) to a low point in the southwest corner (36.75 m OD). The site slopes sharply to the northeast with an average slope of 1:34. Soil mapping for the site indicate that the soils on site consist of deep well drained mineral soils as well as deep poorly drained mineral soils. Subsoils consist largely of limestone TILL, with gravels derived from limestone and alluvium deposits to the north of the site associated with the Gaybrook Stream. In terms of groundwater, the site is underlain by a Locally Important Bedrock Aquifer (LI), which is 'moderately productive only in local zones' (GSI data refers). The aquifer vulnerability in the region of the site is 'Low', which along the depth of the subsoil (greater than 10m), indicates good protection of the underlying aquifer. In terms of groundwater quality, the Swords groundwater body (the GWB in the region of the site) has a WFD groundwater status (2013-2018) of 'Good', and the WFD environmental risk score of 'Not at risk' of not achieving Good status. It is noted within the EIAR that there are no sensitive receptors such as the groundwater fed-wetlands, council water supplies or group water schemes or geological heritage sites which could be impacted by this development, and no evidence of disposal of waste material was identified. Soil samples showed no evidence of contamination.
- 11.8.4. Potential impacts of the proposed development are set out in Section 7.5 of the EIAR. At construction phase, mismanagement of soil material, could negatively impact on human beings, as well as water and soil environments. Localised dewatering of subsoils is expected to be required to address perched groundwater. The risks of accidental pollutants from excavation, construction materials, hydrocarbon spillages and wastewater are identified in the report, and it is set out that, in the absence of mitigation may result in localised contamination of soils and groundwater underlying the site, with stripping of soil reducing the natural protection these soils provide to the underlying aquifer. As a result, in the absence of mitigation, potential impacts on the geological and hydrogeological environment, during the

construction phase, are expected to be short term, slight to moderate and negative. At operational phase, leakage of petrol/diesel from car parking areas may occur and an increase in hardstanding will have a minor effect on local recharge to ground, although the impact on the overall hydrological regime will be insignificant. Potential impacts, in the absence of mitigation, are expected to be long-term, slight to moderate and negative.

- 11.8.5. Mitigation measures set out in the EIAR include measures at construction phase, primarily via the implementation of measures as contained in the Construction & Environmental Management Plan (as submitted with the application under separate cover), which will be finalised in advance of the works commencing. This will include emergency response procedures in the event of a spill, leak, fire or other environmental incident related to construction. Other measures relate to control of soil excavation, export of material from the site, sourcing of fill and aggregates, fuel and chemical handling and water control measures. Hydrocarbon interceptors at operational stage will prevent accidental leakages being discharged from the site.
- 11.8.6. Residual impacts at construction stage, following the implementation of mitigation measures, are short term, imperceptible and neutral, and at operational stage, will be long term, imperceptible and neutral. No significant cumulative impacts are expected.
- 11.8.7. In relation to monitoring, inspections are proposed on a daily basis to ensure all pollution control measures are in place, at construction stage. At operational phase routine maintenance of the surface water drainage system and the foul system will occur.
- 11.8.8. In relation to the conclusions of the conclusions of the report I concur with same, and I am satisfied that with the implementation of mitigation measures as set out in the EIAR, and as set out in the CEMP, residual impacts will be as described in the EIAR and there is no evidence, either within the documentation submitted with the application, nor from observers on the application, to warrant a different conclusion.

11.9. **Water**

- 11.9.1. Chapter 8 of the EIAR relates to Water. In assessing same, I have also had regard to the Flood Risk Assessment, the Engineering Assessment Report and the Construction and Environmental Management Plan (April 2022 – all submitted under

separate cover). In terms of the baseline environment, the EIAR sets out that the proposed development site is located within the River Liffey and Dublin Bay Catchment area, and Broadmeadows River sub-catchment area. It is noted that there is an existing watercourse to the north of the subject site (Gaybrook Stream), and the site currently drains to this stream. This in turn drains to the Broadmeadows Transitional Waterbody or Malahide Estuary, which is approximately 3.7km to the northeast of the subject site. It is noted that two Natura 2000 sites are located here (Malahide Estuary SAC/SPA). In terms of surface water quality, it is noted that the Gaybrook Stream has a WFD status of 'Poor' and its environmental risk is currently 'Under Review'. There are no EPA water monitoring stations along this water and subsequently there are no 'Q' values associated with same (used to express biological water quality). The most recent Q values for the nearby Sluice and Ward Rivers indicate that these watercourses are 'moderately polluted' and 'slightly polluted' respectively, and it is expected that the Gaybrook Stream would have a similar status, based on the similar existing environment. Hydrological connections to the Natura 2000 sites are noted (as discussed in Section 12 of this report) and to the Malahide Estuary pNHA. It is set out in the EIAR, that based on TII methodology (2009), the importance of the hydrological features on this site is rated as 'low importance'. Surface water drainage measures at construction phase and operational phases are set out in the EIAR, as are measures in relation to foul water.

11.9.2. The Engineering Assessment report sets out proposals for surface water and foul water drainage, as well as water supply. In relation to surface water drainage, it is set out that surface water from the proposed development will be discharged at a restricted rate to the Gaybrook Stream, with adequate on-site storage provided to store excessive surface water runoff during extreme rainfall events. SUDS measures are proposed including green roofs, permeable pitches, detention basin and a petrol interceptor. In relation to foul water, there are 2 no. foul sewers in the vicinity of the site. It is proposed to connect the foul water drainage by gravity to the existing foul sewer network. Foul water from the site is eventually treated at Swords WWTP, which was recently upgraded to increase treatment capacity from a population equivalent of 60,000 to a population equivalent of 90,000

11.9.3. In relation to those surface water measures at construction phase, the EIAR states that a temporary drainage system will be installed to collect surface water runoff from

the site during construction, with on-site treatment measures installed to treat surface water run-off prior to discharge (I note that reference is made to a surface water sewer – in fact surface water will be discharged to the Gaybrook Stream). Construction works will be guided by current best practice guidelines as published by Inland Fisheries Ireland (IFI). At operational phase, best practice SUDs measures are set out including filter drains, green roofs, permeable surfacing, detention basins and an attenuation tank in the basement, as well as flow control devices and a petrol interceptor.

11.9.4. Potential impacts of the development are set out in Section 8.5 of the EIAR. In relation to impacts on the Malahide Estuary (and including the designated sites therein) it is stated that, while the site has an indirect hydrological connection with the Malahide Estuary, given the potential loading and the distance to the Natura sites, at over 2.3km downstream and associated dilution factor, the risk would be imperceptible as any contaminant would be attenuated, diluted and dispersed to levels below the statutory guidelines. Reference is made to the Stage 2 AA submitted with the application which identifies potential significant adverse impacts (I have discussed impacts on Natura 2000 sites in Section 12 of this report). At construction phase, it is set out that the development may result in increased sediment loading in surface water run-off, resulting in damage to receiving watercourses. Compaction of soils could lead to an increased volume of run-off, impacting on local drainage. There is also potential for accidental spills and leaks, with subsequent impacts on local watercourses. At construction stage, and in the absence of mitigation, potential impacts are expected to be short term, slight to moderate and negative. At operational stage, it is noted that there are no direct discharges to open watercourses included in the design, and discharge flow will be restricted to greenfield rates. The development will be serviced with separate foul and stormwater public sewers. It is noted that the WWTP is currently operating within capacity, and is required to operate under the terms of its EPA licence. Accidental spills and a reduction of the rate of discharge are also potential impacts at operational stage. In the absence of mitigation, the potential impacts on the hydrological environment is expected to be short-term, moderate and negative.

11.9.5. Mitigation measures are set out in Section 8.7 of the report and, at construction phase, such measures generally relate to the adherence to a Construction &

Environmental Management Plan (CEMP), which in turn sets out measures relating to surface water run-off, fuel and chemical handling, accidental releases and soil removal and compaction. At operational stage it is noted that SuDS features will be integrated in to the surface water drainage network which aim to reduce the quantity of surface water run-off and improve the quality of same. Such features are described in detail in the submitted Engineering Assessment Report, and are as described above.

- 11.9.6. No significant residual impacts on the hydrological environment are expected either at construction or operational stages, following mitigation measures. Cumulative impacts were considered to be imperceptible.
- 11.9.7. I note the contents and conclusions of the Flood Risk Assessment. This indicates that a small portion of the subject site to the northeast is at risk of flooding during extreme fluvial events, as a result of the downstream culvert on the Gaybrook Stream, running under the R132, which has insufficient capacity. However, the area at risk is outside of any area that is to be developed, with the highest flood level predicted to be 38.25m OD (in the High End Future scenario 1 in 1000 year event). This is 1.25m below the lowest finished floor level (FFL) on the site and is also below the lowest proposed basement level (both at 39.5m OD), and it is concluded therefore that the risk from fluvial flooding is low. With appropriate mitigation measures, including regular maintenance of the proposed surface water network, the risks from other sources of flooding were concluded to be low. The FRA, with reference to the Flood Risk Management Guidelines (2009), note the residential buildings are located in Flood Zone C and are not at risk of flooding, and therefore a Justification Test is not required for these buildings.
- 11.9.8. I note also the measures set out within the Construction and Environmental Management Plan (CEMP) which include, but are not limited to, prevent and minimise surface water contamination, at construction stage.
- 11.9.9. In relation to the conclusions of the conclusions of the report I concur with same, and I am satisfied that with the implementation of mitigation measures as set out in the EIAR, and as set out in the CEMP, the FRA and the Engineering Assessment Report, residual impacts will be as described in the EIAR.

11.10. **Air Quality and Climate**

11.10.1. Chapter 9 of the EIAR considers 'Air Quality and Climate'. Existing Air Quality was determined by way of reference to data obtained from the EPA's 2020 Annual Report 'Air Quality in Ireland 2020' (2021). Modelling of traffic movements/emissions at construction and operational phases was used to determine vehicle emissions generated as a result of the proposed development.

11.10.2. Potential impacts of the proposed development are set out in Section 9.5 of the EIAR. At construction phase the greatest potential impact on air quality is from construction dust emissions and the potential for nuisance dust. It is noted the majority of deposition occurs within the first 50m. Dust generation is negligible when rainfall is greater than 0.2mm, and data from Met Eireann shows that this is the case for 191 days of the year (at Dublin Airport). As such, dust generation will be reduced over 50% of the time. Notwithstanding it is noted that there is existing housing (high sensitivity receptors) within 50m of the site, to the west and south. Without mitigation, there is potential for significant, negative, short-term impacts to nearby sensitive receptors, with resultant slight, negative, short-term impacts on human health. Emissions from construction traffic were considered to have an imperceptible impact on air quality and climate. At operational phase, potential impacts on air quality come about mainly as a result of vehicle emissions from traffic generated by the proposed development. Traffic Modelling (as set out in the Traffic Impact Assessment, submitted under separate cover). Using the assessment criteria as set out in TII guidance, the impact of additional traffic movements was expected to generate NO₂ values within air quality standards and the impact of the proposed development on NO₂ levels was considered negligible.

11.10.3. The overall impact on air quality (and on human health) at operational stage was concluded to be imperceptible, and therefore, no mitigation was required. In relation to operational impact on climate, emissions from traffic generated by the development were concluded to have an imperceptible impact. In relation to the built form, it is noted that the development will be a Nearly Zero Energy Building (NZEB) in accordance with Part L of the Building Regulations. The overall development was expected to have a negligible contribution to CO₂ emissions (contributing to 0.0003% and 0.00034% of Ireland's target emissions in 2024 and 2030 respectively). In this regard I note also the contents of the 'Energy Statement (April 2022 – submitted under separate cover). This sets out how the proposed buildings comply

with Building Regulations Technical Guidance Document (TGD) Part L 2019 (and subsequently with the EU Energy Performance of Buildings Directive).

11.10.4. Mitigation Measures are set out in Section 9.7 of the EIAR and, at construction stage, relate to measures as set out in the Dust Management Plan (Appendix 9.2 of the EIAR) which in turn has been incorporated into the Construction Environmental Management Plan (CEMP) which seek to minimise dust from the site and from construction vehicle movements, as well as seeking to minimise emissions from construction and delivery vehicles. No significant residual impacts at construction stage are expected with impacts on air quality, climate and human health being negative, short-term and imperceptible. At operational stage impacts on air quality, climate and human health are concluded to be neutral and imperceptible. No significant cumulative impacts are predicted.

11.10.5. In relation to the conclusions of the conclusions of the report I concur with same, and I am satisfied that with the implementation of mitigation measures as set out in the EIAR, including those set out in the Dust Management Plan (which in turn have been incorporated into the Construction Environmental Management Plan), residual impacts will be as described in the EIAR and there is no evidence, either within the documentation submitted with the application, nor from observers on the application, to warrant a different conclusion.

11.11. Noise and Vibration

11.11.1. Chapter 10 of the EIAR considers noise and vibration impacts resulting from the proposed development. Noise and vibration from the proposed development is considered as well as the inward impact of existing noise and vibration sources on the development.

11.11.2. The baseline environment, including sensitive receptors, is described in the EIAR. Baseline noise monitoring was undertaken across the development site to establish the existing noise climate. Traffic noise from the local road network constituted the dominant noise source as existing.

11.11.3. Potential impacts are considered in Section 10.5 of the EIAR. It is noted that the nearest noise sensitive receptors are the residential units to the east of the site, which are at a distance of approximately 20m from the potential construction works. It is concluded that, with up to 5 items of plant operating simultaneously at the

closest noise sensitive boundaries, there is potential for a modest to significant impact on the noise environment, although at distances of 50m or more, the noise impacts are not significant, and given that the majority of construction works will take place at distances greater than 50m it is expected that for the majority of the construction period the nearest receptors will experience a moderate effect. Potential vibration impacts were concluded to be short-term, neutral and imperceptible. At operational phase, noise impacts resulting from additional vehicle movements generated by the development, at worst, were concluded to be negative, long-term and not significant (on 4 no. routes of 21 assessed no. routes/links, with the impacts on the remaining routes/links being negligible). Subject to appropriate design criteria being achieved, it was expected that there would be negative noise impacts arising from plant associated with the development.

11.11.4. In terms of inward noise impacts at operational stage, the main potential source of inward noise was from Dublin Airport. The site falls within Noise Zone C. From an analysis of the existing and predicted noise environment, it was concluded that the development site could be categorised as 'Medium to High Risk'. An Acoustic Design Survey is set out in Section 10.5.4.2 of the EIAR and it is noted that measures such as appropriate glazing and ventilation will be installed. It is noted that the noise levels within the public external amenity areas would be above the desirable level of 55 dB LAeq 16hr, it was not possible to reduce the noise level across external spaces due to aircraft noise being the dominant noise source. In order to reduce expected internal noise levels with the residential units, acoustic glazing is proposed, 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 noted that the building will be ventilated by heat recovery units therefore removing the need to open windows to ventilate living spaces (although this will be an option for residents). No significant cumulative impacts on the noise environment are predicted, even if the construction were to start on the development lands to the north at the same time as this site.

11.11.5. Mitigation measures relative mainly to the alleviation of the moderate to significant noise impacts identified at construction phase. It is noted that best practice control measures from construction sites within BS 5228 (2009 +A1 2014) Code of Practice

for Noise and Vibration Control on Construction and Open Sites Parts 1 and 2 will be used to control noise and vibration impacts and the implementation of same will ensure impacts to the nearest noise sensitive locations is not significant. Such measures are set out in the EIAR. At operational stage, appropriate plant will be installed to reduce potential noise impacts, with measures to reduced inward noise proposed, as set out above.

11.11.6. Following the implementation of the proposed mitigation, residual noise impacts, during the construction phase will be negative, moderate to significant and short term at distances of less than 50m to the boundaries of the site. It is noted within the EIAR that these impacts can be considered 'worst case' and it is unlikely that all items of plant assessed will be in operational simultaneously. Additionally, the predictions only indicate a potential significant effect (based on a worst-case scenario) when working at the closest location to the NSLs, with lesser impacts predicted at all other locations across site. At operational stage, no significant residual impacts are expected. In relation to monitoring, noise and vibration monitoring will be carried out at construction stage to ensure appropriate noise thresholds are not exceeded.

11.11.7. In relation to the conclusions of the EIAR, I am satisfied that residual impacts will be as described in the EIAR, and no significant, long-term impacts will result as a result of noise or vibration impacts. Moderate to Significant, negative, short-term impacts are predicted at receptors in close proximity to the site. However this is a worst-case' scenario, which would occur when all of the noisiest plant is operating at the same time. In relation to the proposed units design measures such as acoustic glazing can reduce noise to acceptable levels. While 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 EIAR. 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 EIAR. On balance, therefore, and having regard to the to deliver housing, in the time of a housing crisis, I am of the view that the overall impacts resulting from noise and vibration as a result of the development, and the impacts of external noise on the development, are acceptable.

11.12. Microclimate and Wind

11.12.1. Chapter 11 considers Microclimate and Wind. The aim of this assessment was to determine if there is a risk of elevated wind speeds occurring at ground level as a result of the proposed development. No impacts are expected at construction stage. At operational stage it is concluded that the proposed developments is not expected to lead to elevated windspeeds at street level. Within the development, it is concluded that the open space areas will be suitable for use as an amenity, including for sitting. Windspeeds at balcony level were concluded to be moderate, and are concluded to be acceptable for their proposed use. No cumulative impacts are expected. While no significant negative impacts are expected, design measures such as inset balconies are proposed which will reduce wind impacts. No significant residual impacts are expected.

11.12.2. In relation to the conclusions of the EIAR, I am satisfied that residual impacts will be as described in the EIAR, and no significant, long-term impacts will result as a result of wind impacts.

11.13. Material Assets

11.13.1. Chapters 12 and 13 of the EIAR considers Material Assets. Material Assets is now taken to mean built services and infrastructure (EPA, Draft EIAR Guidelines, 2017). Chapter 12, then, considers urban settlements, ownership and access, foul and surface water, water supply, electricity supply, information and communications technology and waste. In considering same, I have also had regard to the contents of the Energy Statement (April 2022 – submitted under separate cover) which describes existing and proposed utilities in the area (gas, electricity and broadband). Access. Chapter 13 considers the impact of the development on traffic and transport. I refer the Board to Section 10.4 of this report for a detailed consideration of same, and where relevant I have noted any significant residual impacts of the development in this section of the report.

11.13.2. In relation to urban settlements, the residential zoning of the site is noted, as its location within the boundary of the Fosterstown Masterplan. It is set out that the site is in an accessible location, having regard to both existing and future public transport services. In terms of settlement hierarchy, it is noted that Swords is at the top of the county settlement hierarchy and is designated a Metropolitan Town within the Fingal Development Plan (as varied). It is set out that the proposed development will

integrate fully with the surrounding area and is considered an appropriate form of development.

- 11.13.3. In relation to ownership and access, it is stated that the application site lands are primarily in the ownership of the applicant, J. Murphy (Developments) Limited. The areas of public road and footpath within the application site boundary are within the control of the Local Authority, and a letter of consent has been provided in relation to same. Proposed vehicular access to the proposed development site is via a left-in, left-out access point off the R132. This is a temporary solution and can be closed off following the completion of the Fosterstown Link Road and associated road infrastructure, which is identified as an objective of the Fosterstown Masterplan.
- 11.13.4. In relation to foul and surface water, existing and proposed provision is set out in the EIAR, and is set out in detail in the Engineering Assessment Report, submitted under separate cover. Water supply will be via connections to existing water mains infrastructure. Existing utility provision (electricity, broadband, waste management) in the area is described in the EIAR, and as described in the Energy Statement.
- 11.13.5. In terms of impacts, some temporary impacts on the urban settlement at construction phase is likely in the absence of mitigation measures, due to disturbance during construction and additional local population. At operational phase, there will be an increase in the local population. The delivery of new homes will be a positive impact in the context of the current housing shortage. The additional population will assist in the realisation of the critical mass required to support existing and permitted facilities in the surrounding area, and to support existing and planned public transport infrastructure. In relation to access, at operational stage, it is stated that the proposed development will enhance the connectivity and permeability of the site and its surrounding area. Potential future links to lands to the west and to the north are provided for.
- 11.13.6. No significant impacts on the foul and surface water network nor on utilities, including on telecommunications, are expected at construction or operational phases, although the need for appropriate disposal of excavated material from the site at construction stage is highlighted. No significant cumulative impacts are predicted. Mitigation measures set out in the EIAR relate to the adherence to a

Resource & Waste Management Plan and a Construction and Environmental Management Plan. No significant residual impacts on material assets are noted.

11.13.7. In relation to the conclusions of the EIAR, I generally concur with same in relation to those impacts relating to those issues considered above, save for those relating to the proposed access point off the R132 and the associated impact on operation of the R132, in terms of the operation of the future Bus Connects Core Corridor, and in terms of road safety. I have set out my conclusions in relation to same in Section 10.4 of this report, and I refer the Board to same. Therein I have concluded that significant negative impacts on the operation of the R132 will result, and I have recommended that permission be refused on this basis (Recommended reason for refusal no. 2).

11.14. Archaeology and Cultural Heritage

11.14.1. Chapter 4 of the EIAR considers Archaeology and Cultural Heritage. It is noted that the subject site has been subject to a number of archaeological assessments including a geophysical survey and test trenching. There are no recorded archaeological monuments or National Monuments located within the development site boundary. No features of significance were identified in any of the previous surveys of the site. The EIAR sets out that there will be direct impacts on recorded archaeological monuments on the site (as there are none) and no direct impact on these features which are located closest to the site. Given previous surveys did not uncover any archaeological features of significance, it is concluded that there will be no impact on archaeological features within the site. It is further set out that there will be no impact on any Protected Structures and Architectural Heritage Sites. The existence of a townland boundary (between Fosterstown North and Cremona Townlands) on the northern boundary of the site is noted, which is defined by the stream, the mature trees and hedgerow. It is noted that the existing stream will be maintained, although landscaping at this location is proposed. It is noted that, should the townland boundary be altered in any way, in order to mitigate the impact of the proposed works, a survey of the boundary to include a written, drawn and a photographic record will be required. No other mitigation measures are proposed in the EIAR.

11.14.2. In relation to the conclusions of the EIAR, I am satisfied that, subject to that mitigation measure in relation to the recording of the townland boundary, no significant impacts on archaeology and cultural heritage will occur as a result of the proposed development.

11.15. Interactions

11.15.1. A specific section on interactions between the topic areas under the EIAR is included within each individual topic chapter. Chapter 14 of the submitted EIAR is entitled 'Interactions' and highlights those interactions which are considered to potentially be of a significant nature. I am satisfied that any notable interactions have been highlighted and have been addressed adequately in each individual chapter.

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

11.16. Cumulative impacts

11.16.1. Each topic chapter in the submitted EIAR has considered cumulative impacts, with no significant cumulative impacts identified.

11.16.2. In relation to the issue of cumulative impacts, I note that the land uses proposed under this application are in keeping with the zoning objectives relating to the site, and, save for those issues that have been identified as a concern within this section (and within the planning assessment in Section 10 of this report, namely in relation to visual impact and in relation to the issue of the proposed access and the subsequent impacts on the operation of the R132), the development is generally within the provisions of the relevant plans, the Fingal Development Plan 2017-2023. It is therefore concluded that the culmination of effects from the planned and permitted development and that currently proposed would not be likely to give rise to significant effects on the environment, other than those that have been described in the EIAR and considered in this EIA.

11.17. Reasoned Conclusion on the Significant Effects

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

Landscape and Visual - during the construction phase, negative impacts will be mitigated through measures in the Construction and Environmental Management Plan as well as avoidance of root protection areas where trees and hedgerows are to be retained and visual screening of the works. During operational phase, and as concluded in Section 10.3 of this report, it is considered that significant negative visual impacts will arise as a result of the bulk, scale and massing of the proposed development.

Traffic & Transportation –The proposed access from the R132 will result in significant negative impacts on the operation of the R132, in terms of the operation of the proposed Bus Connects Core Bus Corridor and in terms of road safety.

Population and human health - positive impacts in relation to the provision of new homes and increased economic activity. Mitigation has been incorporated into the design, which includes measures to reduce noise impacts on existing noise sensitive locations, including the application of measures in a Construction and Environmental Management Plan during construction will also reduce impact upon human health. Measures to reduce external noise impacts on future occupiers such as acoustic glazing are also proposed which will also reduce impact upon human health. Residual impacts on population and human health will not be significant.

Biodiversity –there may be temporary negative impacts on biodiversity at the initial phases of development, as a result of removal of some habitats, although these impacts will not be significant. I am also satisfied that as the proposed landscaping matures and with mitigation in place, including the retention of trees and hedgerows, as well as the provision of and appropriate lighting design, these impacts will be rendered negligible.

Water - with the implementation of mitigation through management measures in the Construction & Environmental Management Plan, as well as surface water management, attenuation and drainage of foul waters (as set out in the Flood Risk

Assessment and the Engineering Assessment Report) no significant negative impacts are envisaged.

Air Quality and Climate - with the implementation of mitigation through management measures in the Construction & Environmental Management Plan, no significant negative impacts are envisaged.

Noise and vibration – during the construction phase, negative impacts will be mitigated through measures in the Construction and Environmental Management Plan. During the operational phase, sound insulation will be incorporated into the buildings. With mitigation in place, impacts will not be significant.

Archaeology and Cultural Heritage- no significant permanent adverse impacts upon Archaeology and Cultural Heritage are anticipated.

11.17.2. Having regard to the above, the likely significant environmental effects arising as a consequence of the proposed development have been identified, described and assessed in this EIA.

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.

Compliance with Article 6(3) of the Habitats Directive

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. The applicant has submitted an Appropriate Assessment Screening Report (April 2022) and a Natura Impact Statement (April 2022). Both documents have been prepared by Envrioguide Consulting.

12.1.4. The Screening Report is underpinned by desk-based assessments as well as ecological surveys carried out between 18th October 2019 and 23rd March 2022 and included Habitat/flora and invasive flora surveys, mammal surveys, breeding bird surveys, amphibian survey and bat surveys. Wintering waterfowl/shorebird surveys were carried out on 6 occasions through the winter period of October 2020 to March 2021 in order to determine if the site is used by SCI species of nearby SPAs, with confirmation surveys carried out between January and March 2022.

Description of Development

12.1.5. A detailed description of the development is set out in Section 3 of the AA Screening Report. This is as set out in Section 2 of this report, and as described in the relevant sections of this report. Of particular note, for the purposes of AA Screening, are details of the proposed site services, which are as set out in other relevant sections of this report, but repeated here in the interest of comprehensiveness and completeness.

12.1.6. In terms of surface water management, In relation to surface water drainage, it is set out that surface water from the proposed development will be discharged at a restricted rate to the Gaybrook Stream, with adequate on-site storage provided to store excessive surface water runoff during extreme rainfall events. SUDS measures are proposed including green roofs, permeable pitches, detention basin and a petrol interceptor. In relation to foul water, there are 2 no. foul sewers in the vicinity of the site. It is proposed to connect the foul water drainage by gravity to the existing foul sewer network. Foul water from the site is eventually treated at Swords WWTP, which was recently upgraded to increase treatment capacity from a population equivalent of 60,000 to a population equivalent of 90,000 and it is noted in the AA Screening Report that the upgraded treatment plant will protect and improve the quality of receiving waters at the inner Broadmeadow Estuary.

Existing Environment and Existing Habitats on Site

- 12.1.7. It is noted in the AA Screening Report that the Gaybrook Stream (North) runs along the northern boundary of the site. The site is within the Broadmeadows sub-catchment and the Ward sub-basin. The closest waterbody, that is mapped by the EPA, is the Glebe watercourse, which is located approximately 325m to the north. This flows for approximately 665m before linking up with the larger Ward River, which subsequently flows for another 2km before joining the Broadmeadow, which enters the Malahide Estuary a further 770m downstream. The most recent Q value available for the Ward indicated its status as 'Poor'. The Gaybrook Stream (North), while not mapped by the EPA, runs approximately 1.3km to the east, before it disappears, and it is assumed it joins up with the Gaybrook, which runs a further c.3.3k from this point where it enters the Malahide Estuary to the north-east.
- 12.1.8. In terms of geology and hydrogeology, the site is underlain by the Swords groundwater body, with the overall status of this waterbody recorded as 'Good'. The site is located on a 'Locally Important Aquifer' which is 'Moderately Productive only in Local Zone', and groundwater vulnerability in the area is 'Low'.
- 12.1.9. The AA Screening Report identifies European Sites that lie within the Zone of Influence of the proposed development, utilising the Source-Path-Receptor method. The Source-Path-Receptor method was then applied to the European Sites located within 15km of the Proposed Development (and those outside of this distance where applicable), to screen out those sites where no impact pathway exists. The report identifies 17 no. Natura 2000 sites within 15 km of the development, and of these 17 no. sites impact pathways are identified to the Malahide Estuary SAC (Site Code 000205) and the Malahide Estuary SPA (004025), both located 2.3km to the north-east of the site, as a result of the hydrological link with the Gaybrook Stream, which eventually discharges to the Malahide Estuary approximately 3.4km east of the site. A hydrological link to the Malahide Estuary is also present via the Swords WWTP, which discharges to the Malahide Estuary, with wastewater from the site being treated at Swords WWTP. No other impact pathways are identified and it is noted that the site does not provide any *ex-situ* habitat for any of the waterbird/seabird species listed as SCIs for any of the SPAs within 15m of the site, with supporting evidence for same provided by the results of the Winter Bird Survey (as contained in Section 3.5.2.1 of the AA Screening Report). It also noted the site is not in proximity to any important *ex-situ* sites. It is stated that the buildings will not pose any risk of

collisions to any bird species. In terms of likely significant effects, it is stated that the Gaybrook Stream provides a potential transport pathway for invasive plant species recorded at the site to reach the Malahide Estuary, in the absence of focused measures for removal and disposal. Furthermore the possibility of significant changes in water quality and resource (of the Gaybrook Stream) and associated potential negative effects on some or all of the qualifying interests of the Malahide Estuary SAC and SPA could not be excluded in the AA Screening Report, with potential for contaminants and sediments associated with the construction phase of the development to enter the stream and make their way to the Malahide Estuary SAC and SPA. Potential significant In-combination effects were ruled out in the Screening Report. However, noting the above considerations, it was concluded that a Natura Impact Statement is required.

12.1.10. A detailed consideration of the Malahide Estuary SPA and the Malahide Estuary SACs are set out in the Natura Impact Statement (NIS), with the qualifying interests and conservation objectives of same set out in detail. In relation to the Malahide Estuary SAC, it is set out that, of the six qualifying interests, four are water dependant habitats, with the potential for impacts as a result of surface water run-off carrying suspended sediments/contaminants/fuel pollutants from the site of the proposed development, during both the construction and operational phases of the proposed development. All six of the habitat types have the potential to be negatively impacted by the potential transport and diffusion of invasive flora species, via the hydrological connection, during the construction phase.

12.1.11. Of particular note, the NIS then considers each of the qualifying interests individually, and it is concluded therein, that the potential for likely significant impacts on same could be ruled out, due in part to the intervening distance between the application site and the Malahide Estuary SAC, but in the absence of suitable mitigation measures, the very slight possibility cannot be ruled out. Similar conclusions are made in Section 6.2 of the NIS, in relation to impacts on Species of Conservation Interest associated with the Malahide Estuary SPA. Mitigation measures are set out in Section 7 of the NIS. It is concluded in the NIS that with the implementation of the mitigation measures as detailed in the report, the proposed development will not adversely affect the integrity any European Sites.

Screening for AA

12.1.12. 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 EIAR and the Engineering Assessment 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 (source-pathway-receptor method). Having regard to same, I am of the view that the sites within the zone of influence of the project are Malahide Estuary SAC (Site Code 000205) and the Malahide Estuary SPA (004025), both located 2.3km to the north-east of the site, as a result of the hydrological link with the Gaybrook Stream, which eventually discharges to the Malahide Estuary approximately 3.4km east of the site. A hydrological link to the Malahide Estuary, and subsequently to the Malahide Estuary SAC and the Malahide Estuary SPA, is also present via the Swords WWTP, which discharges to the Malahide Estuary, with wastewater from the site being treated at Swords 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
Malahide Estuary SAC (Site Code 000205)	2.5km	1140] Tidal Mudflats and Sandflats [1310] Salicornia Mud [1330] Atlantic Salt Meadows	To maintain or to restore the favourable conservation condition of the Annex I habitats for which the SAC has been selected

		<p>[1410] Mediterranean Salt Meadows</p> <p>[2120] Marram Dunes (White Dunes)</p> <p>[2130] Fixed Dunes (Grey Dunes)*</p>	
<p>Malahide Estuary SPA (004025)</p>	<p>2.5km</p>	<p>Great Crested Grebe (Podiceps cristatus) [A005]</p> <p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Shelduck (Tadorna tadorna) [A048]</p> <p>Pintail (Anas acuta) [A054]</p> <p>Goldeneye (Bucephala clangula) [A067]</p> <p>Red-breasted Merganser (Mergus serrator) [A069]</p>	<p>To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests for this SPA.</p>

		<p>Oystercatcher (Haematopus ostralegus) [A130]</p> <p>Golden Plover (Pluvialis apricaria) [A140]</p> <p>Grey Plover (Pluvialis squatarola) [A141]</p> <p>Knot (Calidris canutus) [A143]</p> <p>Dunlin (Calidris alpina) [A149]</p> <p>Black-tailed Godwit (Limosa limosa) [A156]</p> <p>Bar-tailed Godwit (Limosa lapponica) [A157]</p> <p>Redshank (Tringa totanus) [A162]</p> <p>Wetland and Waterbirds [A999]</p>	
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Habitat degradation as a result of hydrological impacts

12.1.13. At construction phase, I share the view as set out in the applicant's AA Screening Report that pathways to the Malahide Estuary SAC and SPA are likely to exist via the Gaybrook Stream, notwithstanding that the exact course of the Gaybrook North Stream to the north of the site has not been determined conclusively. However it is set out in the applicant's AA Screening Report that the Gaybrook North Stream is likely to join the Gaybrook Stream at a point approximately 1.3 km to the east of the site, and there is no other evidence on file to refute this. I also share the view as set out in the applicant's AA Screening Report that, at construction stage, there is potential for contaminated run off (as a result of silt, soil and hydrocarbons) to the surface water network (via the Gaybrook North Stream) and eventually outfalling into Malahide Estuary via the surface water network. Given that invasive species are found on the site, and in particular on the bank of the stream, there is also potential for seeds relating to same to travel via the surface water network and eventually be deposited into Malahide Estuary, if appropriate measures were not put in place. At operational stage, surface water outfalls to the Gaybrook Stream, eventually outfalling into the Malahide Estuary. There is also the potential for pollutants to enter the surface water network via hydrocarbon spills from the car park elements. Therefore the direct hydrological connection of key relevance is that relating to the Natura 2000 Sites in the vicinity of Malahide Estuary (Malahide Estuary SAC and the Malahide Estuary SPA).

12.1.14. In relation to the likelihood of significant impacts I note the following. 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 Construction and Environmental Management Plan (CEMP), 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 2.5km from the Malahide Estuary 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 the statements as set out in applicant's NIS, which essentially rule out the potential for likely significant impacts on both the Malahide Estuary SAC and Malahide Estuary SPA, referring instead to the very slight possibility of impacts. I am of the view that if this is the conclusion as relates to impacts, the need to proceed to Stage 2

Appropriate Assessment (and the need to submit a Natura Impact Statement) is obviated. I note also the conclusions as set out in Section 8.5 of the EIAR, which state that, in relation to impacts on the Malahide Estuary (and including the designated sites therein) given the potential loading and the distance to the Natura sites, at over 2.3km downstream and associated dilution factor, the risk of contaminated surface water having an impact on water quality within the Malahide Estuary (and the designated sites therein) would be imperceptible as any contaminant would be attenuated, diluted and dispersed to levels below the statutory guidelines. As such, it is clear that likely significant impacts on the Malahide Estuary, as a result of contaminated surface water, and in the absence of mitigation, have in fact been ruled out by both the Natura Impact Statement and the EIAR. Having considered the available information on file, and in particular those conclusions as expressed in the NIS and the EIAR, I am of 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 Malahide Estuary, 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 Malahide Estuary. I am therefore of the view that potential significant impacts on the Malahide Estuary SAC and the Malahide Estuary SPA, as a result of impacts on surface water quality, can in fact be ruled out at screening stage, and as such there is no requirement to proceed to Stage 2 Appropriate Assessment on this basis. Similar considerations apply to the potential for contaminants at operational stage, and the potential for likely significant impacts on the Malahide Estuary sites, as a result of impacts on surface water quality can also be ruled out.

12.1.15. 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 Malahide Estuary. 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 Malahide Estuary, 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 Malahide Estuary. These factors have been considered within the EIAR (and also within the NIS) and for these reasons I am

accepting the conclusions of the EIAR and the NIS over and above those of the AA Screening Report. Furthermore, as noted above, I am of the view that the conclusions in the NIS clearly rule out the need for an NIS to be submitted in the first instance.

12.1.16. 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 Malahide Estuary, 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 Malahide Estuary 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 Malahide Estuary, such that likely significant effects on those Natura 2000 sites within and adjacent to Malahide Estuary can be ruled out.

12.1.17. In conclusion therefore, while there is an indirect connection to Malahide Estuary SAC and Malahide Estuary 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 Malahide Estuary and would not be seen to be at levels that would cause significant effects on the Malahide Estuary SAC nor on Malahide Estuary SPA. As such likely significant effects on the Malahide Estuary SAC and Malahide Estuary SPA, can be ruled out.

Habitat Loss and Fragmentation/Habitat Alteration

12.1.18. 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 the EIAR, and noting specifically the comprehensive bird surveys carried out as detailed in the AA Screening Report, 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.

12.1.19. In relation to the potential for Habitat Alteration, as a result of the spread of invasive species from the site, similar considerations apply to those discussed above, in relation to surface water contamination. The site is some 2.5km from the Malahide Estuary Sites, with the distance via the surface water network being greater than this. I note that Invasive Species legislation (as referred to in Chapter 5 of the EIAR) is in place to prevent the spread of such species, and as such, it is expected that that any competent developer would ensure measures are in place to prevent such spread, irrespective of any pathway being in place to a Natura 2000 site. Even if such measures were not put in place, the distance to the Malahide Estuary from the site would mean it is unlikely that seeds would reach the estuary in any significant amounts. Even if these seeds were to reach the estuary, I note also the contents of the NIS which rules out the potential for likely significant impacts on the various habitats associated the Malahide Estuary SAC (Section 6.1 of the NIS). I am satisfied therefore that likely significant impacts on both the Malahide Estuary SAC

and Malahide Estuary SPA, as a result of the spread of invasive species, can be ruled out.

12.1.20. 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 10 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. I also note that the site is some 2.5 km from the nearest SPA (Malahide Estuary SPA).

Habitat degradation as a result of hydrogeological impacts

12.1.21. The AA Screening Report note the site is underlain by the Swords groundwater body, with the overall status of this waterbody recorded as 'Good'. The site is located on a 'Locally Important Aquifer' which is 'Moderately Productive only in Local Zone', and groundwater vulnerability in the area is 'Low'. The potential for impacts on groundwater is not discussed explicitly within the AA Screening. However, Chapter 7 of the EIAR notes that the aquifer vulnerability in the region of the site is 'Low', which along the depth of the subsoil (greater than 10m), indicates good protection of the underlying aquifer, and it is stated that there are no sensitive receptors such as the groundwater fed-wetlands that could be impacted by this development. I am satisfied that this conclusions 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 evidence for source pathway linkage from the site to any Natura 2000 site, via groundwater.

Foul Water

12.1.22. In relation to foul water, there are 2 no. foul sewers in the vicinity of the site. It is proposed to connect the foul water drainage by gravity to the existing foul sewer network. Foul water from the site is eventually treated at Swords WWTP, which was recently upgraded to increase treatment capacity from a population equivalent of 60,000 to a population equivalent of 90,000 and it is noted in the AA Screening

Report that the upgraded treatment plant will protect and improve the quality of receiving waters at the inner Broadmeadow Estuary.

12.1.23. I am of the view that the effluent volumes from the proposed development (would be insignificant given the overall scale of the Swords WWTP 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 Malahide Estuary 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 Malahide Estuary 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

12.1.24. In relation to in-combination impacts, given the negligible contribution of the proposed development to the wastewater discharge from Swords WWTP, I consider that any potential for in-combination effects on water quality in Malahide Estuary can be excluded.

12.1.25. 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.

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

AA Screening Conclusion

12.1.27. 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 Malahide Estuary SAC (Site Code 000205) and the Malahide Estuary SPA (004025), 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, subject to conditions, 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 14th April 2022 by J Murphy (Developments) Limited care of John Spain Associates, 39 Fitzwilliam Place, Dublin 2.

Proposed Development:

The proposed development comprises a Strategic Housing Development of 645 no. residential units (comprising 208 no. 1 bedroom units, 410 no. 2 bedroom units, and 27 no. 3 bedroom units), in 10 no. apartment buildings, with heights ranging from 4 no. storeys to 10 no. storeys, including undercroft / basement levels (for 6 no. of the buildings). The proposals include 1 no. community facility in Block 1, 1 no. childcare facility in Block 3, and 5 no. commercial units (for Class 1-Shop, or Class 2- Office / Professional Services or Class 11- Gym or Restaurant / Café use, including ancillary takeaway use) in Blocks 4 and 8.

The development will consist of the following:

Block 1 comprises 29 no. residential units, within a four storey building (with a pitched roof), including 8 no. 1 bedroom units and 21 no. 2 bedroom units. A community facility (191.8 sq.m) is provided at ground floor level.

Block 2 comprises 23 no. residential units, within a four storey building (with a pitched roof), including 8 no. 1 bedroom units and 15 no. 2 bedroom units.

Block 3 comprises 24 no. residential units, within a four storey building (with a pitched roof), including 6 no. 1 bedroom units and 18 no. 2 bedroom units. A childcare facility (609.7 sq.m) is provided at ground floor level.

Block 4 comprises 93 no. residential units, within a part seven, part eight, and part nine storey building, with an undercroft level, including 34 no. 1 bedroom units, 54 no. 2 bedroom units, and 5 no. 3 bedroom units. 3 no. commercial units (with a GFA of 632.2 sq.m) are provided at ground floor level.

Block 5 comprises 91 no. residential units, within a part six, part seven, and part eight storey building, with an undercroft level, including 34 no. 1 bedroom units, 55 no. 2 bedroom units, and 2 no. 3 bedroom units.

Block 6 comprises 54 units, within a part eight, part nine storey building, with an undercroft level, including 13 no. 1 bedroom units, 38 no. 2 bedroom units, and 3 no. 3 bedroom units.

Block 7 comprises 117 no. residential units, within a part seven, part eight, and part nine storey building height, over a basement level, including 40 no. 1 bedroom units, 76 no. 2 bedroom units, and 1 no. 3 bedroom unit.

Block 8 comprises 94 no. residential units, within a part six, part seven, part eight, and part nine storey building, over a basement level, including 33 no. 1 bedroom units, 58 no. 2 bedroom units, and 3 no. 3 bedroom units. A commercial unit (with a GFA of 698.2 sq.m) is provided at ground floor level.

Block 9 comprises 75 no. residential units, within a part seven, part eight, part nine, and part ten storey building, over a basement level, including 23 no. 1 bedroom units, 48 no. 2 bedroom units, and 4 no. 3 bedroom units.

Block 10 comprises 45 no. residential units, within a part nine, part ten storey building, including 9 no. 1 bedroom units, 27 no. 2 bedroom units, and 9 no. 3 bedroom units.

The development includes a total of 363 no. car parking spaces (63 at surface level and 300 at undercroft / basement level). 1,519 no. bicycle parking spaces are provided at surface level, undercroft / basement level, and at ground floor level within the blocks / pavilions structures. Bin stores and plant rooms are located at ground floor level of the blocks and at undercroft / basement level. The proposal includes private amenity space in the form of balconies / terraces for all apartments. The proposal includes hard and soft landscaping, lighting, boundary treatments, the provision of public and communal open space including 2 no. playing pitches, children's play areas, and an ancillary play area for the childcare facility.

The proposed development includes road upgrades, alterations and improvements to the Dublin Road / R132, including construction of a new temporary vehicular access, with provision of a new left in, left out junction to the Dublin Road / R132, and construction of a new signalised pedestrian crossing point, and associated works to facilitate same. The proposed temporary vehicular access will be closed upon the provision of permanent vehicular access as part of development on the lands to the north of the Gaybrook Stream. The proposal includes internal roads, cycle paths, footpaths, vehicular access to the undercroft / basement car park, with proposed infrastructure provided up to the application site boundary to facilitate potential future connections to adjoining lands.

The development includes foul and surface water drainage, green roofs and PV panels at roof level, 5 no. ESB Substations and control rooms (1 no. at basement level and 4 no. at ground floor level within Blocks 2, 4, 7 and 8), services and all associated and ancillary site works and development.

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

1. The proposed development fails to meet the criteria set out in Section 3.2 of the Urban Development and Building Heights, Guidelines for Planning Authorities (December 2018) in that the proposed development would result in a visually dominant, monolithic and overbearing form of development when viewed from the public realm, from within the development, and from surrounding residential development, and fails to provide public spaces of sufficient scale and quality, relative to the quantum of development proposed. The proposal would, therefore, also be contrary to the provisions of the Urban Development and Building Heights, Guidelines for Planning Authorities, published by the Department of Housing, Planning and Local Government in December 2018; be contrary to the provisions of the Urban Design Manual, the companion document to the Sustainable Residential Development in Urban Areas (2009); and is also contrary to Objective PM31 and Objective PM42 of the Fingal Development Plan 2017-2023 (as varied), which seek to implement these Guidelines. The proposal is therefore contrary to the proper planning and sustainable development of the area.
2. The proposed 'left-in, left-out' access/egress arrangements would give rise to significant negative impacts on the operation of the R132, in terms of road safety, and may conflict with the future operation of the Bus Connects Swords Core Bus Corridor. As such, the proposal is premature pending the delivery of the Fosterstown Link Road, which is a stated roads objective of the Fingal Development Plan 2017-2023 (as varied), and which will facilitate an appropriate access route to this site. The development as proposed would, therefore, endanger public safety by reason of traffic hazard and may prejudice the efficient operation of planned strategic infrastructure projects.

Rónán O'Connor

Senior Planning Inspector

16th March 2023