



An  
Bord  
Pleanála

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

### **Inspector's Report ABP-314253-22**

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#### **Strategic Housing Development**

7 year permission for 219 no.  
apartments, creche and all associated  
site works.

#### **Location**

Pinnock Hill, Fosterstown North,  
Swords, Co. Dublin.  
([www.pinnockhillshd.ie](http://www.pinnockhillshd.ie))

#### **Planning Authority**

Fingal County Council

#### **Applicant**

Castlestar (Swords) Limited

#### **Prescribed Bodies**

1. Irish Water
2. NTA
3. TII
4. DAA
5. IAA

6. Fingal Childcare Committee

7. An Taisce

8. Heritage Council

9. An Comhairle Ealaíonn

10. Minister for Housing, Local  
Government and Heritage

**Observer(s)**

1. Alan and Kate Cahalane

2. Alvin Soden

3. Beverley Tunney and Harry  
Talbot

4. Bronwyn and Mark Dowdall

5. Ciara O'Regan

6. Colin Kerins

7. Darragh Butler and Brigid  
Manton

8. David Lynch

9. Dean Mulligan

10. Denise O'Connor

11. Dolores Doyle and William  
Roarty

12. Eimear O'Regan

13. Elizabeth Sutton

14. Fran Cahalane

15. Gerard and Rosemary Brennan

16. Isobel and Seamus Hayes

17. John Conway and The Louth  
Environmental Group (BKC)

18. John Duffy

19. Marion Tucker

- 20. Mark Smyth
- 21. Martin Counihan
- 22. Mary Maguire and John Paul McGovern
- 23. Michael O'Neill
- 24. Oliver Delaney
- 25. Pamela Ashmore
- 26. Patrick and Jacqueline Rafferty
- 27. Ronan Gerrard
- 28. Sinead Leonard
- 29. Stephen Coyle

**Date of Site Inspection**

25<sup>th</sup> January 2023

**Inspector**

Rachel Gleave O'Connor

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## **1.0 Introduction**

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

## **2.0 Site Location and Description**

- 2.1. The subject site is located in Fosterstown in Swords, on the corner of the L2300 Boroimhe Road and the R132 Dublin Road. The site is bound by residential estates for Boroimhe to the west and north, the Boroimhe Road to the south and the Dublin Road to the east. Airside Retail Park and associated parking is located further to the east.
- 2.2. The subject site itself was previously occupied by individual houses which have since been demolished. The current site condition is overgrown with trees, hedges and former access areas from the Dublin Road, with a stone wall and hedgerow to the southern boundary to the Boroimhe Road.
- 2.3. The character of the area is formed of low-rise residential dwellings for Boroimhe estates and the more modern largescale warehouse / hotel structures for Airside. The junction of the Dublin Road and Boroimhe Road which the site is located upon is a dominant feature in the landscape setting.

## **3.0 Proposed Strategic Housing Development**

- 3.1. The proposed development comprises the construction of 219 apartments as follows:
  - 104 no. 1 bedroom apartments;
  - 111 no. 2 bedroom apartments (including 12 no. 2 bed 3 person apartments and 99 no. 2 bed 4 person apartments);
  - 4 no. 3 bedroom apartments;
  - 170sqm creche with associated playspace;
  - Set out in 5 blocks ranging from 3 to 9 storeys in height:

- Block A1 comprises 15 no. apartments in a block of 3 storeys;
- Block A2 comprises 17 no. apartments in a block of 3-4 storeys;
- Block B1 comprises 40 no. apartments in a blocks of 3-5 storeys;
- Block B2 comprises 74 no. apartments in a block of 5-8 storeys;
- Block B3 comprises 73 no. apartments in a block of 5-9 storeys;
- The proposed development will also provide for 1,510sqm of public open space and 2,020sqm of communal amenity space;
- Provision of private open space in the form of balconies or terraces is provided to all individual apartments to all elevations;
- The proposed development will provide 470 no. bicycle parking spaces of which, 348 no. are long term spaces provided in secure bicycle stores, 116 no. are short term space for visitors – mainly distributed at surface level, and 6 no. spaces are provided for creche staff;
- A total of 144 no. car parking spaces are provided, located at surface and undercroft level. This car parking provision includes 14 no. Electric Vehicle Charges, 2 no. car parking spaces to serve the creche staff, 12 visitor spaces (with 3 of those spaces allocated for car sharing) and 2 no. universally accessible spaces. In addition 6 no. motorcycle spaces are also to be provided;
- Vehicular, pedestrian and cyclist access routes are provided from a new entrance to the west off Boroimhe Oaks, north of Boroimhe Elms. Pedestrian and cyclist access is also provided along the eastern and the southern boundaries. Improvements to the public footpath are to be provided to the west at the entrance along Boroimhe Oaks and to the south at the boundary to the L2300 (Boroimhe Road);
- The development will also provide for all associated ancillary site development infrastructure including site clearance / demolition, demolition and partial demolition of boundary walls, the construction of foundations, telecommunications infrastructure, ESB substations, switch room, water tank rooms, storage room, meter room, sprinkler tank room, comms room, bin

storage, bicycle stores, green roofs, photovoltaic panels, hard and soft landscaping, two playgrounds, boundary railings and wall, attenuation area and all associated works and infrastructure to facilitate the development including connection to foul and water supply and surface run off.

### 3.2. Table 3.1: Key Figures

Site Area in hectares (ha)	1.49 hectares (approx.)
No. of units	219
Density (units per hectare – uph)	153 uph based upon net developable area of 1.43 hectares.
Height	3-9 storeys
Dual Aspect	57.5%
Open Space	1,583.1sqm (10.5%)
Part V	22 units (10%)
Vehicular Access	Boroimhe Oaks
Car Parking	144 in total. Ratio of 0.65 spaces per residential unit.
Bicycle Parking	470
Creche	170sqm

Housing Type	Studio	1 bed	2 bed	3 bed	Total
Total	0	104	111	4	219
% (approx.)	0%	47.4%	50.6%	1.8%	100%

## 4.0 Planning History

- 4.1. Planning Application Reg. Ref. F05A/1806 and An Bord Pleanála Appeal Reg. Ref. PL06F 220598: Permission refused by ABP on 30 November 2007 following an

appeal against a decision to grant permission by FCC for enlarged site area and modifications to a previously approved development (Reg. Ref. F03A/0889). The development as proposed consisted of the demolition of 3 no. habitable dwellings and associated out buildings on Dublin Road and the construction of 133 dwellings as follows: 118 no. apartments (30 no. 1 bed, 80 no. 2 bed & 8 no. 3 bed), 6 no. 2 bed duplex units, 7 no. two storey 3 bed houses and 2 no. two storey with dormer level 4 bed houses all on a site of 1.435 hectares (3.546 acres). The reason for refusal related to the scale of the development proposed and the access arrangement to so the site which include a junction in close proximity to the junction of the R132/Boroimhe Distributor, which it was considered would endanger public safety by reason of traffic hazard and obstruction of road users. Also, with regard to the location of the site alongside the R132 and alongside the proposed route of the Metro North Line, it was considered that the proposed development would be premature and would prejudice the final determination and design specification of the Metro North Line passing the site's eastern frontage and the upgrade and the upgrade of the R132 Boroimhe Distributor Road robot intersection. In addition, with regard to the height and scale of the proposed development to its proximity to boundaries in particular its boundaries, with the R132 and the Boroimhe Distributor Roads and the inadequate quantity and quality of open space provides, it was considered that development of the scale and design proposed would constitute overdevelopment of this site and would result in a substandard level of residential amenity for future occupants.

- 4.2. Applicant notes in their submitted report that since this decision, Metro North is no longer proceeding and the new Metrolink project follows a different alignment to the east of the R132 at this location. The application site does not impinge on the Metrolink alignment.
- 4.3. Planning Application Reg. Ref. F03A/0839: concerning permission for the demolition of existing structures and construction of 23 no. dwelling units granted permission on 29 September 2003.
- 4.4. Planning Application Reg. Ref. F02A/0033: concerning permission for the demolition of existing structures and construction of 41 no. apartments refused on 19 March 2002.



- 4.5. Planning Application Reg. Ref. F14A/0038: relating to the south of the site for Retention Permission for 2 no. advertising boards refused on 25 March 2014.
- 4.6. ABP Reg. Ref. SID/02/08: application (Railway Order) for the 'Construction, operation and maintenance of a light railway'. This application was approved by An Bord Pleanála in 2011. The government decided not to proceed with the approved project given the later announcement of Metrolink.
- 4.7. **Adjacent sites:**
- 4.8. Current SHD application to the north – ABP Ref. 313331-22: relating to lands at Fosterstown North, 645 apartments, creche and associated site works. No decision at time of writing report.
- 4.9. Current application to the south – PA Ref. F22A/0687: relating to demolition of existing residential dwelling Hollytree House (c. 449.2 sqm) and construction of 85 no. residential apartments (35 no. 1-bed, 37 no. 2-bed units and 13 no. 3 bed units) within a 5-8 no. storey (over undercroft) building, with all apartments served by private terrace or balcony. Access via internal road branching south from Boroimhe Link Road L2300 serving permitted development Reg. Ref.: F18A/0306 adjoining to the west. No decision at time of writing report.
- 4.10. To the south west – PA Ref. F18A/0306: 36 residential units consisting of 30 two storey houses (23 three bedroom type, 7 four bedroom type) and 6 number two bedroom apartments in a three storey block, with ancillary open spaces, boundary treatment and site works at Fosterstown North. The lands adjoin the Boroimhe Housing Estate to the west and the Texaco service station on the old N1 road to the east. Granted 30/11/2018 and currently under construction.

## 5.0 Section 5 Pre Application Consultation

- 5.1. A pre-application consultation with the applicants and the planning authority took place via video call with An Bord Pleanála on 1<sup>st</sup> April 2022 in respect of a proposed development of 224 no. apartments, creche and associated works.
- 5.2. Copies of the record of the meeting and the Inspector's report are on this file. In the Notice of Pre-Application Consultation Opinion dated 20<sup>th</sup> April 2022 (ABP Ref. 312149-21) the Board stated that it was of the opinion that the documentation

submitted with the consultation request under section 5(5) of the Act constituted a reasonable basis for an application for strategic housing development to An Bord Pleanála.

5.3. Specific information was requested in relation to the following:

- Plans and section drawings showing existing and future alignment with R132;
- Detail of proposed pedestrian connections to the R132;
- Assessment of impacts upon adjoining Protected Structure;
- Acoustic Design Statement;
- Details relating to transportation and parking;
- Report to address proposed materials and finishes;
- Building Lifecycle Report;
- Daylight, Sunlight and Overshadowing;
- Taken in Charge drawings;
- Information referred to in article 299B(1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018 unless it is proposed to submit an EIAR at application stage.

## **6.0 Relevant Planning Policy**

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

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009) (the 'Sustainable Residential Development Guidelines').
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).

- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2018) (the 'Apartment Guidelines').
- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the 'Building Height Guidelines').
- Architectural Heritage Protection- Guidelines for Planning Authorities (2011).
- Childcare Facilities – Guidelines for Planning Authorities (2001).

Other relevant policy guidance:

- Project Ireland 2040, National Planning Framework.
- Housing for All.
- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.

## 6.2. Regional Policy

- 6.2.1. The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and ten year National Development Plan (NDP) - and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region.
- 6.2.2. RPO 3.2 - Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin City and suburbs and a target of at least 30% for other urban areas.
- 6.2.3. RPO – 4.1 – Settlement Hierarchy – Local Authorities to determine the hierarchy of settlements in accordance with the hierarchy, guiding principles and typology of settlements in the RSES.
- 6.2.4. RPO 4.2 – Infrastructure – Infrastructure investment and priorities shall be aligned with the spatial planning strategy of the RSES.
- 6.2.5. RPO 4.3 -Consolidation and Re-Intensification- seeks to support the consolidation and re-intensification of infill / brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs and ensure

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

- 6.2.6. RPO 4.3 – Dublin City and Suburbs, Consolidation and Re-intensification- Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.
- 6.2.7. 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.
- 6.2.8. 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.
- 6.2.9. Section 9.2 Diverse and Inclusive Region, notes that changing household formation trends will require a range of housing typologies including student housing, smaller units, shared living schemes and flexible designs that are adaptive for people's full life cycle to meet their housing needs today and into the future.
- 6.3. Local Planning Policy
- 6.4. The Fingal County Development Plan 2017-2023 (including variations) applies. The subject site is zoned RS – Residential - Provide for residential development and protect and improve residential amenity.
- 6.5. There is a protected structure (mid-18th century triangular milestone) on the eastern site boundary and the site is traversed by the (previous) indicative route for the Metro North project.
- 6.6. Indicative cycle pedestrian routes are identified along the R132 to the east and the L2300 to the south.
- 6.7. The site is located in Airport Noise Zone C for which the objective is, To manage noise sensitive development in areas where aircraft noise may give rise to annoyance and sleep disturbance, and to ensure, where appropriate, noise insulation is incorporated within the development.

6.8. Swords is identified as a Key Town in the settlement strategy. The following objectives are of relevance in the assessment of the application (not an exhaustive list):

- 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. ABP-312149-21 Inspector's Report Page 10 of 22
- 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 SS02 - Ensure that all proposals for residential development accord with the County's Settlement Strategy .....
- Objective SS12 - Promote the Key Town of Swords and the Metropolitan Area of Blanchardstown, respectively, as Fingal's primary growth centres for residential development in line with the County's Settlement Hierarchy
- Objective SS15 - Strengthen and consolidate existing urban areas adjoining Dublin City through infill and appropriate brownfield redevelopment in order to maximise the efficient use of existing infrastructure and services.
- Objective SS16 - Examine the possibility of achieving higher densities in urban areas .... where such an approach would be in keeping with the character and form of existing residential communities or otherwise appropriate .....
- Objective PM38: Achieve an appropriate dwelling mix, size, type, tenure.....
- Objective PM40: Ensure a mix and range of housing types are provided in all residential areas to meet the diverse needs of residents.
- Objective PM41: Encourage increased densities at appropriate locations whilst ensuring that the quality of place, residential accommodation and amenities for either existing or future residents are not compromised.

- Objective PM42 - The Guidelines for Planning Authorities 'Sustainable Urban Housing: Design Standards for New Apartments', 2015 are required to be applied....
- Objective DMS23 - Permit up to 8 apartments per floor per individual stair/lift core within apartment schemes.
- Objective DMS30 - 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.
- Objective DMS57 - Require a minimum public open space provision of 2.5 hectares per 1000 population.

## 7.0 Statement of Consistency

7.1. The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of National Planning Framework, Section 28 Guidelines, the Development Plan and Local Area Plan and I have had regard to same. A Material Contravention Statement also accompanies the application with respect to the Fingal County Development Plan 2017-2023:

- i) Car Parking: The proposed car parking ration (1:0.65) is below the ratio provided for in the Fingal Development Plan 2017-2023 normal parking standards.
- ii) Playspace Provision: The proposed development provides 347.5sqm of assigned play space which includes the creche and informal natural play space, following short of DMS75 which requires 876sqm of play space.
- iii) Separation Distances: A separation distance of 22m is not achieved in all cases.
- iv) Stair Cores: The proposed development includes up to 12 apartments per core, however DMS23 permits up to 8 apartments per floor.
- v) Public Open Space: DMS57 requires a minimum public open space provision of 2.5 hectares per 1000 population on the basis of an

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. On the basis of the 8 no.3 bedroom units and the 211 no.1 and 2 bedroom units, the proposed development would require 0.84 ha of public open space, equating to 56% of the site. The proposed development incorporates approximately 10% public open space.

- vi) Metro North Route: Objective DMS120 requires that the indicative route for new Metro North and its stops are kept free from development. As indicated on Fingal Development Plan 2017-2023 Zoning Sheet 8 the indicative route as shown passes through the site from the south along the eastern boundary within the site.

## 8.0 Third Party Submissions

- 8.1. 29 responses were received from third parties in relation to the application and the main matters raised are summarised below:

8.2. General, nature, principal of the development

- Site is not a town centre and is a suburban location. It is not within a 15-minute liveable city.
- SHDs are supposed to have been demolished.

8.3. Transportation

- Transport Assessment took place in the summer when schools were off and people were on holiday so results are inaccurate.
- Doubling of traffic (from 5% to 10%) will not go unnoticed.
- Boroimhe Oaks Road is currently an estate where children play, changing it to a through road will put health and safety at greater risk.
- Proposal to connect into the existing Boroimhe estate will have a major impact on existing residents and needs to be stopped. Traffic already often backed up to the Boroimhe Popular/Oaks junction and Boroimhe / Airside junction. Blockages further onto the R132.
- Proposed entrance is inadequate and dangerous.

- Entrance from the R132 to the proposed development and existing estates is required.
- There is a separate new development opposite Boroimhe underway which is ignored in the TA.
- Parking ratio if 0.59 spaces per apartment, not 0.65 stated in the application.
- Public transport is already at capacity, buses already full when arrive at south Swords.
- Insufficient parking, does not meet Fingal Council standards, future residents will park in the adjacent Boroimhe estate. Currently overspill parking problems.
- Query how will residents cross the 6 lane carriageway to access the metro.
- Previous applications refused based upon traffic impact that hasn't been resolved.
- Query inclusion of sufficient EV charging points.
- Site does not meet exceptional criteria in the FDP that allows for reduced car parking quanta.
- Application documentation is not in compliance with DMURS.

#### 8.4. Residential Amenity

- Adverse impact upon privacy of existing occupiers from overlooking. Drawings do not show adjoining occupiers property accurately and measures separation to buildings rather than to gardens. Overlooking from balconies.
- Adverse impact upon daylight to existing occupiers and from overshadowing.
- This development will set a precedence for impingement on sunlight.
- The development will cause aircraft noise to reverberate back into estates to the south.
- Daylight, Sunlight and Overshadowing assessment does not take into account solar panels on existing occupiers properties.



- Negative impact upon the quality of lives of existing residents from noise, light and traffic pollution. Including during construction.
- Application is contrary to the Apartment Guidelines.
- Adverse impact upon mental health from development due to height proposed, blocking out sunlight and lack of vitamin D.

#### 8.5. Density, Design and Scale

- Unacceptable high density that does not accord with planning policy. Highest density in Ireland. Density is a material contravention. Site is a 19 minute walk to the town centre, not 15 minutes.
- Scale is out of character with the existing area.
- High density should not be granted based upon a metro that may never be built. Previous application in 2005 refused due to high density which was lower than that now proposed.
- Height is in excess of guidelines for Dublin City with propose 16m as permitted height.
- No established scale reflecting proposed scale.
- Breach of Objective SS16 as not in keeping with character and form of existing communities.
- Application not in line with criteria under Urban Development Building Height Guidelines. Therefore SPPR3 should not be invoked and no material contravention is permissible.
- Vegetation will not soften appearance of the development as bare most of the year.
- Proposed green spaces are shrubbery and semi-permeable surfaces.
- Monolithic development.
- Design and materials not in keeping with the area.
- Will not create an attractive streetscape.

#### 8.6. Flooding

- The pump station at Boroimhe Laurels Park requires constant maintenance. The workers there claim it could flood the park as its overcapacity now. Boroimhe birches adjoining this development has had effluent flood back gardens. SUDS and Attenuation tanks are dangerous especially if there is very little space for children to play in the area.

#### 8.7. Infrastructure

- Insufficient public open space proposed.
- Cumulative impact requires assessment.
- Swords Express is a private bus service and cannot be relied upon as could cease operation at any time.
- The proposed development would be in place prior to the establishment of infrastructure which it requires to support it, such as metrolink.
- Shortage of post primary school places in the area and primary schools stretched for capacity. Contrary to objective 19 of the FDP.
- Not enough playing pitches in the area.
- Query if a study has been undertaken in relation to the capacity of sewage, water and electricity and gas for the area.
- Development will be over the metro tunnel, too close to importance strategic infrastructure.
- Creches over capacity currently.
- No public swimming pool.
- Application has not demonstrated sufficient infrastructure capacity to support the development, with reference to public transport, drainage, water services and flood risk.

#### 8.8. Mix

- Consists entirely of apartments so no mix.
- Complete absence of family friendly units.
- Mix will result in a transient population with no affinity with the area.

- Only available for renting with no opportunity for people to get on the property ladder.
- Masterplan requires housing not just apartments.

#### 8.9. Biodiversity

- Removal of hedgerows, wildlife will be decimated.
- Noise from airport will bounce off the buildings adversely impacting birds and bats.
- The SHD Tree survey does not include any reference to the fauna living on the site. There are bat roosts contained within this area and a population of foxes. There has been no accounting for this in the environmental impact study nor a sufficient plan of action to accommodate this important natural wildlife. 56% of Category B Trees and 74% of Category C Trees to be removed is excessive and represents a significant impact to the environment.

#### 8.10. Appropriate Assessment and Environmental Impact Assessment

- Insufficient consideration of cumulative impact in NIS.
- Query likelihood of mitigation in relation to SUDS being delivered, with consequential negative environmental impacts upstream, particularly associated with failure of the retention tank.
- The process provided for under the 2016 Act contravenes the requirements of the EIA Directive and public participation requirements set out in Article 6.
- The EIAR (EIA Report) is inadequate and deficient and does not permit an assessment of the potential environmental impacts of the proposed development.
- The Board lacks ecological and scientific expertise and/or does not have access to the same to examine the EIA Screening Report as required under Article 5(3)(b) of the EIA Directive.
- The EIAR when read with the Construction and Waste Management Plans, provide insufficient information.

- Criteria considered in the EIAR does not comply with the requirements of the Planning and Development Act 2000, 2016 Act and associated Regulations.
- The application does not comply with the requirements of the planning and development act 2000, the planning and development regulations 2001 or the EIA Directive. Information is insufficient and contrary to the requirements of the EIA Directive. Criteria considered in the EIA screening does not comply with requirements under the act and regulations.
- The EIAR has failed to provide a comprehensive cumulative assessment of the project in the EIAR.
- Insufficient information in relation to the impact of the proposed development on bird and bat flight lines/collision risks in the EIAR.
- The population and human health chapter of the EIAR is inadequate as fails to assess the impact of increased population on services including schools, childcare and medical care.
- EIAR is deficient with respect to impact on biodiversity and human health during.
- In relation to AA the information contains lacunae and is not based on appropriate scientific expertise. The AA Screening does not comply with requirements under the Act and is insufficient/inadequate.
- AA Screening does not provide sufficient reasons or findings as required. No clear methodology or analysis offered.
- AA Screening flawed as it seeks to rely on assessment of risk of bird collision/flight risks set out in the EIAR.
- NIS is flawed as doesn't consider all aspects of proposed development arising during construction. Insufficient site specific surveys.
- NIS relies on information/studies from different areas which is inappropriate.
- Zone of influence referred to in the NIS is not reasoned or explained.
- NIS fails to identify and consider all potential impacts on protected bird species.

- No regard / inadequate regard to cumulative effects.
- Reasons for refusal on previous development on the site have not been addressed 304904-19.

#### 8.11. Material Contravention

- Material contraventions of the Development Plan.
- This development is not of strategic importance.
- Material contravention cannot be granted where justification relies on the building height and apartment guidelines as these are ultra vires and not authorised by section 28(1C) of the planning and development act. The guidelines are also contrary to the SEA Directive. The proposed development is contrary to SPPRs in the height guidelines which are mandatory.
- Material contravention of density.
- Material contravention of growth rate.
- Material contravention of building height.
- Material contravention with respect to restriction on apartment developments/standards.
- Material contravention of residential garden sizes.
- Material contravention of public open space.
- Material contravention of car parking.

#### 8.12. Other

- Scale of the proposed buildings will interfere with existing occupiers satellite dish reception.
- Cold damp apartments will lead to greater use of energy and higher greenhouse pollutants.
- Rescue helicopter flight path over this site to Malahide.
- Disregard for the Masterplan. Although these lands are just outside of the Swords Masterplan (Part C: Fosterstown), we believe that the spirit of this Masterplan must be adhered to in full. The proposed new Fosterstown

Primary School must be delivered up front before any development on these lands or the Fosterstown Lands should be allowed to proceed. The Swords Masterplans (Part C: Fosterstown) (May 2019) states: "Residential development in the west Swords area has resulted in a shortage of school spaces for local children and has become an issue.

- Reports do not address issue of odour or maintenance and disposal of retention tank.
- Application should guarantee achievement of A2/A3 rated units.
- Query how renewable energy, sustainable design has been addressed. East and west facing units will overheat.
- Applicant's website and links were not working when application submitted.
- Statement of Consistency is based on the draft Development Plan 2023-2029, not the current plan.

## **9.0 Planning Authority Submission**

9.1. The Council's report summarises observer comments as per section 8(5)(a)(i). The planning and technical analysis in accordance with the requirements of section 8(5)(a)(ii) and 8(5)(b)(i) may be summarised as follows:

### **9.2. Principle of the Proposed Development**

9.3. The principle of development is generally acceptable on this site subject to compliance with all other policy considerations.

### **9.4. Statement of Consistency**

9.5. The proposed development substantially complies with the strategic policies and core strategy and settlement strategy. The proposed development is generally consistent with the residential land use zoning of the site and Development Plan objectives. Matters relating to material contravention noted.

### **9.6. Density, Height, Design and Layout**

9.7. Whilst the principle of higher density may be generally acceptable on the subject site having regard to the proposed location of the MetroLink route and stations and Bus

Connects in such close proximity to the subject site, the Planning Authority considers the height and resultant density proposed at this location to be excess. A significant reduction in height and density would therefore be required for proposals to be acceptable at this location.

- 9.8. The scale and massing of the proposed height is significant and provides a dense urban context to the R132 that will change the built form and streetscape at this location. The proposed development would provide a strong urban edge along the R132 public transport corridor with Bus Connects and future MetroLink. The highest building Block B3 would provide a significant gateway landmark building at this visually prominent corner. The location of the subject site meets the criteria for increased density and height in accordance with national planning policy as it is located close to Swords town centre and is well served by public transport located along an existing QBC, a proposed Bus Connects corridor and within 100m of a proposed MetroLink station. Whilst a change to the streetscape is accepted and supported by the Planning Authority, there are concerns expressed as the scale, mass and height of the built form as proposed. There are concerns as to the impact of this scale, height and resultant overbearing of adjoining existing property, particularly that to the west (Block B3) and north (Block A2) of the site.
- 9.9. Architects Department states that, the 4 storey bookend to the east Block A2 is appropriate in this location as it marks an important entrance but may be overbearing to the existing house to the north. Please consider reducing this to three storeys similar to the rest of Blocks A1 and A2 or alternatively step it down to three storeys to the north to maintain the privacy and amenity of the existing dwelling. The 5 storey element of Block B3 directly next to existing 3 storey units to the west is not appropriate and overbearing. The 9 storey element, whilst creating a strong landmark, also appears too high for this location, and recommend reducing Block B3 by two floors across the board to reduce the scale and overbearance of the development. Ground floor bicycle store of Block B3 has an entrance with little passive supervision, recommend this be reconsidered. Apartments served by core no.4 have no direct access to the communal amenity podium space, recommend a link is provided from the stairs to the podium space.
- 9.10. The western elevation of Block A1 is rather blank and varying materials should be used on this elevation to create visual interest.

9.11. Architectural Conservation and Protected Structure

9.12. There is a Protected Structure of a historic milestone (RPS no.866) on the eastern boundary of the site. Its location is integral to its special interest. The Architectural Conservation Officer would prefer for the bus stop to be relocated rather than the milestone.

9.13. The milestone should be protected during construction phase.

9.14. The position of the proposed Bus Connects stop has not yet been agreed/permitted and may be subject to change. The design of the scheme on its eastern boundary needs to allow for the potential movement of the bus stop through the provision of a sufficient depth of landscaped buffer along the boundary should this occur and the building line of the proposed block not to impede this.

9.15. Exact details of how the milestone will connect with the eastern boundary for the proposed scheme need to be agreed.

9.16. Residential Amenity

9.17. The proposed development would provide a greater choice of house type in an area dominated by 3-4 bedroom semi-detached houses. The layout, open space accessibility and creche would provide a pleasant environment for future residents.

9.18. The impact of microclimate would be improved by a reduction in heights at several locations.

9.19. It is considered appropriate in the interests of visual and residential amenity that the height of Block B3 should be reduced down from 5 to 4 storeys at the western section nearest the three-storey development of Boroimhe Elms in order to harmonise with the existing development in the vicinity. The central portion of Block B3 should be reduced in height from 7 to 6 storeys and the corner section of Block B3 should be reduced from 9 to 7 storeys in height. Block B2 facing the R132 should have a maximum height of 6 storeys. The height of Block A2 should be reduced from four to three-storey.

9.20. The proposed development should not be gated as this is contrary to Objective DMS32.

9.21. Vehicular Access and Transportation



- 9.22. Sightlines acceptable. In relation to car parking, the 144 spaces includes 2 car parking spaces for creche staff as well as 3 car club spaces, consequently the actual residential parking provision is 141. The applicant is apply the Apartment Standards rationale to parking rather than the Development Plan standards. Owing to the site's location near to existing good quality public transport and planned future public transport and active travel upgrades, this is acceptable to the Transportation Section. This will be further acceptable by the reduction in units by way of condition. Drop-off provision is required for the creche and should be agreed with the Planning Authority prior to commencement of the development.
- 9.23. The quality and general location of bicycle parking is generally acceptable, however each unit should have a separate secure compartment. A condition should agree the detail of parking provision with the Planning Authority.
- 9.24. The site layout is generally acceptable however it should be noted that the Transportation Section consider there is a lack of turning facilities where there are cul-de-sacs. The submitted swept path analysis is acceptable.
- 9.25. The Transportation Section are of the opinion that with the advent of Bus Connects and Metro in such close proximity to the proposed development, car mode share for the development would be relatively low, resulting in low impact on the adjoining road network.
- 9.26. The development would benefit from a signalised pedestrian crossing on the L2300 to provide access for future residents to the bus stop on the south side of the Road. Fingal County Council would seek a special contribution from the Developer to facilitate the delivery of the crossing.
- 9.27. All finishes should comply with the Council's Standard for Taking in Charge to facilitate any future unplanned plebiscites seeking to have areas taken in charge.
- 9.28. A condition should be applied to require land for the proposed future upgrade of the R132 as part of Bus Connects, as highlighted in submitted drawings, to be kept free from development.
- 9.29. The Transportation Section is generally supportive of the proposed development and has no objection to the proposed development subject to conditions.
- 9.30. Ecology

9.31. No objections raised.

9.32. Flood Risk

9.33. No objection, subject to condition ensuring development is in accordance with guidance.

9.34. Water Services & Public Health

9.35. It is considered appropriate that the requirements of the Environmental Health Officer should be ascertained and implemented on site particularly having regard to noise impact and childcare provision on site.

9.36. No objections to water supply or discharges subject to standard conditions.

9.37. Open Space & Landscaping

9.38. The proposed public open space within the site will be functioning SUDS feature. SUDs areas do not form part of the public open space provision, except where they contribute in a significant way to the design and quality of open space. The area of public open space does not meet Fingal County Councils Development Plan's standards in terms of Public Open Space (table 12.5) and therefore the proposed open space provision will not be included for the calculation purposes of Public Open Space. The total public open space provision based on occupancy equates to 0.84ha, accordingly the applicant is required to make up the shortfall in the quantum of public open space by way of a financial contribution in accordance with section 48 of the 2000 Act. How the public open space will be maintained is also unclear and a revised layout is required by condition. A piece of public art, sculpture or architectural feature is also requested by condition in accordance with DMS05.

9.39. Other Matters

9.40. Proposals with respect to community infrastructure (submitted audit and creche) and Part V noted. Conditions relating to construction management and resource and waste management requested.

9.41. Conclusion

9.42. The proposed development has been assessed and considered having regard to matters specified in Section 34(2) of the Planning and Development Act 2000 (as amended) and to submissions and observations received by the Board. It is

considered that the proposed development would provide an appropriate standard of residential development and would be acceptable, subject to conditions.

9.43. Statement in Accordance with Section 8(5)(b)(ii)

9.44. Having regard to the strategic location of the site on lands zoned 'RS' Residential in the Fingal Development Plan 2017-2023 which seeks to 'Provide for residential development and protect and improve residential amenity', to the nature and design of the residential development proposed, to the close proximity to the future Bus Connects and Metro Link and to the provisions of the Fingal Development Plan 2017-2023, the relevant Section 28 Guidelines, with specific reference to the Urban Design Guidelines, DMURS, Quality Housing for Sustainable Communities, Design Standards for New Apartments and the Sustainable Residential Development in Urban Areas Guidelines, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and pedestrian permeability. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

9.45. There are 29 conditions recommended. Conditions are noted in the above summary of the Chief Executive report, particular note is also taken of the following:

- Condition no.2 requiring revised drawings:-
  - Reducing height of Block A2 from four to three-storey;
  - Reducing height of Block B3 to four storeys at the western section nearest Boroimhe Elms, down from seven to six storeys for the central portion of the block and reduced down from 9 to 7 storeys on the prominent corner;
  - Block B2 facing the R132 to have a maximum height of 6 storeys;
  - Relocation of the entrance to the bicycle store at ground floor of Block B3 (west) to a more appropriate location to increase passive surveillance.
  - Link from the stairs to the podium space for the apartments served by Core no.4 in Block B1 which has no direct access to the communal amenity space at podium level.

- Condition no.29 requesting financial contribution.

9.46. **Departmental Reports**

9.47. Housing & Community Department

9.48. Note contact from Applicant in relation to Part V obligation, request condition.

9.49. Architects Department

9.50. As noted in summary of Chief Executive Report above.

9.51. Conservation Officer

9.52. As noted in summary of Chief Executive Report above.

9.53. Parks and Green Infrastructure Division

9.54. As noted in summary of Chief Executive Report above. Request conditions with respect to landscape plan, play equipment and protection of trees/hedgerows.

9.55. Transportation Section

9.56. As noted in summary of Chief Executive Report above.

9.57. Water Services Department

9.58. As noted in summary of Chief Executive Report above.

9.59. Environment Section (Waste Enforcement & Regulation)

9.60. Request condition with respect to a Construction and Demolition Resource Waste Management Plan.

9.61. **Elected Members**

9.62. A summary of the views of members at the Special Meeting of Balbriggan/Rush Lusk/Swords on 7<sup>th</sup> September 2022 are set in the submitted Chief Executive Report and copied below:

- Play space provision less than half of what's needed and will have to rely on open space provided within Boroimhe which is not ideal.
- Immediate upgrade of existing open space adjacent to the site needed.
- EV charging points at 10% falls short of what is needed. Additional charging points needed.

- Regarding the 7 year permission; might align with Bus Connects but wont align with delivery of Metro Link.
- Concerns regarding proposed density on site.
- Distance between Block B & the Elms & the Oaks; 13-19m should be increased.
- Concerns regarding traffic and parking demand in the area.
- Social and environmental infrastructure concerns.
- 22m separation distance needed to Boroimhe Elms as they are duplexes.
- School capacity concerns in the area.
- Concerns regarding the proposed height in Swords when the Metro comes.
- Higher blocks similar to this seen in Santry.
- Need places/houses for people to live in.
- Issue regarding entrances to existing estates and conflict with proposals.
- 144 car parking spaces not enough as parking already an issue;
- Sustainable transport system with sufficient capacity not available.
- There are 3 current proposals in the area for SHDs.
- Proposals to reduce a land on the R132.
- Reference to mixed heights 5-9 storeys in the development description queries.
- Doesn't conform with the Masterplan for the area.
- Traffic study required.
- Bus services could be increased to service the area.
- Queries role in ABP in making decisions on SHD applications.
- 9 storeys excessive and frightening to locals.
- Creche facility proposed but there is a lot of community facilities needed too – other organisations also need to be catered for.

## 10.0 Prescribed Bodies

### 10.1. DAA

- Request that condition #17 attached to grant of permission ref.F22A/0136, requiring the noise sensitive uses to be provided with noise insulation to an appropriate standard having regard to the location of the site within Noise Zone C of Dublin Airport, be attached to any subsequent grant of permission. To ensure appropriate internal noise levels in accordance with objective DA07 of the FDP.
- Request a condition to any grant of permission requiring the developer to agree any proposals for crane operations in advance of construction with daa and the Irish Aviation Authority.

### 10.2. Department of Housing, Local Government and Heritage

- Archaeology: Recommend a planning condition pertaining to Archaeological Monitoring of ground disturbance is included in any grant of planning permission.
- Nature conservation: Note the proposals with respect to tree removal. The planting of 126 new native trees on the site as part of the development's proposed landscaping should in the long run compensate to some extent for the loss of nesting habitat for the bird species currently breeding there, but the clearance of vegetation from the development site during the main bird breeding season from March to August inclusive could lead to direct destruction of nests, eggs and nestlings and should be avoided. Note proposals in relation to bats. Recommend conditions concerning the clearance of vegetation to be carried out only between September and February. A survey of the ivy clad ash tree with respect to bats before removal of vegetation from the site. Finalised lighting design with respect to conserving bats.

### 10.3. Irish Water

- Water and Wastewater: New connection to existing network feasible without upgrade.

- Design Acceptance: A Statement of Design Acceptance was issued by Irish Water on 1<sup>st</sup> June 2022.
- Request conditions with respect to a connection agreement, no permission to build over assets and separation distances, adherence to Standards, Codes and Practices.

#### 10.4. Transport Infrastructure Ireland

- Confirm no observations to make.

### 11.0 **Assessment**

11.1. I will address the main planning issues arising from the proposed development under the following headings-

- Principle of Development
- Density
- Height, Scale, Mass and Design
- Neighbouring Residential Amenity
- Proposed Residential Standards
- Traffic and Transport
- Material Contravention
- Planning Authority's Recommendation
- Other Issues

#### 11.2. **Principle of Development**

##### 11.2.1. Land Use

11.2.2. National policy as expressed within Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness and the National Planning Framework (NPF) – Ireland 2040 supports the delivery of new housing on appropriate sites.

11.2.3. The subject site is zoned 'RS' Residential, with the objective to: 'Provide for residential development and protect and improve residential amenity'. Residential and childcare facilities are permitted in principle uses within RS lands where the proposed creche and apartments are located on the subject site.

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

11.2.5. Masterplan

11.2.6. I note a number of third party responses which state that the proposed development does not accord with the Masterplan for the area, however the subject site is not within a designated masterplan area as described under the zoning maps, with the masterplan area being situated to the north of the subject site. As such, there is no applicable masterplan policy for the subject site.

11.2.7. Public Consultation

11.2.8. In relation to access to the application documentation and drawings on the SHD website for the submission, I note that third parties state that they could not access all plans, all of the time. However, the application documents were available to view online at the time of writing this report. All documents were also available to view from other sources, including at An Bord Pleanála's offices and Planning Authority offices and there were 29 submissions received from third parties on the application, demonstrating active participation in this application. As such, I am satisfied that I can continue with my assessment.

11.2.9. Seven Year Consent

11.2.10. The applicant is seeking a 7 year consent as part of the planning permission applied for. This would be instead of the standard 5 year period within which a development granted planning consent should be executed. While the request for a 7 year consent is sort in the application description, this is not reflected throughout the submission documents and there is no clear explanation for the request. In my opinion, there is no specific circumstances that would warrant the extension of the normal 5 year consent to 7 years given the scale of development applied for. As such, I am recommending that the normal 5 year period applies which can be secured by condition should the Board agree with this approach.

11.2.11. SHD process

11.2.12. In relation to third parties and Elected Member representations regarding the SHD process, I can confirm that the SHD process and its cessation is defined under a



legislative framework and forms the legitimate process for the determination of this application.

### **11.3. Density**

- 11.3.1. I note third party objections to the proposed density. The Planning Authority also state that whilst high density is supported on the site, the proposed density is excessive and they recommend a reduction in the number of units proposed.
- 11.3.2. Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. Of relevance, objectives 33 and 35 of the NPF seek to prioritise the provision of new homes at locations that can support sustainable development and seeks to increase densities in settlements, through a range of measures. In relation to Section 28 Guidelines, the 'Urban Development and Building Height, Guidelines for Planning Authorities' (Building Height Guidelines), 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (Apartment Guidelines) and Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (Sustainable Residential Development Guidelines) all support increases in density, at appropriate locations, in order to ensure the efficient use of zoned and serviced land.
- 11.3.3. Having regard to the Sustainable Residential Development in Urban Areas Planning Guidelines and Circular NRUP 02/2021, the subject site is located on a 'Public transport corridor' where increased density is supported. These are defined 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.
- 11.3.4. The proposed development has a density of c.153 units per hectare. The subject site is situated less than 500m walking distance to bus stops, with access to routes operated by Dublin Bus (i.e. Bus Stop no's. 5028 and 5030 on the Local Road L2300 to the south of the proposed development with Dublin Bus Services 41C and 41X. Bus Stop no.'s 3695 and 3676 on the Dublin Road R132 to the east of the proposed development with Dublin Bus Services 33, 33E, 41, 41B, 41D and 41X) as well as the Swords Express and Go Ahead Bus Services 33A and 197 (I also discuss public

transport accessibility in section 11.4 below). 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 is 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.

11.3.5. 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.

11.3.6. Therefore, in my view, the proposed density is within the acceptable density ranges for the subject site, as described in the national guidelines set out above. However, a qualitative assessment is still required of the acceptability of the form of the development with particular consideration of potential impact upon amenity, and I set this out in further detail in sections 11.4, 11.5 and 11.6 below. Overall, given the accessible characteristics of the site, I am satisfied that there is nothing to preclude the proposed density level on the site with reference to the above national guidelines, which promote a qualitative assessment, as set out in this report.

#### **11.4. Height, Scale, Mass and Design**

11.4.1. Concerns are raised by third parties regarding the height and scale of the proposed development. The Planning Authority also raise concern regarding the height of the proposed development, requesting that this be reduced to a maximum 7 storeys, with graduated reductions in scale to proposed Blocks A2, B2 and B3.

11.4.2. My assessment of the impact upon surrounding residential amenity including daylight and sunlight, as well as the quality of proposed accommodation, is undertaken in sections 11.5 and 11.6 below. This section of my report appraises the acceptability of the proposed height and design in relation to relevant planning policy and in light of concerns raised.

- 11.4.3. Local planning policy within the Fingal County Development Plan 2017-2022 does not define specific heights for this site, but takes a qualitative approach with regards to the assessment of design and related potential impact. I note that lands to the north of the site are with Swords Masterplan areas, with heights for Fornerstown North set out in Part C of the Swords Masterplan and ranging between 2 and 9 storeys, albeit with a prevailing guideline height of 3-6 storeys.
- 11.4.4. The 'Urban Development and Building Heights Guidelines for Planning Authorities' (the Building Height Guidelines) provides clear criteria to be applied when assessing applications for increased height. The guidelines describe the need to move away from blanket height restrictions and that within appropriate locations, increased height will be acceptable even where established heights in the area are lower in comparison. In this regard, SPPRs and the Development Management Criteria under section 3.2 of these section 28 guidelines have informed my assessment of the application. This is alongside consideration of other relevant national and local planning policy standards. Including national policy in Project Ireland 2040 National Planning Framework, and particularly objective 13 concerning performance criteria for building height, and objective 35 concerning increased residential density in settlements. I am also cognisant of guidance under the Urban Design Manual, which has also informed my assessment. Much of the criteria under the manual is reflected in the criteria described under the Building Height Guidelines, which I have used to organise my assessment.
- 11.4.5. SPP1 of the Building Height Guidelines, states that it is Government policy to support increased building height and density in locations with good public transport accessibility. Section 3 of the guidelines confirm this, stating that in the assessment of individual planning applications, it is Government policy that building heights must be generally increased in appropriate urban locations, and that there is a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility. Development management criteria are then described to inform this assessment in section 3.2.
- 11.4.6. The first criteria under section 3.2 of the Building Height Guidelines relates to the accessibility of the site by high frequency, high capacity public transport. I have addressed in my report above the accessibility of the site, including the proximity to bus stops. The subject site is served by frequent bus routes, including the Dublin

Bus service no.41 and the Swords Express, both of which are included on figure 3.1 Dublin Frequent Transport Services Map within the Transport Strategy for the Greater Dublin Area 2016-2035. I note third party concern regarding the Swords Express being operated by a private company which could cease operation; however, I am satisfied that the Swords Express (operating under Bus Eireann) can be relied upon and is recognised as a legitimate service in the Transport Strategy for Dublin. I also note third party concerns regarding the capacity of bus services for the site. There are numerous bus routes serving the site, including frequent services, this ensures several buses stopping down at stops for the site during peak periods, and I am satisfied that this indicates access to a high capacity level of bus transportation for passengers at these stops. In addition, the applicant has submitted a Bus Capacity/Demand Report appended to the Transportation Assessment Report for the application. This includes an evidence-based approach to determining likely demand upon bus services as a result of the proposed development alongside consideration of current capacity levels. Demographic data, site surveys and bus timetable information are included to support the conclusions reached. The report finds that the proposed development would likely increase demand upon bus services negligibly and that there is excess capacity on routes as they are currently operating. I am satisfied that the applicant has demonstrated capacity on bus routes serving the site to accommodate future occupiers of the proposed development.

11.4.7. The second criterion relates to the character of the area in which the development is located. The prevailing scale of the built environment surrounding the site is 2 and 3 storeys, however larger scale buildings are evident to the east such as the Premier Inn building (6-7 storeys). There is also a Protected Structure of a historic milestone (RPS no.866) on the eastern boundary of the site.

11.4.8. In my view the national planning policy approach is clear that traditional low-rise approaches in urban areas has not delivered an appropriate level of housing for the population and therefore compact growth is supported in appropriate locations. In support of this, I note that the Building Height Guidelines encourage Planning Authorities to address the delivery of compact growth in urban areas, particularly in cities and large towns, through enhancing both the scale and density of development. The Guidelines state that 'increased 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' (page 7). Furthermore, it is clear that Fingal as the Local Planning Authority recognises the potential of the Forferstown North area, with the Swords Masterplan outlining acceptable heights up to 8 and 9 storey to the north of the subject site. In my view this illustrates an evolving urban context for the area around the subject site, which is in recognition of the accessibility characteristics of the site as well as proximity to employment opportunities. In this regard I note the subject sites proximity to the Airside Retail Park (walking distance to the site), as well as Dublin Airport, which employs over 10,000 people, and is situated a short commute from the site (approximately 15mins via bus routes that serve the site).

11.4.9. Therefore, while the existing scale immediately adjacent to the site is largely 2 and 3 storey, this is reminiscent of traditional, limited, low-rise building heights (as described in the guidelines) which is limiting the growth and development need of Dublin. However, it is still necessary to ensure, as described in the Building Height Guidelines criteria at 3.2, that proposals are successfully integrated and enhance the character of the area. In accordance with this, the applicant has submitted a Landscape & Visual Impact Assessment which cross references to the submitted verified views for the application. This identifies negative visual impacts upon the locality during the construction phase on a short-term and temporary basis. During the operational phase, the submitted report concludes that there will be positive visual impacts due to the new street trees, paving, lighting, etc. to the streetscape, and that from a wider scale, the proposed development will result in imperceptible slightly negative visual impact.

11.4.10. I have reviewed in detail the submitted verified views, CGIs and associated reports for the application. In my opinion, the proposed scale up to 9 storeys is excessive given the current and emerging context of the area. In reaching this conclusion, I am mindful of the approach to scale outlined in the Swords Masterplan covering an area to the north of the subject site, and which promotes increased scale along the R132 to the north. In my opinion, the subject site characteristics mean that it is an appropriate location for increased scale and this scale should respond to the emerging context as outlined in the masterplan area to the north, however the subject site also functions as more of a transitional site. Therefore, scale on the subject site

should provide a transition between the established low-rise context and the emerging scale that will in future characterise sites to the north. In this sense, the proposed heights up to 8 and 9 storey are excessive in my view, and I agree with the Planning Authority that a reduced scale to maximum 7 storeys would be more appropriate in light of the immediate lower rise context surrounding the site.

11.4.11. In my opinion, verified views 3, 9 and 10 are useful in demonstrating how the proposed scale to 8 and 9 storeys is excessive for the established context, and that the proposed development would better integrate into the area at a reduced maximum height of 7 storeys to Block B3 on the prominent corner to the south east; and to Block B2 on the eastern boundary of the site to the R132. I am satisfied that all of the verified views presented demonstrate that, at the reduced maximum height of 7 storeys, (formed of the removal of storeys 8 and 9 / floors 7 and 8), the proposed development would successfully integrate and enhance the area, with minimal visibility in longer views from adjoining residential areas to the west.

11.4.12. I note that the Planning Authority also recommend a reduced scale from 5 and 7 storeys to 4 and 6 storeys to the set down elements in Block B3. In my opinion, this reduction is not necessary, and the proposed development as designed incorporates sufficient set backs and reduced height to transition scale, particularly to the residential estate to the west, and specifically Boroimhe Elms. As part of this assessment, I note that the adjacent existing properties are 3 storey, with a large pitched roof giving an overall ridge height of circa +61m (AOD) and the proposed development at its closest to this property is 5 storeys circa +64m (AOD). The separation to the closest residential properties is approximately 9m to the boundary and 13m to the neighbouring block, and I am satisfied that the proposed heights of 5 storey, increasing to 7 storey, would not appear visually overbearing in this context.

11.4.13. The Planning Authority also request a reduced height to Block A2 from 4 to 3 storeys and that Block B2 be reduced to a maximum 6 storey height. Proposed Block A2 is primarily 3 storeys, with a 4 storey end block closest to the R132. Proposed Block B2 has heights between 5 and 8 storeys and I have already outlined above why I consider that the maximum height to Block B2 should be reduced to 7 storeys. However, I do not agree with the Planning Authority that Block A2 should be reduced to 3 storeys and that Block B2 should be reduced to 6 storeys. These proposed blocks front onto the R132 and propose a degree of scale necessary to address this

wide busy roadway, whilst successfully integrating with neighbouring lower rise buildings. At its closest to existing properties in Boraimhe Willows to the north, the proposed development is situated over 12m to the boundary and over 22m to the main rear face of the existing 2 storey residential property and 17-20m (approx.) to rear ground return. This is sufficient separation in my opinion to the proposed 4 storey height, and a reduction to 3 storey would be to the detriment of appropriately addressing the R132 in my view. Proposed Block B3 is 5 storeys at its northern end closest to proposed Block A2 (which is 4 storeys), and therefore provides an appropriate degree of transition in my view to the 7 storey bulk of Block B3 which then creates a good sense of enclosure to the R132.

11.4.14. In relation to the protected milestone, the submitted design statement with the application confirms that the milestone is not subject to any intervention, except precautionary measures to protect the structure at construction stage. The Planning Authority have requested that details of these measures be agreed with them prior to commencement of the development, and this can be secured by condition should the Board agree with this approach. With this mitigation in place and in light of the guidance set out in the Architectural Heritage Protection Guidelines, I am satisfied that no adverse impact will result to the protected milestone with this mitigation in place.

11.4.15. In terms of contribution to place-making and visual interest (3.2 criterion), the proposed development will improve the street interface on this site, which currently is unused and does not contribute to the character of the area. The proposed development will include new entrances, landscaping and overlooking onto adjacent streets making a positive contribution to place-making for the area. Varied heights are incorporated to blocks as outlined in the foregoing paragraphs, which in the amended form I am recommending, will range from 3 to 7 storey, creating visual interest in the streetscape. As such, I am also satisfied that the proposed development will make a positive contribution to the urban neighbourhood (a 3.2 criterion), improving the streetscape to this prominent corner site on the L2300 and R132.

11.4.16. In terms of the detailed appearance of the blocks (3.2 criteria including avoidance of uninterrupted walls, and materials), the proposal is not monolithic in my opinion, incorporating varied heights that transition scale from the lower rise context to the

north and west, to the busy roadways to the south and east. At the ground, edges are well considered with entrances, windows and terraces, which contribute to creating a human scale whilst the building ensures sufficient scale to enclose the busy roadway sides of the site. Podium edges are also well considered, ground floor units are proposed and set behind landscaping to ensure there is no extended areas of blank frontage. The proposed pedestrian link to the podium level and landscaping also ensure an appropriate visual appearance to the R132 while to the north, the proposed vehicular entrance activates the podium edge. To the west, a minor extent of inactive frontage to the podium edge is proposed, however this is to allow the incorporation of necessary plant and ventilation, and it is proposed to incorporate landscaping including climbers to green this edge. This end of the site is also not visible from the public streetscape and does not detract from the overall appearance of the block. The material palette is robust, with the main faces of the proposed development finished in stone, brick, glazing and metal balcony railings. Limited use of curtain walling provides variation and assists in breaking down the mass of the blocks. Render is also proposed on internal frontages. The Planning Authority have requested that final materials are approved by way of condition and given the scale of buildings and the importance that material finishes will have upon the overall quality of the development and its contribution to the streetscape, I agree with this approach and have included a condition requiring the same that can be relied upon by the Board should they concur with this.

11.4.17. In relation to the enhancement of public spaces, key thoroughfares, I have outlined above that I consider the scale and design of the proposed development will enhance the streets adjacent to the site. I am also satisfied that the arrangement and location of public open space is complementary to the established context, situated adjacent to existing residential properties and proximate to existing open space to the west. While the submitted plans do not show gated access to the site, and the Planning Authority request measures to prevent a gated development and I have included a condition regarding the same.

11.4.18. In terms of contribution to legibility, the scale of the proposed apartment blocks form a visual marker in the streetscape which will positively contribute towards legibility in the immediate area, whilst ensuring minimal visual intrusion into longer views. Entrances to the buildings and routes through the site are clearly defined through



design and landscape, with a layout that ensures straightforward and unambiguous routes through the site. As outlined above, I am also satisfied that the proposed development (at reduced maximum 7 storey height) will integrate cohesively into the area.

11.4.19. Lastly, the section 3.2 criteria under the Building Height Guidelines refers to considerations on daylight and overshadowing. In relation to Building Research Establishments (BRE) criteria for daylight, sunlight and overshadowing, I discuss this in detail below in sections 11.5 and 11.6 of this report. The submission of specific assessments is also referenced in the guidelines. I note the applicant's documents that have informed my assessment (as described here and in sections below), including (but not limited to) the submitted Urban Design and Architectural Design Statement; EclA; Landscape and Visual Impact Assessment alongside appended Verified Photomontages; Daylight and Sunlight Assessment Report; Micro-Climate Assessment Reports; Solar Photovoltaic Glint and Glare Study; Telecommunications Report; and Appropriate Assessment Screening Report. It should also be noted that I specifically address telecommunications, micro-climate and glare in section 11.10 below.

11.4.20. I am satisfied that the proposed development, with a reduced maximum height of 7 storeys, would appropriately incorporate the criteria described in section 3.2 of the Building Height Guidelines which I have had regard to above. I am also satisfied that the proposed development at a maximum 7 storey height, would not have significant negative visual impacts, would not be overbearing, and conforms with relevant objectives under the Development Plan.

11.4.21. I recognise that the construction of the proposed development on the site represents a significant change in scale for the area in the current context. However, I am also mindful of the approach taken in the Building Height Guidelines which identifies that increased building height has a critical role to play in addressing the delivery of more compact growth in urban areas. While the existing scale surrounding the site is largely 2-3 storey, this is reminiscent of traditional, limited, low-rise building heights (as described in the guidelines) which is limiting the growth and development need of Dublin. I also recognise the emerging context as anticipated in the Swords Masterplan which encourages increased scale given the characteristics of the area. The subject site benefits from excellent public transport accessibility, it is situated on

a busy road intersection and the focus of height onto the corner and R132 would create a focal point and marker for the location. I am satisfied that the characteristics of the area make this site well suited to delivering increased height and density in a sustainable location as described in the Building Height Guidelines. This is in consideration of overarching national policy, and subject to the assessment set out in the remainder of this report, particularly relating to residential amenity.

## **11.5. Neighbouring Residential Amenity**

### **11.5.1. Daylight and Sunlight**

11.5.2. In this section of my report I address the policy criteria in relation to potential impacts on daylight, sunlight and from overshadowing, upon neighbouring occupiers/sites, in section 11.6 below I address the potential conditions for future occupiers of the development.

11.5.3. Criteria under section 3.2 of the Building Height Guidelines include reference to minimising overshadowing and loss of light. The Building Height Guidelines refer to the Building Research Establishments (BRE) 'Site Layout Planning for Daylight and Sunlight – A guide to good practice' and ask that '*appropriate and reasonable regard*' is had to the BRE guidelines. I also note reference to British Standard (BS) 8206-2:2008 'Lighting for buildings - Code of practice for daylighting', which has subsequently been withdrawn and replaced by BS EN 17031:2018 'Daylight in buildings'. These standards have therefore informed my assessment of potential daylight and sunlight impact as a result of the proposed development. However, it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria. While the Building Height Guidelines refer to the 2<sup>nd</sup> edition BRE guidance, I note that a more recent edition ref. BR 209 2022 was published last year, however this does not alter the basis of my assessment of neighbouring occupiers' daylight, sunlight and overshadowing.

11.5.4. Section 5 of the BRE guidance notes that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc. In addition, industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones.

11.5.5. The BRE guidelines state that in relation to daylight to existing buildings:

*“Loss of light to existing windows need not be analysed if the distance of each part of the new development from the existing window is three or more times its height above the centre of the existing window. In these cases the loss of light will be small...”* (para. 2.2.4)

- 11.5.6. The guidelines also states that if a proposed development is taller or closer than this, a 25° line can be drawn from 1.6m above ground from adjacent properties, and if the proposed development is below this line, then it is unlikely to have a substantial effect on the diffuse skylight enjoyed by the existing building.
- 11.5.7. In relation to existing properties that could potentially be impacted, the BRE guidelines recommend that a proposed development does not reduce daylight levels to a VSC (vertical sky component) of less than 27%, or where this is the case, not less than 0.8 times its former value. The guidelines state that if with a new development in place, the VSC to an existing neighbouring property *‘is both less than 27% and less than 0.8 times its former value, occupants of the existing building will notice the reduction in the amount of skylight.’* Therefore, the preservation of a minimum VSC of 27% and/or reductions no more than 20% the former value, illustrate acceptable daylight conditions to existing properties. In relation to sunlight to windows, the BRE guidelines refer to a test of Annual Probable Sunlight Hours (APSH) to windows. This checks main living rooms of dwellings, and conservatories, if they have a window facing within 90° of due south. If with the development in place, the centre of the window can receive more than one quarter (25%) APSH, including at least 5% of APSH in the winter months between 21<sup>st</sup> September and 21<sup>st</sup> March, then the room should still receive enough sunlight. In relation to overshadowing, BRE guidelines recommend that at least 50% of existing properties rear gardens or other public / communal amenity areas, should receive at least 2 hours of sunlight on the 21<sup>st</sup> March, or not be reduced by more than 20% of the former value.
- 11.5.8. The application includes a Sunlight, Daylight and Shadow Assessment report. This describes potential effect upon the daylight, sunlight and from overshadowing upon properties and amenity spaces at Boroimhe Elms, 2A-18 Boroimhe Oaks and 2-24 Boroimhe Willow. The submitted report explains that impact upon all other surrounding properties can be excluded in accordance with the BRE methodology in the guidelines.

11.5.9. With respect to VSC levels to existing neighbouring properties, 224 windows/rooms in surrounding properties are evaluated in the submitted report. Of these, 18 windows will not comply with BRE recommended levels following construction of the proposed development, equating to a pass rate of 92%. These windows are all categorised as experiencing minor adverse impacts as a result of the development. This categorisation is in accordance with the criteria outlined in Appendix H of the BRE guidance, which describes the degree of impact as 'loss of light that is only marginally outside the guidelines'. A major adverse impact is described in the guidance as a 'loss of light that is substantially outside of the guidelines'.

11.5.10. I note that the 18 impacted windows where VSC levels will fall below BRE recommended levels in the post development condition are all within the Boraimhe Elms and Boraimhe Willows estates. The majority of these windows, face directly onto the subject site, with only 2 impacted windows not overlooking the site. In my opinion this is a pertinent factor when assessing the results. When reviewing the results, it is clear that the 16 impacted windows directly overlooking the subject site can be considered to currently experience high VSC levels despite the urban characteristics of the site, with levels in excess of 30% (approx.) in all cases. This is a result of the current site condition, which is undeveloped having been cleared of structures that previously occupied the site. As such, this unobscured current condition is in my view, fairly abnormal for an urban environment, and contributes to a degree of change in the post development condition that is exaggerated. Therefore, while these 16 windows fall below BRE recommended level, it would be inappropriate in my opinion to overly constrain development of the subject site to preserve the current high VSC levels experienced, which are a direct result of the undeveloped character of the subject site. Of these 16 windows, 15 retain a VSC in excess of 25% (approx.) or experience a degree of change of 0.7 times the former value in the post development condition, and therefore marginally below the 27% or 0.8 times the former value recommended in the BRE guidance. 1 window has a resulting VSC of 24% with a degree of change of 0.6 times the former value. The remaining 2 windows are situated on the ground floor of Boraimhe Elms and experience a reduction that is between 0.71 and 0.79 times the existing value, and therefore with an impact marginally in excess of the 0.8 times set out in the guidance. As such, I am satisfied that the impact upon surrounding properties daylight with reference to VSC levels

and the targets set out in the BRE guidance is marginal and does not equate to a significant negative impact, particularly given the urban character of the site, it's zoning for residential development and the expectation of growth delivery in Swords as a key town.

11.5.11. With respect to annual sunlight (APSH), 1 window in Boroimhe Elms will not comply with BRE target levels in the post development condition with a minor adverse effect. With respect to winter sunlight (WPSH), there is 1 window at 6 Boroimhe Willows which will experience a minor adverse impact, 2 windows that will experience a moderate adverse impact at no.'s 4 and 8 Boroimhe Willows respectively, and 1 window at 2 Boroimhe Willows that experiences a major adverse impact.

11.5.12. In my opinion, it is clear that negative impact will be experienced on Boroimhe Elms and Boroimhe Willows with respect to sunlight to the ground floor windows effected. This impact to Boroimhe Willows is not unexpected given the orientation of the proposed development to these properties. I note that the separation distance between existing properties on Boroimhe Willows and the proposed development is between 17-20m (minimum approx.) at ground level and over 22m from first floor and is therefore sufficient. In addition, the proposed development is 3 storeys at the point it is closest to these impacted windows in Boroimhe Willows, and therefore reflective of the established scale adjacent to the site. In my opinion, the degree of impact is marginal overall given the total number of windows assessed (being 103), with 99% of windows meeting BRE APSH target levels and 96% of windows meeting BRE WPSH target levels.

11.5.13. With respect to overshadowing of existing amenity areas, there are 3 gardens that will experience a minor adverse impact at no.'s 2, 4 and 16 Boroimhe Willows. With reductions of between 0.74 and 0.78 times the former value, and therefore with an impact marginally in excess of the 0.8 times recommended in the BRE guidance. There is also a beneficial impact to the garden at 20 Boroimhe Willows with a ratio increased of 1.40, as well as negligible improvement to 22 and 24 Boroimhe Willows, in the post development condition. This is as a result of the removal of dense boundary vegetation. This equates to a pass rate of 86.3% against the targets set out in the BRE guidance. Similar to the assessment set out above with respect to sunlight to windows, this reduction in sunlight to garden areas for properties in Boroimhe Willows is not unexpected given the southerly orientation of the proposed

development to those properties. In addition, a minimum separation of over 11m is demonstrated between the proposed development to the boundaries with these garden areas, and therefore sufficient in my opinion given the urban characteristics of the site.

11.5.14. I am recommending that the height of the proposed development be reduced from 9 to 7 storeys to the south and south west of the site, however as these parts of the site are not situated immediately proximate to the properties in Boroimhe Willows, I do not anticipate that any improvement, or significant improvement, would result to their sunlight. There may be some improvement to the window impacted on Boroimhe Elms given its proximity and orientation to the development, however I cannot be certain of this. Therefore, my assessment is on the basis of the impact described in the submitted report and does not assume any improvement upon the impact set out in those results following reductions in scale recommended in this report.

11.5.15. As outlined in sections 11.3 and 11.4 above, the density and scale of the proposed development is reflective of the characteristics of the site and is appropriate for the area. I am recommending a reduction in maximum height with respect to visual amenity considerations, however I do not consider that any further reduction is required, or would be necessarily worthwhile, with respect to considerations of sunlight/overshadowing amenity, with the overall impact being marginal. In my opinion, the degree of impact upon these existing properties sunlight to windows and to gardens is not significant and is within acceptable parameters. The extent of impact should be assessed in consideration of the need to achieve efficient development on this site zoned for residential, in Swords which is a key town for growth under the Development Plan for the county, and I am satisfied that an appropriate balance has been reached in this regard.

11.5.16. I note third party concern with respect to loss of sunlight and consequential impact upon solar panels and vitamin D levels. In relation to the obstruction of light to solar panels on existing properties, this is not a planning policy consideration and there is no measurement or standard that I can apply in this regard. I have described the impact from the proposed development upon overshadowing of surrounding areas, which is within acceptable parameters as described in planning guidelines. In relation to the impact that loss of sunlight would have upon the health of existing occupiers,

again, I have described impacts according to planning parameters above, and these are within an acceptable range in my view.

#### 11.5.17. Separation Distances

11.5.18. Objective DMS28 requires a minimum separation distance of 22m between directly opposing rear first floor windows, with this distance increased in developments over 3 storeys. The proposed development has no rear adjacencies to existing properties less than 22m at first floor in accordance with Objective DMS28 of the Development Plan. The closest neighbouring properties to the proposed development are within Boroimhe Elms to the west of the site, which are duplex properties that have side elevations between 13m and 19m (approx.) to the proposed development. To the north and properties in Boroimhe Willows, separation distances are between 17-20m to ground, and over 22m to first floor windows. Where the proposed development increases in scale to the south and south west of the site, a separation of over 60m is demonstrated to the rear windows in Boroimhe Willows. To the east and south there are no proximities of note to residential properties.

#### 11.5.19. Noise, light and traffic pollution

11.5.20. I note a third party representations in relation to possible disturbance from the proposed development as a result of noise, lighting and traffic pollution. I address construction related impact separately below. During operation of the development, I accept that the proposed development has the potential to alter the existing footfall of some of the streets around the Boroimhe Estate, with increased population of the areas around these streets. However, I do not consider this to be a negative consequence of the development. I consider the linkages between the proposed site to established neighbourhoods to be beneficial in terms of connectivity for both existing and future occupiers of the area. In relation to noise from aircraft, third parties raise the concern of the potential for reverberation of aircraft noise into existing adjacent residential estates. The applicant has submitted an Acoustic Design Statement with the application. This identifies that the predominant noise in the area is from traffic and that while the area is situated in Dublin Airport Noise Zone C, it is vehicular traffic on the adjacent L132 and L2300 that dominant the noise environment. The report also identifies that the proposed external communal areas and public open spaces are expected to achieve appropriate noise levels. In my

opinion, the noise environment surrounding the site will not be exacerbated by the proposed development, and there is no evidence to suggest potential reverberation of aircraft noise, particularly as that noise is not the dominant factor in the area. In my view, the proposed development will increase the barrier to noise from the L132 to adjacent residential estates, and some improvement might result.

11.5.21. I note the Planning Authority comment with respect to noise and the proposed childcare use on the site. I am satisfied that childcare provision is an appropriate use on the site and acceptable in principle under the zoning of the land. There is nothing inherent in the design that would create from it, or subject to it, unacceptable noise impact in my view and this is supported by the Acoustic Design Statement submitted with the application.

11.5.22. In relation to lighting, an Outdoor Lighting report and public lighting plan have been submitted with the application, these describe the location and luminance level of exterior lighting to be included as part of the development. Luminance levels are appropriate for a residential urban area. I am satisfied that there will be no disturbance to adjacent residents from lighting at the proposed development. I address biodiversity considerations in relation to lighting in section 11.10 below.

11.5.23. In relation to traffic, I address this specifically in section 11.7 below, however in general the intended use of the site for residential occupation and the associated use of vehicles as part of this is in keeping with the zoning of the site and adjacent areas, and therefore no in principle concern results in terms of disturbance.

11.5.24. Overall, I am satisfied that the use of the subject site for residential occupation, in an area zoned for residential use, will result in noise, light and traffic which in principle, is reflective of this zoning and appropriate for the area, with no significant negative impacts anticipated to arise.

#### 11.5.25. Construction Impact

11.5.26. Representations have been received regarding the potential for noise, dust, traffic disruption and damage to the highway as a result of construction works on the site. An Outline Construction Management Plan has been submitted with the application. Measures for the management of noise and suppression of dust are described. Vehicle site access and traffic management is also addressed. A condition is recommended to secure these arrangements and the submission of a final



construction management plan for approval. With the application of these mitigation measures, I have no concerns regarding construction impacts (or construction transport impacts) resulting from the proposed development.

#### **11.6. Proposed Residential Standards**

- 11.6.1. In this section of my report, I address the range of applicable standards guiding an appraisal of the quality of proposed accommodation.
- 11.6.2. Noise
- 11.6.3. As outlined above in section 11.5, the applicant has submitted an Acoustic Design Statement which identifies that while the area is situated in Dublin Airport Noise Zone C, it is vehicular traffic on the adjacent L132 and L2300 that creates the dominant noise environment. The report confirms that through the proposed design and materials, appropriate noise conditions will be experienced within both internal and external areas for the proposed development for the residential and childcare use proposed.
- 11.6.4. Daylight, Sunlight and Overshadowing
- 11.6.5. The criteria under section 3.2 of the Building Height Guidelines include the performance of the development in relation to daylight in accordance with guides 'like' the 2011 BRE 'Site Layout Planning for Daylight and Sunlight', with measures to be taken to reduce overshadowing in the development. The Design Standards for New Apartments states that levels of natural light in new apartment developments is an important planning consideration and regard should be had to guides 'like' A New European Standard for Daylighting in Buildings IS EN17037:2018, UK National Annex BS EN17037:2019 and the associated BRE Guide 209 2022 Edition (June 2022), which succeed the 2011 BRE standards. Objective DMS30 of the Development Plan also states that all new residential units should comply with the 2011 BRE Guidelines and B.S. 8206, or other updated documents. 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.
- 11.6.6. A Daylight and Sunlight Assessment Report has been submitted with the application and describes the performance of the proposed apartment blocks in the

development against the 2022 BRE guidelines and I.S. EN17037 in relation to daylight and sunlight. A Supplementary study is also provided with respect to criteria under the 2011 BRE guidelines with respect to internal daylight conditions within the proposed development. As both the Building Height Guidelines and Apartment Guidelines reference guides 'like' the respective BRE versions they reference, I am satisfied that the data and methodology presented in the applicant's submitted report is sufficient for the purposes of my assessment.

- 11.6.7. The 2022 BRE guidelines include The UK National Annex, and gives illuminance recommendations of 100 lux in bedrooms, 150 lux in living rooms and 200 lux in kitchens. These are the median illuminances, to be exceeded over at least 50% of the assessment points in the room for at least half of the daylight hours. Where a room has a shared use, the highest target should apply (BRE guidelines Appendix C). I.S. EN 17037 provides target spatial daylight autonomy (SDA) values to be applied, these values do not vary depending on the room function. Under I.S. EN 17037, at least 50% of the working plane should receive above 300 lux for at least half the daylight hours, with 95% of the working plane receiving above 100 Lux.
- 11.6.8. The 2011 BRE guidelines describe annual daylight factor (ADF) targets of 2% for kitchens, 1.5% to living rooms and 1% to bedrooms.
- 11.6.9. In the proposed development, where kitchens and dining spaces form part of open plan living areas, the applicant has provided analysis against the higher target i.e. 200 lux or 2% ADF target.
- 11.6.10. The submitted report demonstrates that 100% of the apartment rooms in the proposed development comply with 2022 BRE targets for lux levels described in the guidelines. With respect to I.S. EN17037, 31 of the 526 rooms assessed would not meet the guideline SDA level, equating to a pass rate of 94%. With respect to ADF levels under the 2011 BRE guidelines, there are 2 rooms that would not meet the target level, equating to a pass rate of 99%. I am satisfied that these results demonstrate a very high pass rate, with only marginal deviation from the targets set out in the guidelines. Specifically with reference to the guidelines themselves that daylight only forms one consideration in site layout planning and that the criteria is not mandatory, I consider the predicted daylight levels for the proposed development to be acceptable.

11.6.11. With respect to sunlight exposure, the 2022 BRE guidelines describe that reasonable sunlight will be provided where at least one main window wall faces within 90° due south, and a habitable room (preferably a living room) can receive a total of at least 1.5 hours of sunlight on 21<sup>st</sup> March. In the proposed development 87% meet the criteria for sunlight exposure. There is no specific planning policy requirement relating to sunlight for new developments, and the Building Height Guidelines and Apartment Guidelines do not specifically refer to sunlight, with a focus on daylight. I am satisfied that the proposed development demonstrates a high level of sunlight exposure, in recognition that to achieve an efficient level of residential development on the site, it will not be possible for all units to have a habitable room facing 90° due south. Page 24 of the 2022 BRE guidelines states in relation to new buildings where multiple units are planned, site layout design should aim to maximise the number of dwellings with a main living room that meets sunlight exposure targets, and I am satisfied that the proposed development conforms with this recommendation, and consequently accords with Objective DMS30 of the Development Plan.

11.6.12. The submitted report outlines compensatory measures that have been incorporated in reflection of requirements under section 28 guidelines. In this regard I note that those units that do not meet BRE targets are equipped with one or more of the following compensatory design measures:

- 10% additional area;
- Additional private amenity area;
- Higher floor ceiling;
- Outlook of views over the semi-private amenity space;
- Large glazing.

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

11.6.14. Dual Aspect

11.6.15. The application submission confirms that the proposed development has a dual / triple aspect proportion of approximately 57.5%. I am satisfied that this is an

appropriate proportion of dual aspect units in the proposed development and in compliance with SPPR 4.

11.6.16. Internal Space Standards

11.6.17. All of the proposed units comply with minimum floor areas as described in both the Fingal County Development Plan and the Apartment Guidelines (with respect to the proposed apartments and duplexes).

11.6.18. Floor to Ceiling Heights

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

11.6.20. Privacy

11.6.21. The proposed development has been designed to ensure that there are no directly opposing windows closer than 22m, in accordance with Objective DMS28 of the Development Plan. The proposed design incorporates a staggered window arrangement or opaque glazing where adjacencies are less than 22m to ensure no directly opposing windows.

11.6.22. Number of Apartments to a Core

11.6.23. SPPR 6 requires a maximum of 12 apartments per floor and the proposed development complies with this. However, I note that the Development Plan includes DMS23 which only permits 8 apartment units per core, and I address this further in section 11.8 below.

11.6.24. Private Amenity Space and Communal / Public Open Space

11.6.25. External private amenity space is provided to every apartment in the proposed development in the form of balconies and terraces. Outdoor communal space is also provided within the central courtyard of proposed blocks B1-B3 and 2 areas adjacent to proposed blocks A1 and A2, amounting to 2,020sqm. The proposed development provides in excess of the Apartment Guidelines standards for private and communal external amenity. I note that there is direct access to the communal podium amenity space for cores 1 to 3 in blocks B1, B2 and B3, however there is no similar direct access from core 4 in block B1. The Planning Authority request a condition to secure revised drawings demonstrating a direct access from core 4 in block B1 to the

podium communal amenity area, and I concur with this approach. Should the Board agree, a condition is included in my recommended order which can be relied upon.

11.6.26. In relation to public open space, the proposed development incorporates 1,510sqm equating to 10.5% of the total site area. In the Development Plan DMS57 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 0.84ha. 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. In this application, the submitted Statement of Consistency confirms the applicants acceptance of a financial contribution in this regard.

11.6.27. Objective DMS73 asks that as far as practical, the design of SUDS enhances the quality of open space and SUDS do not form part of the public open space provision, except where it contributes in a significant and positive way to the design and quality of the open space. Objective DMS74 states that underground storage systems will not be accepted under public open space as part of a SUDS solution. The Planning Authority state that the proposed public open space does not conform to standards under the plan as it incorporates SUDS areas. The Planning Authority therefore request that the entire open space requirement be sought as an in lieu financial contribution via a condition (under section 48 of the Act) attached to any grant of consent for the development. They also request a revised plan of the proposed open space in order to demonstrate an appropriate layout and maintenance arrangements in accordance with DMS63.

11.6.28. In relation to playspace, Objective DMS75 in the Development Plan states that playground facilities should be provided at a rate of 4sqm per residential unit. This equates to provision of 876sqm in the proposed development. The proposed development incorporates 347sqm of assigned play space which includes the creche and informal natural play areas. I address playspace further in my material contravention section of this report at 11.8 below.

11.6.29. In my opinion, the Development Plan is clear that while the 'remaining open space requirement' can be sought by way of a financial contribution, it is required that a minimum 10% of the site area is provided as open space within a proposed

development scheme. I am also satisfied that DMS73 allows for circumstances where SUDS provision may form part of public open space, and that with respect to DMS74, there is discretion as highlighted in the preceding paragraph to these objectives. These objectives form standards under the plan and will vary in application depending upon the scheme circumstances and at the discretion of the Planning Authority. In this application, An Bord Pleanála can exercise discretion in this regard. In my view, it is possible to combine the SUDS requirements for the scheme with the open space and such approaches are recognised under the plan (and have been reflected in decisions by Fingal Planning Authority). It is however necessary in my view, to seek a revised landscape plan and SUDS details to ensure that the two are compatible and this can be achieved by condition. Therefore, I do not agree with the Planning Authority that the total open space requirement can be sought via an in lieu financial contribution, and I agree with the applicant, that the 10% provision has been achieved on site with the remaining requirement to be met by way of in lieu financial contribution.

#### 11.6.30. Dwelling Mix

11.6.31. I note third party concern regarding the proposed mix of the development, with suggestion that inadequate regard is given to provision of family housing, that the units will be rented and result in a transient population. The proposed development provides for 104 no. 1-bed units (47.5%), 111 no. 2-bed units (50.6%), and 4 no. 3 bed units (2%) which is compliant with the Apartment Guidelines and the Development Plan. In relation to third party concerns, the majority of the proposed development is formed of units with two or more bedrooms and can accommodate multiple occupation (families) and the proposed development is also not submitted as a Build-to-Rent application.

11.6.32. In relation to the amendment I recommend in this report, and specifically the removal of floors 7 and 8, this would reduce the overall number of units by 15, to 204, with a mix of 97 no. 1-bed units (47.5%), 105 no. 2-bed units (51.4%), and 2 no. 3 bed units (0.98%) which remains compliant with the SPPR 1 of the Apartment Guidelines.

### 11.7. **Traffic and Transport**

11.7.1. I note third party concerns regarding transportation impacts, with concern raised regarding the accuracy of submitted data.

- 11.7.2. The applicant has included a Traffic and Transport Assessment with the application. This demonstrates a negligible and unnoticeable impact upon surrounding traffic conditions following operation of the proposed development. Population growth and associated increased vehicular traffic is accounted for in future scenarios described. I have also had regard to planning activity in the area as set out in section 4 of my report above, which I am satisfied is accounted for in the Development Plan and reflected in future anticipated growth set out in the submitted assessment. I note that third parties suggest that the conclusion that traffic impact will be unnoticeable is disingenuous given the proportional increase in traffic that results. However, in my opinion, the term 'unnoticeable' in the report, relates to a low degree of impact when considering the capacity of the surrounding network and the extent of traffic increase attributable to the development. While I acknowledge that the proposed development will increase traffic movement through the adjacent Boroimhe Estate, I am satisfied that the applicant has demonstrated that this increase would be within acceptable parameters. I am also satisfied that the traffic survey data is sufficient for the purposes of my assessment.
- 11.7.3. The application also includes a DMURS Compliance Statement demonstrating that the internal layout of the proposed site complies with recommendations in DMURS, as well as a Stage 1 Road Safety Audit, with recommendations reflected in the proposed design as submitted.
- 11.7.4. Access and Layout
- 11.7.5. Third parties have raised concern regarding the proposed access from the Boroimhe Estate and request is made that access is from the R132. I note that a previous planning appeal on the site was refused by An Bord Pleanála, in part, due to inadequate access arrangements which were considered to present a safety hazard due to proximity to the junction for the R132. The current application utilises the existing access road to the Boroimhe estate and therefore there is no conflict with the junction for the R132. In relation to third party objections to the safety of the proposed access, there is no safety or any other hazard that would result from the utilisation of the proposed route in my view. I also note that the Planning Authority's Transport Department state that sufficient sightlines for internal junctions and the main vehicular access to the site, with no concerns raised regarding the access via Boroimhe Oaks. While an intensification of the Boroimhe estate by vehicular traffic

would result as a consequence of the development, this would not be significantly negative in my opinion and would be reflective of the residential character of the area. I note that third parties indicate concern regarding disruption to children playing in streets in the Boroimhe estate surrounding the site, however there is nothing inherent in the design of the proposed development or intended access arrangements that present a danger to pedestrians in my view, and normal traffic safety measures would be expected to apply i.e. pedestrian footfall focused on footpaths etc.

#### 11.7.6. Car Parking

11.7.7. I note third party concern regarding the quantum of car parking proposed. Comments state that too little is provided which may lead to on-street parking. The Transport Division of the Planning Authority also state that the quantum of car parking is insufficient.

11.7.8. The Development Plan describes car parking standards in Table 12.8. The applicant states that there is a requirement under the Development Plan for 278.5 no. spaces for the residential element of the scheme and 43.8 no. visitor car parking spaces. However, the Planning Authority state in their submitted Chief Executive report that the proposed development generates a parking demand of 322 spaces, and a minimum practical parking provision of 218 spaces according to Development Plan standards.

11.7.9. 144 no. residential car parking spaces are proposed which is less than the normal standard of the County Development Plan and equates to a ratio of 0.65 spaces per residential unit (excluding creche staff spaces). The Planning Authority state that the actual provision of proposed parking for residential use is actually 141 spaces as car share spaces are not included. Therefore, it is clear that the proposed development does not conform with the standards as set out in the Development Plan, however I note that these standards are described as a 'guide' to the number of spaces for new development on page 458 of the plan, indicating a degree of flexibility in application. The Development Plan also states that the principal objective of the application of car parking standards is to ensure that, in assessing development proposals, consideration is given to the accommodation of vehicles attracted to the site within



the context of existing Government policy aimed at promoting modal shift to more sustainable forms of transport.

11.7.10. The National Planning Policy approach as described in the Apartment Guidelines is that there is a default policy in central and/or accessible urban locations (such as where the subject site is situated), for car parking provision to be minimised, substantially reduced or wholly eliminated.

11.7.11. The proposed development is located less than 500m walking distance to bus stops, with access to routes operated by Dublin Bus and the Swords Express. As outlined in section 11.4 above, I am satisfied that the subject site is accessible via frequent, high capacity public transport services. 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. Therefore, I am satisfied that the site is situated in a location where in accordance with the Apartment Guidelines, car parking provision should be minimised.

11.7.12. I am satisfied that the proposed car parking provision is reflective of the site characteristics and the national planning policy approach to encouraging a modal shift from private car ownership and use, to reliance upon more sustainable modes of transport such as walking, cycling and public transport. This is particularly in light of the provision of extensive cycle parking facilities in the proposed scheme, as well as the incorporation of car club spaces which act as a disincentive to individual car ownership. I do not think that the total removal or reduction in car parking provision would be necessary on this site outside of the city centre. I also acknowledge that the recommended amendments described in this report would reduce the number of residential units in the proposed development, thus increasing the proportion of car parking spaces to residential units, however I am content that regardless of this reduction, the proposed quantum of car parking is appropriate for a scheme of this scale in this location.

11.7.13. In relation to the proposed creche, 2 no. car parking spaces are proposed which is in accordance with Development Plan standards. The Planning Authority do request that drop-off provision also be accommodated which can be required under a planning condition, should the Board agree with this request, I have included a

condition in my recommended order which can be relied upon with regards to the same.

#### 11.7.14. Bicycle Parking

11.7.15. The proposed development includes provision for 470 bicycle parking spaces (inclusive of 116 visitor spaces). This exceeds minimum standards set out in the Development Plan. The Apartment Guidelines describe a general minimum standard, with deviations at the discretion of the Planning Authority. The submitted Chief Executive report outlines that the quantum of cycle storage is acceptable, however concerns are raised regarding the detail of this provision, which can be addressed by way of condition, including the relocation of the entrance to the bicycle store to proposed Block B3 to increase passive surveillance.

11.7.16. I am satisfied that the proposed provision of 470 cycle storage spaces (inclusive of visitor space) is sufficient given the scale of development, it's location and the provision of car parking in the scheme.

#### 11.7.17. Public Transport

11.7.18. The subject site is situated on a Quality Bus Corridor (QBC) accessible via existing frequent, high capacity public bus routes which are located a short walking distance from the site (less than 500m). In terms of future public transport provision, the Bus Connects route is situated adjacent to the site on the R132 and is expected to further improve bus transport provision. The proposed development is also located within 100m of the proposed Metrolink Fosterstown Station, with Metrolink anticipated to be in operation in the 2030's.

11.7.19. Objective SWORDS 5 states that the early development to the indicative route for new Metro North will be promoted and supported. Objective DMS120 states that the indicative route for Metro North and its stops should be kept free from development. There is a specific objective for an 'Indicative Route for new Metro North' running along, and within, the south and eastern boundary of the site. A previous appeal on the site was refused by An Bord Pleanála, in part, due to a conflict with the indicative route for Metro North. However, Metro North is no longer proceeding and the new Metrolink project follows a different alignment to the east of the R132. The application site does not impinge on the Metrolink alignment. I consider this matter further in

section 11.8 below as part of my assessment of potential material contraventions of the Development Plan.

11.7.20. There is a proposed future upgrade to the R132 along the eastern boundary of the site, to provide improved bus and active travel infrastructure under the Bus Connects project (corridor no.2). The applicant has submitted drawing no.PL25 'Illustrative Bus Connects Interface' demonstrating a setback building line along the R132 to accommodate the planned upgrade. The Planning Authority request a condition in the event that the Board grant planning consent for the application, to require the land for the proposed future upgrade of the R132, to be kept free of development and to be ceded to Fingal County Council. I have included a condition regarding the same in my recommended order below.

11.7.21. I note that the applicant has submitted a Bus Capacity and Demand Study which I reference in section 11.4 above. This demonstrates sufficient capacity on the existing bus network serving the site to meet the anticipated demand of the future population of the proposed development. Future public transport improvements planned for the area would further improve the connectivity of the site.

11.7.22. With reference to the foregoing assessment, I am satisfied that there is no predicted negative impact upon either existing or future public transport services for the site as a result of the proposed development.

## **11.8. Material Contravention**

11.8.1. Section 9(6)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 states that subject to paragraph (b), the Board may decide to grant a permission for strategic housing development in respect of an application under section 4, even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned. Paragraph (b) of same states 'The Board shall not grant permission under paragraph (a) where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land'.

11.8.2. Paragraph (c) states 'Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant

permission in accordance with paragraph (a) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development'.

11.8.3. The applicant has submitted a Statement of Material Contravention with the application. This identifies potential areas that may be considered material contraventions in relation to the following:

- i) Car Parking: The proposed car parking ratio (1:0.65) is below the ratio provided for in the Fingal Development Plan 2017-2023 normal parking standards.
- ii) Playspace Provision: The proposed development provides 347.5sqm of assigned play space which includes the creche and informal natural play space, following short of DMS75 which requires 876sqm of play space.
- iii) Separation Distances: A separation distance of 22m is not achieved in all cases.
- iv) Stair Cores: The proposed development includes up to 12 apartments per core, however DMS23 permits up to 8 apartments per floor.
- v) Public Open Space: DMS57 requires a minimum public open space provision of 2.5 hectares per 1000 population on the basis of an 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. On the basis of the 8 no.3 bedroom units and the 211 no.1 and 2 bedroom units, the proposed development would require 0.84 ha of public open space, equating to 56% of the site. The proposed development incorporates approximately 10% public open space.
- vi) Metro North Route: Objective DMS120 requires that the indicative route for new Metro North and its stops are kept free from development. As indicated on Fingal Development Plan 2017-2023 Zoning Sheet 8 the indicative route as shown passes through the site from the south along the eastern boundary within the site.

11.8.4. In relation to car parking, I have assessed this against planning policy requirements in section 11.7 of my report above. I am satisfied that as the standards are described

as a 'guide' in the Development Plan, and this indicates some flexibility. In addition, I note that the proposed development complies with the most up to date standard set out in the Apartment Guidelines.

11.8.5. Objective PM43 of the Development Plan states that in relation to apartment development, regard should be had to the design standards for new apartments or any update or revision of those standards, and Objective PM42 of Variation 2 of the Development Plan reconfirms this and specifically states that in relation to apartment development *'Implement the policies and objectives of the Minister in respect of Urban Development and Building Heights Guidelines (December 2018) and Sustainable Urban Housing: Design Standards for New Apartments (March 2018) issued under section 28 of the Planning and Development Act, as amended'*. The text explaining the car parking standard under the Development Plan on page 458 states that *"The principal objective of the application of car parking standards is to ensure that, in assessing development proposals, consideration is given to the accommodation of vehicles attracted to the site within the context of existing Government policy aimed at promoting modal shift to more sustainable forms of transport."* Therefore, application of the standards under the Apartment Guidelines which seek to minimise car parking on sites well served by public transport, such as the subject site, flows from the principal objective of the car parking standard under the Development Plan. As such, a material contravention does not arise with respect to car parking in my view.

11.8.6. In relation to playspace provision, Objective DMS75 in the Development Plan states that playground facilities should be provided at a rate of 4sqm per residential unit. This equates to provision of 876sqm in the proposed development. The proposed development incorporates 347sqm of assigned play space which includes the creche and informal natural play areas. The Development Plan outlines in table 12.5 the types of Public Open Space to be provided in residential development, with the focus on the provision of a mix of public open space types in a development. Playground and play facilities are included within the description of the different types of open space in this table. As such, in my view, the provision of play forms part of open space requirements. Objective DMS57B confirms that the Council has discretion to accept a financial contribution in lieu of remaining open space requirements under the plan. I address open space requirements in further detail below, but with specific

regard to playspace, I am satisfied that an in lieu financial contribution from the developer to the Council for open space would encompass in lieu contribution to play. This is supported as the Objective DMS57A confirms that the Council has discretion for remaining open space requirement under table 12.5 (which specifies play provision) to allow upgrade of parks and/or recreational/amenity facilities. In this case, the Planning Authority and Applicant have indicated acceptance to an in lieu financial contribution for the remaining open space provision. The Planning Authority have not made any separate request specifically relating to the quantum of play provision. As such, in my opinion, no material contravention of the Development Plan arises with respect to this matter. I note third party concerns with respect to open space and play / playing pitch provision in the area, however an in lieu financial contribution directly responds to such concerns and allows for upgrade / expansion of such facilities in the area.

11.8.7. In relation to separation distances, the applicant identifies in the submitted Material Contravention Statement that specified separation distances of 22m have not been achieved in all cases. Where this occurs the design incorporates staggered opposing windows and use of opaque window glazing to prevent overlooking and ensure privacy. I have assessed separation distances in both sections 11.5 and 11.6 above and I am satisfied that no undue overlooking occurs. Objective DMS28 sets out that a separation distance of minimum 22m between directly opposing rear first floor windows shall generally be observed, unless alternative provision has been designed to ensure privacy. As such, the proposed development complies with DMS28, incorporating opaque glazing to ensure privacy for adjacencies closer than 22m, and with no directly opposing windows in the fenestration arrangement. Therefore, I am satisfied that no material contravention arises with respect to this matter.

11.8.8. In relation to stair cores, the Development Plan includes Objective DMS23 which permits up to 8 apartments per floor/core. The Development Plan states in the paragraph preceding DMS23 that *“Where this is not possible, applicants and developers should maximise the number of apartments per floor per stair/lift core”*. The proposed development has 12 apartments per core. The Apartment Guidelines includes SPPR 6 which allows for a maximum of 12 apartments per floor, therefore the proposed development complies with the Apartment Guidelines minimum

standards for the ratio of apartment units per core. With respect to the Development Plan, I note Objective PM42 of Variation 2 of the Development Plan specifically states that in relation to apartment development *‘Implement the policies and objectives of the Minister in respect of Urban Development and Building Heights Guidelines (December 2018) and Sustainable Urban Housing: Design Standards for New Apartments (March 2018) issued under section 28 of the Planning and Development Act, as amended’*. Similar to the matter of car parking outlined above, the Development Plan is clear that in the application of standards under the plan, regard should be had to the Apartment Guidelines or any update or revision of those national standards. It is also stated in the paragraph preceding DMS23 that where it is not possible to achieve 8 apartments per core, developers should maximise the number of apartments per core. Which again indicates flexibility, as well as suggesting that 8 apartments per a core is a minimum standard. As such, I am satisfied that while the proposed development does not conform with the minimum standard under the Development Plan, it does conform with the Apartment Guidelines, and in light of Objective PM42, no material contravention arises.

11.8.9. In relation to public open space, Objective PM52 and DMS57 of the Development Plan require 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 0.84ha. Objective DMS57B confirms that while the minimum open space provision required is 10% of the site area, the Council has discretion to accept a financial contribution in lieu of remaining open space requirements under the plan.

11.8.10. The proposed development incorporates 1,510sqm of open space, equating to 10.5% of the total site area. I have assessed in section 11.6 above the open space provision in the proposed development. While I note DMS73 and DMS74 which state that SUDs will not be accepted under public open space, these are development management standards, and the preceding paragraph to these standards specifically states that:

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

11.8.11. As such, in my view, flexibility and discretion may be exercised in relation to the application of DMS73 and DMS74, and in this application, discretion can be exercised by An Bord Pleanála.

11.8.12. The Planning Authority and the Applicant have accepted the principle that a financial contribution in lieu of the remaining open space requirement can be sought. I have included a condition requiring development contributions in my recommended order below, that the Board can rely upon should they accept my recommendation. Therefore, I am satisfied that no material contravention arises with respect to this matter.

11.8.13. In relation to the Metro North Route, Objective SWORDS 5 states that the early development to the indicative route for new Metro North will be promoted and supported. Objective DMS120 states that the indicative route for Metro North and its stops should be kept free from development. There is a specific objective for an 'Indicative Route for new Metro North' running along, and within, the south and east boundary of the site.

11.8.14. The proposal includes development within this indicative route area. I have described in section 11.7 above that this indicative route for Metro North is no longer being pursued by the Government and that the proposed development is compatible with the more up to date Metrolink project. However, the proposed development passes over the indicative route identified for Metro North and there are associated Objectives under the Development Plan which explicitly relate to the indicative route, and not a finalised project. Therefore, in my opinion a technical material contravention of the Development Plan results, albeit without any consequential impact. In my opinion, this material contravention with regards to the indicative route for Metro North is justified given its inconsequential nature, and with reference to the following sections of the 2000 Act:

11.8.15. In relation to section 37(2)(b) (i) of the Planning and Development Act 2000 (as amended):

11.8.16. The strategic nature of this site with excellent accessibility for the delivery of housing in Swords. In this sense, the site is strategically important for the delivery of housing in Swords and in the context of national planning policy documents and guidelines which promote compact growth.



11.8.17. In relation to section 37(2)(b) (iii) of the Planning and Development Act 2000 (as amended):

11.8.18. Permission for the development should be granted having regard to national planning policy guidelines that promote increased housing delivery on appropriate sites, including Housing for All, Rebuilding Ireland An Action Plan for Housing and Homelessness, and Project Ireland 2040 – National Planning Framework. The site characteristics align with national principles underpinning sustainable compact growth in urban areas, being situated on a QBC with access to frequent, high capacity public transport. In addition, the proposed development is also in accordance with SPPR1 and development management criteria (under section 3.2) in the Building Height Guidelines, as well as SPPR's and associated guidance in the Apartment Guidelines.

11.8.19. Other Potential Material Contraventions

11.8.20. I note third party representations with regards to other potential material contraventions of the Development Plan and I address these in this section of my report.

11.8.21. I have assessed density in section 11.3 above, building height in section 11.4 above and apartment standards / amenity space standards in section 11.6 above, and I am satisfied that no material contraventions result. I have also described in detail how the proposed development complies with specific planning policy requirements in section 28 guidelines applicable to the assessment, which are considered to form legitimate justification for a material contravention of a Development Plan in certain circumstances as described under the 2000 Act.

11.8.22. With respect to growth rate, I note that the Development Plan states in relation to Swords in Chapter 4 'Urban Fingal: Swords, the administrative capital of the County, is identified as one of three 'key towns' in the MASP area.... This designation acknowledges its importance in the regional context. Swords has the capacity and future growth potential to accommodate above average growth in the Region...' and that 'In the long term it is envisaged that Swords will grow significantly, up to a population of 100,000'. A remaining residential unit capacity of 14,799 is also identified for Swords in Variation no.2 of the Development Plan. As such, this current

application for 219 units does not represent a material contravention of the Development Plan with respect to growth rate.

11.8.23. I am satisfied that the only potential material contravention that arises is with respect to a technical matter concerning the indicative route for the since lapsed Metro North project, and I have set out above why the Board would be justified in granting planning permission for the application, should they decide to do so, with reference to sections 37 2(b)(i) and (iii) of the Act.

#### **11.9. Planning Authority's Recommendation**

11.9.1. The Planning Authority's submitted Chief Executive report concludes that the proposed development 'will provide for an appropriate standard of residential development and would be acceptable, subject to conditions' which describe amendments. Recommended condition no.2 asks for revised drawings with respect to the following:

- a) reduced height to Block A2 from four to three storeys;
- b) reduced height to Block B3 to four storeys at the western section nearest Boroimhe Elms, down from seven to six storeys for the central portion of the block and reduced down from 9 to 7 storeys on the prominent corner;
- c) Maximum height of 6 storeys to Block B2 facing the R132;
- d) Relocation of the entrance to the bicycle store at ground floor of Block B3 (west) to a more appropriate location to increase passive surveillance;
- e) Provision of a link from the stairs to the podium space for apartments served by Core no.4 in Block B1 which has no direct access to the communal amenity space at podium level.

11.9.2. I have described in detail an assessment of the proposed heights in section 11.4 above and why I consider a reduction to a maximum of seven storeys is appropriate, in agreement with the Planning Authority Chief Executive Report. I have also addressed in section 11.4 each of the other recommended reductions in height, and why I do not concur with the Planning Authority in this regard. I am satisfied that in consideration of the locational characteristics, the amenity impacts of the proposed development and wider design factors, that a reduction to the maximum height to seven storeys is necessary and no other height reductions would benefit this

proposal or be required in light of the national planning policy approach to compact growth.

11.9.3. In relation to the location of the bicycle store entrance, I concur with the Planning Authority that a revised position could increase passive surveillance, and I have included a condition in my recommended order in this regard. With respect to the provision of a link from the stairs to the podium space for apartments served by Core no.4 in Block B1, I have addressed this in section 11.6 above and agree that a direct access should be provided, a condition is included in my recommended order in this regard.

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

#### **11.10. Other Issues**

##### **11.10.1. Micro-Climate and Glare**

11.10.2. A Microclimate Assessment is included with the application, which demonstrates that the proposed development is not expected to elevate windspeeds at ground level. Mitigation is also described to ensure that ground level windspeeds will be in an acceptable range, formed of the inclusion of dense planting to act as a wind break in selected locations and this is reflected in the submitted plans.

11.10.3. The application submission also includes a Solar Photovoltaic Glint and Glare Study which explains potential impact upon Dublin Airport from glare and sunlight reflections generated by the proposed rooftop solar PV panels. Due to the small scale of the solar panels proposed as part of the development, and the height above ground at which they will be located, it was not deemed necessary to assess surrounding residential receptors. The report concludes that the proposed solar panel do not pose a theoretical glare hazard.

11.10.4. I am satisfied that these reports include evidence to support the conclusions presented, and I concur with the findings that no glare hazard or adverse windspeeds at ground level would result as a consequence of the proposed development.

11.10.5. Telecommunications

11.10.6. I note third party concern that the proposed development will interfere with surrounding properties satellite reception.

11.10.7. A Telecommunications Report is included with the application and considers the potential impact of the proposed development upon telecommunications channel, such as microwave links, with respect to mobile telephone communication. The report identifies there are two existing microwave links (operated by Eir and Three) that would be impacted by the proposed development. Therefore mitigation is proposed in the form of support poles to accommodate microwave links to be affixed to the lift shaft overrun on Block B3. With this mitigation in place, no adverse impact results to mobile phone telecommunication channels.

11.10.8. Reception to existing residents TV or satellite TV signals from the sky are not addressed in the report. While it is possible for a building to obstruct a signal, the building would have to be tall to restrict signals to adjacent buildings. In my opinion, the proposed building is not of such a scale or of sufficient proximity to surrounding properties, that it would be likely to result in obstruction to TV signals. Such an impact would more commonly be related to buildings over 10 storeys in height and I am recommending that the maximum height of the proposed development be reduced from 9 to 7 storeys. However, as TV signals are not specifically addressed in the submitted report, a precautionary approach could seek further clarification by condition that adjacent occupiers TV (including satellite) reception will not be adversely impacted by the proposed development. I have included a condition requiring the same which the Board can rely upon should they agree with this approach.

11.10.9. Water Infrastructure, Drainage and Flood Risk

11.10.10. I note third party concern regarding capacity on wastewater networks to serve the site. Irish Water have confirmed that connection to the existing water/wastewater supply network is feasible for the proposed development without upgrade of existing infrastructure.

11.10.11. I note third party concern with respect to flooding. A Stage 1 Flood Risk Assessment is submitted with the application. This confirms that there are no waterbodies within the site boundaries of the proposed development and no drainage ditches within the site boundaries. Currently surface water discharge from the site is to ground and/or to nearby local drainage systems. There is also no evidence of historical flooding at the site. The report confirms that the subject site is not at risk from fluvial, coastal, pluvial or groundwater flooding. The subject site is in Flood Zone C.

11.10.12. SUDS measures are included in the design of the proposed development and the management of surface water for the proposed development has been designed to comply with the policies and guidelines of the Greater Dublin Strategic Drainage Study (GDSDS). An attenuation system is proposed to store the 1:100 year storm event plus 20% for climate change.

11.10.13. I am satisfied that with the incorporation of SUDS measures, the proposed development would not be at risk of flooding and does not increase flood risk to surrounding areas.

11.10.14. Energy and Sustainability

11.10.15. I note third party comments with respect to inefficient or unsustainable design with respect to energy and carbon emissions. An Energy and Sustainability Report is included with the application. This describes how the design of the proposed development responds to energy and sustainability considerations, particularly in relation to heating, cooling, lighting and auxiliary equipment. The report confirms that with the proposed development achieves all energy and sustainability targets, with a target Building Energy Rating of A2/A3. I am therefore satisfied that the design of the proposed development has appropriately considered energy efficiency.

11.10.16. Biodiversity

11.10.17. An Ecological Impact Assessment (EclA) is submitted with the application. The EclA confirms the results of field surveys of flora and fauna on the site. Habitats present on the site are characterised by the former residential dwellings and attached gardens that occupied the site, they include BL3 – Buildings and Artificial Surfaces; ED3 – Recolonising Bare Ground; WL1 – Hedgerow; WL2 – Treelines; and WS1 – Scrub. No habitats of conservation significance were noted on the site. No rare or plant species of conservation value were noted and no rare or threatened plant species were

recorded within the subject site. No invasive plant species listed on the third schedule of regulation 49 & 50 in the European Communities (Birds and Natural Habitats) Regulations 2011 were noted on site. No rare or threatened faunal species were recorded on the subject site.

11.10.18. Bats are a protected species in Ireland. A bat survey was undertaken over the site and noted minor foraging activity on the site and a tree of roosting potential with dense ivy growth. There were no features observed on the site that would be of importance to frogs and the common frog was not noted on the site. Foxes were noted on the site, no mammals of conservation importance were noted. As the site is primarily formed of recolonised bare ground and scrub, there is no suitable habitat for wintering birds. There were 8 garden bird species noted on the site and in its vicinity.

11.10.19. In terms of potential impacts upon biodiversity, direct negative impact upon existing habitats, fauna and flora is anticipated as a result of removal of the site's internal habitats. There is no direct hydrological pathway to any designated conservation sites, and I address potential impact upon European sites specifically as part of my Appropriate Assessment in section 12 below.

11.10.20. Mitigation measures are identified during construction in relation to bats, aquatic biodiversity and birds. This is in the form of pre-construction surveys, control of light spill, control of silt, petrochemical and dust during construction, and removal of vegetation outside of bird nesting season. A Construction and Environmental Management Plan will form the overarching mitigation for construction of the development. With mitigation in place, impact during construction is expected to be low and not significant/slight significance. No significant impacts are anticipated during the operation of the development.

11.10.21. Cumulative impact is addressed in the EclA, and includes identification of a number of planning consents for development in the wider area surrounding the subject site. I have also considered planning activity as noted in section 4 of my report above. I am satisfied that no significant cumulative impacts are identified in relation to biodiversity impacts.

11.10.22. In relation to loss of trees, the proposed development includes the removal of 125 category B/C/U trees from the subject site. There is tree removal to all boundaries, but the existing row of trees along the southern site boundary would be largely retained,

as would the existing treeline along the northern site boundary, as well as being supplemented with new planting, and new tree planting is also proposed to the western site boundary. The proposed development includes the retention of 55 trees and it is proposed that 136 trees are planted.

11.10.23. As the subject site was formally occupied by dwelling houses and gardens, there are a large number of category B trees situated within central areas of the site. To enable an efficient development on the site, it is inevitable that these trees will require removal to facilitate building footprint and circulation areas. The site is zoned for residential development and the Planning Authority does not raise any concern in relation to tree loss as a result of the proposed development. There is no specific protection afforded to trees on the site, and with reference to the extensive replacement tree planting included in the proposed landscaping, I am satisfied that this provides suitable mitigation for the extent of tree loss on the site.

11.10.24. I note third party comments with respect to the proposed development and collision risk to birds and bats. In relation to the potential for collision risk to birds, the submitted EcIA specifically addresses this and concludes that due to the proposed solid material finish, the proposed buildings would not pose a significant collision risk to birds. In relation to bats, they use echolocation to navigate. They produce sound waves at frequencies above human hearing, called ultrasound. The sound waves emitted by bats bounce off objects in their environment. Therefore, the solidity of the buildings also ensures that there is no significant collision risk to bats.

11.10.25. I also note third party concern regarding noise disturbance to biodiversity due to reverberated noise from aircraft bouncing off proposed buildings. As set out in section 11.5 above with respect to the potential for this type of impact upon adjacent residents, the applicant has demonstrated that the greatest noise source in the locality is from vehicular traffic and not aircraft. As the proposed building blocks address road frontages, they will create a barrier to traffic noise and likely decrease traffic noise breakout in the areas behind proposed blocks in my view.

11.10.26. I am satisfied that the submitted EcIA demonstrates that there are no significant adverse impacts expected upon biodiversity on the subject site, beyond a local and site specific level. These ecological impacts (primarily associated with habitat removal from the site) would be a consequence of any efficient development of these lands

zoned for residential. There is no biodiversity impact to fauna or flora at a population level arising from the proposed works to the site and its operation. Mitigation will ensure that appropriate measures are in place to minimise impact upon birds, bats and the aquatic environment. With mitigation in place, and secured by way of condition, I am satisfied that there would be no significant impact upon biodiversity for the area as a result of the proposed development.

11.10.27. Social Infrastructure

11.10.28. I note third party concern with respect to local infrastructure to support the proposed development. The application includes a Community and Local Needs Audit of Swords. This details an appraisal of available open space, sport, recreation, education (including childcare), healthcare, religious, community, arts, cultural facilities in the area, as well as retail provision. A review of these facilities is set out for a 2km radius surrounding the subject site. A demographic profile of the settlement area of Swords is also described with reference to future population growth anticipated, including as part of the proposed development. The proposed development includes a childcare facility accommodating 31 childcare spaces to serve future populations of the development.

11.10.29. I am satisfied that the applicant has demonstrated sufficient infrastructure surrounding the subject site to meet the needs of the future population of the proposed development, alongside the inclusion of a creche to meet childcare demand which has been calculated in accordance with national guidelines.

11.10.30. Archaeology

11.10.31. An Archaeology Assessment is submitted with the application. This confirms that there are no archaeological sites located within the proposed development area, however six sites are located within a 500m radius. Mitigation is recommended in the report to address the eventuality of discovery of unexpected archaeological material. The Department of Housing, Local Government and Heritage recommends a condition to secure archaeological mitigation.

11.10.32. I have included a condition in my recommended order that the Board can rely upon should they agree with this approach. With the incorporation of this mitigation, I am satisfied that no adverse impact upon archaeological materials would result.

11.10.33. Part V



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

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

11.10.35. I note the Housing for All Plan and the associated Affordable Housing Act 2021

which requires a contribution of 20% of land that is subject to planning permission, to the Planning Authority for the provision of affordable housing. There are various parameters within which this requirement operates, including dispensations depending upon when the land was purchased by the developer. In the event that the Board elects to grant planning consent, a condition can be included with respect to Part V units and will ensure that the most up to date legislative requirements will be fulfilled by the development.

## **12.0 Screening for Appropriate Assessment**

12.1. This section of the report considers the likely significant effects of the proposal on Natura 2000 European sites with each of the potential significant effects assessed in respect of each of the European sites considered to be at risk and the significance of same. The assessment is based on the submitted Appropriate Assessment Screening submitted with the application.

12.2. I have had regard to the submissions of third parties, prescribed bodies and the Planning Authority in relation to the potential impacts on European sites, as part of the Natura 2000 Network of sites.

12.3. The Project and Its Characteristics

12.4. See the detailed description of the proposed development in section 3.0 above.

12.5. The European Sites Likely to be Affected (Stage I Screening)

12.6. The subject site is bound by the L2300 to the south, Boroimhe Elms and Boroimhe Oaks to the west, Boroimhe Willows to the north and the R132 to the east. There are no waterbodies located on the site. A Hydrological and Hydrogeological Qualitative Risk Assessment is also submitted and informs the Appropriate Assessment Screening Report. The subject site itself is largely formed of overgrown scrub, following clearance of former residential dwelling houses from the site. The existing habitats on the site include artificial surfaces, structures, scrub, treelines and hedges.

12.7. The site is not located within or adjacent to any European site.

12.8. I have had regard to the submitted Appropriate Assessment Screening Report, which identifies that while the site is not located directly within any European site, there are a number of European sites sufficiently proximate or linked to the site to require consideration of potential effects. These are listed below with approximate distance to the application site indicated:

- Malahide Estuary SAC 2.5km;
- Rogerstown Estuary SAC 6.2km;
- Baldoyle Bay SAC 6.4km;
- North Dublin Bay SAC 8.7km;
- Rockabill to Dalkey Island SAC 10.3km;
- Ireland's Eye SAC 11.2km;
- Howth Head SAC 11.7km;
- South Dublin Bay SAC 12km;
- Lambay Island SAC 13.6km;
- Malahide Estuary SPA 2.5km;
- Baldoyle Bay SPA 6.4km;
- Rogerstown Estuary SPA 6.6km;
- North Bull Island SPA 8.7km;
- South Dublin Bay and River Tolka Estuary SPA 9.1km;
- Ireland's Eye SPA 11km;
- Howth Head Coast SPA 12.9km;
- Lambay Island SPA 13.6km.

12.9. The specific qualifying interests and conservation objectives of the above sites are described below. In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to European sites, and any potential pathways which may exist from the development site to a European site, as well as

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

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

Table 12.1: European Sites/Location and Qualifying Interests

Site (site code) and Conservation Objectives	Qualifying Interests/Species of Conservation Interest (Source: EPA / NPWS)
<p>Malahide Estuary SAC 0205 (2.5km)</p> <p>To maintain and restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p>
<p>Rogerstown Estuary SAC 0208 (6.2km)</p> <p>To maintain and restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p>
<p>Baldoyle Bay SAC 0199 (6.4km)</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p>

<p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p>
<p>North Dublin Bay SAC 0206 (8.7km) To maintain and restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p><i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p>
<p>Rockabill to Dalkey Island SAC 3000 (10.3km)</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Reefs [1170]</p> <p><i>Phocoena phocoena</i> (Harbour Porpoise) [1351]</p>
<p>Ireland's Eye SAC 2193 (11.2km)</p>	<p>Perennial vegetation of stony banks [1220]</p>

<p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p>
<p>Howth Head SAC (11.7km) 0202</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p>
<p>South Dublin Bay SAC 0210 (12km)</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p>
<p>Lambay Island SAC 0204 (10.4km)</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Reefs [1170]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>Halichoerus grypus (Grey Seal) [1364]</p> <p>Phoca vitulina (Harbour Seal) [1365]</p>

<p>Malahide Estuary SPA 4025 (2.5km)</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p>	<p>Great Crested Grebe (<i>Podiceps cristatus</i>) [A005]  Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]  Shelduck (<i>Tadorna tadorna</i>) [A048]  Pintail (<i>Anas acuta</i>) [A054]  Goldeneye (<i>Bucephala clangula</i>) [A067]  Red-breasted Merganser (<i>Mergus serrator</i>) [A069]  Oystercatcher (<i>Haematopus ostralegus</i>) [A130]  Golden Plover (<i>Pluvialis apricaria</i>) [A140]  Grey Plover (<i>Pluvialis squatarola</i>) [A141]  Knot (<i>Calidris canutus</i>) [A143]  Dunlin (<i>Calidris alpina</i>) [A149]  Black-tailed Godwit (<i>Limosa limosa</i>) [A156]  Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]  Redshank (<i>Tringa totanus</i>) [A162]  Wetland and Waterbirds [A999]</p>
<p>Baldoyle Bay SPA 4016 (6.4km)</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]  Shelduck (<i>Tadorna tadorna</i>) [A048]  Ringed Plover (<i>Charadrius hiaticula</i>) [A137]  Golden Plover (<i>Pluvialis apricaria</i>) [A140]  Grey Plover (<i>Pluvialis squatarola</i>) [A141]  Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]  Wetland and Waterbirds [A999]</p>
<p>Rogerstown Estuary SPA 4015 (6.6km)</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for</p>	<p>Greylag Goose (<i>Anser anser</i>) [A043]  Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]  Shelduck (<i>Tadorna tadorna</i>) [A048]  Shoveler (<i>Anas clypeata</i>) [A056]  Oystercatcher (<i>Haematopus ostralegus</i>) [A130]  Ringed Plover (<i>Charadrius hiaticula</i>) [A137]  Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p>

which the SPA has been selected.	<p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Wetland and Waterbirds [A999]</p>
<p>North Bull Island SPA 4006 (8.7km)</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>
<p>South Dublin Bay and River Tolka SPA 4024 (9.1km)</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p>

	<p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Wetland and Waterbirds [A999]</p>
<p>Ireland's Eye SPA 4117 (11km)</p> <p>To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p>	<p>Cormorant (<i>Phalacrocorax carbo</i>) [A017]</p> <p>Herring Gull (<i>Larus argentatus</i>) [A184]</p> <p>Kittiwake (<i>Rissa tridactyla</i>) [A188]</p> <p>Guillemot (<i>Uria aalge</i>) [A199]</p> <p>Razorbill (<i>Alca torda</i>) [A200]</p>
<p>Howth Head Coast SPA 4113 (12.9km)</p>	<p>Kittiwake (<i>Rissa tridactyla</i>) [A188]</p>
<p>Lambay Island SPA 4069 (13.6km)</p> <p>To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p>	<p>Fulmar (<i>Fulmarus glacialis</i>) [A009]</p> <p>Cormorant (<i>Phalacrocorax carbo</i>) [A017]</p> <p>Shag (<i>Phalacrocorax aristotelis</i>) [A018]</p> <p>Greylag Goose (<i>Anser anser</i>) [A043]</p> <p>Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183]</p> <p>Herring Gull (<i>Larus argentatus</i>) [A184]</p> <p>Kittiwake (<i>Rissa tridactyla</i>) [A188]</p> <p>Guillemot (<i>Uria aalge</i>) [A199]</p> <p>Razorbill (<i>Alca torda</i>) [A200]</p> <p>Puffin (<i>Fratercula arctica</i>) [A204]</p>



12.11. The above Table 12.1 reflects the EPA and National Parks and Wildlife Service (NPWS) list of qualifying interests for the SAC/SPA areas requiring consideration.

12.12. Potential Effects on Designated Sites

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

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

12.15. There is an indirect hydrological pathway to Malahide Estuary SAC and Malahide Estuary SPA via the proposed foul and surface water drainage networks. It is proposed that foul wastewater will be connected to an existing wastewater sewer network that serves the existing Boroimhe Estate located to the west of the site. This network discharges to Swords Wastewater Treatment Plant (WwTP). Surface water drainage will discharge to a public surface water network. This public network ultimately outfalls to the Ward River, and ultimately the marine environment at Malahide Estuary.

12.16. An indirect hydrological connection is identified to the European sites at Malahide Estuary. During both the construction and operational phase, the implementation of best practice measures will prevent harmful discharges into the hydrological network. These measures are not designed or intended specifically to mitigate any putative potential effect on European sites. They constitute the standard approach for

construction works in an urban area and are incorporated into development design as part of necessary surface water management systems through SUDs. Their implementation would be necessary for a housing development on any site in order to protect the surrounding environs regardless of proximity or connections to any European site or any intention to protect a European site. It would be expected that any competent developer would deploy them for works on a site whether or not they were explicitly required by the terms or conditions of a planning permission. There is also a significant distance (2.5km) to the European sites, over which any discharges would be diluted and dispersed to imperceptible levels.

12.17. In relation to foul waters, any risk of significant effect upon the European sites as a result of this connection during operation of the development can be discounted due to the dilution of treated foul water flows once they are discharged from Swords WwTP into the Irish Sea. In addition, the treated discharge from the Swords is currently compliant with the emission limit values set in the wastewater discharge licence and there is capacity to accommodate the minor increase that would result from the proposed development (detailed in the submitted report to equate to 1.07%).

12.18. I note third party objection in relation to the submitted Appropriate Assessment Screening / NIS and that this is not based upon sufficient scientific expertise, evidence and does not include analysis of all construction activities, impact upon protected species such as birds / bats or include sufficient site surveys. However, many of these comments do not appear to relate to the current application which does not include an NIS. I have outlined above my analysis of the survey data presented, which I consider to be sufficient, and in my opinion the potential effects of the proposed development, are confined to those matters identified above. I am also satisfied with the scientific expertise, data, methodology and analysis offered in the Screening. In relation to the potential for bird/bat collision with buildings, I address this as part of broader biodiversity impact in section 11.10 of my report above. I am satisfied that there is no risk to European sites in this regard due to separation and lack of suitable habitat in or around the site for QI species.

12.19. In combination / cumulative effects

12.20. The submitted report identifies the potential for in-combination effects from page 33 of the submitted report. This identifies a number of planning permissions in the area surrounding the subject site. I have also had regard to surrounding planning activity as described in section 4 of this report above. These developments would be required to comply with policy objectives in the Development Plan relating to the protection of European sites and water quality. There are no projects or plans identified that in-combination with the proposed development, could cause any likely significant effects on European sites.

12.21. I am satisfied that there are no projects or plans which can act in combination with this development that could give rise to any significant effect to any European Sites.

#### 12.22. AA Screening Conclusion

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

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

### 13.0 **Screening for Environmental Impact Assessment**

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

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

(i) Construction of more than 500 dwelling units;

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

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

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

13.4. The proposed development is for 219 residential units and creche with associated site works. The overall site area is approximately 1.49ha and is formed of overgrown lands formally occupied by residential dwellings and associated garden areas. It is sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b)(i) and (iv) of the Planning and Development Regulations 2001 (as amended), in that it is less than 500 units and is below 10ha (that would be the applicable threshold for this site, being outside a business district but within an urban area). Class 14 relates to works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7. I would note that the uses proposed are in keeping with land uses in the area and that the development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation. In relation to habitats or species of conservation significance, the AA screening set out above, concludes that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites.

13.5. The criteria at Schedule 7 to the regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that could and should be the subject of EIA. Section 299B(1)(b)(ii)(II)(A) of the regulations states that the Board shall satisfy itself that the applicant has provided the information specified in Schedule 7A. The submitted EIA Screening Report addresses the information under Schedule 7. It is my view that sufficient information has been provided within the documentation to determine whether the development would or would not be likely to have a significant effect on the environment. The various reports submitted with the application address a variety of environmental issues and assess the impact of the proposed development, in addition to cumulative impacts regarding other permitted developments in proximity to the site, and demonstrates that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment. I have had regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts. I have examined the sub criteria having regard to Schedule 7A and all other submissions, and I have considered all information which accompanied the application including inter alia:

- Statement of Consistency
- Community and Local Needs Audit
- Statement of Material Contravention
- Urban Design and Architectural Design Statement
- Building Lifecycle Report
- Landscape Design Statement
- Landscape and Visual Impact Assessment
- Arboricultural Report Arboricultural Inventory and Impact Assessment
- Engineering Services Report
- Engineering Services Report
- Construction and Environmental Management Plan
- Transportation Assessment Report

- Archaeological Assessment Report
- Daylight and Sunlight Assessment Report
- CGIs and Verified Views
- Operational Management Plan
- Preliminary Operation Waste Management Plan
- Acoustic Design Statement
- Stage 1 Flood Risk Assessment
- Micro-Climate Assessment Reports
- Environmental Impact Assessment Screening Report
- 299B Statement
- Hydrological and Hydrological Qualitative Risk Assessment
- Solar Photovoltaic Glint and Glare Study
- Ecological Impact Assessment
- Appropriate Assessment Screening Report
- Energy and Sustainability Report
- Telecommunications Report
- Resource and Waste Management Plan

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

- A Statement in accordance with Article 299B(1)(b)(ii)(II)(C) of the Planning and Development Regulations 2001 as amended, providing an assessment of relevant EU legislation in relation to the proposed development and identifying

the consideration of relevant EU legislation in the preparation of plans / reports as follows;

- Directive 2000/60/EU, EU Water Framework Directive, in the submitted AA Screening Report and Hydrological & Hydrological Qualitative Risk Assessment;
- Directive 2007/60/EC on the assessment and management of flood risks, in the submitted Site Specific Flood Risk Assessment;
- Directive 2008/98/EC on waste, in the submitted Resource and Waste Management Plan;
- Directive 2001/42/EC on strategic environmental assessment, in the submitted Appropriate Assessment Screening Report, Ecological Impact Assessment and Site Specific Flood Risk Assessment;

13.7. The EIAR Screening Statement prepared by the applicant has under the relevant themed headings considered the implications and interactions between these assessments and the proposed development, and as outlined in the report states that the development would not be likely to have significant effects on the environment. I am satisfied that all relevant assessments have been identified for the purposes of EIA Screening.

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

13.9. Having regard to: -

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

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

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

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

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

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

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

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

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

13.11. My EIA screening assessment is informed by the application documentation as a whole and does not solely rely upon the submitted EIA screening report.

13.12. The submitted EIA Screening also considers potential cumulative impacts with reference to approved and planned projects in the locality. This, alongside review of planning activity in the area as described in section 4 of this report, has informed my assessment. I am satisfied that with respect to cumulative impact, that the proposed development relates to residentially zoned lands and that the development of other residentially zoned lands in the area has been accounted for under the Development Plan which was subject to its own SEA. There are no anticipated significant cumulative impacts anticipated with respect to surrounding development which would not have already been accounted for under the Development Plan.

#### 13.13. Third Party Comments

13.14. I note third party concern that the EIAR / EIA Screening is insufficient, however many of these comments do not appear to be specifically related to the current application which does not include an EIAR. Comments are also made with respect to



conformity with the EIA Directive. I am satisfied that the submitted EIA Screening Report is acceptable and that my screening as set out in this report fully considers regulations in this regard.

## **14.0 Conclusion**

- 14.1. The subject site is zoned 'RS' Residential, and the proposed residential and childcare uses are permitted in principle on the subject site. The density of the proposed development is appropriate in light of the locational characteristics of the site and the national planning policy approach set out in the Sustainable Residential Development Guidelines and Apartment Guidelines.
- 14.1.1. The height of the proposed development is a maximum 9 storeys as described in the submitted application. However, in accordance with the Development Management Criteria described in the Building Height Guidelines, as well as general design principles set out in the Development Plan and the urban context of the area, it is recommended that the maximum height of proposed development be reduced to 7 storeys.
- 14.1.2. A detailed assessment of amenity impact has been carried out, and this determined that no significant adverse impact would result from the proposed development upon surrounding residents or future occupier amenity. The overall provision of car parking and cycle parking is considered acceptable. I am satisfied the future occupiers of the scheme will not be at an unacceptable risk from flooding, and the proposal will not increase the risk of flooding elsewhere.
- 14.2. Screening for Appropriate Assessment has been carried out and confirms that there would be no impact upon the integrity of European sites. Screening for Environmental Impact Assessment has been carried out and confirmed that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.
- 14.3. Having regard to the above assessment, I recommend that section 9(4)(a) of the Act of 2016 be applied and that permission be GRANTED for the proposed development, subject to conditions, for the reasons and considerations set out below.

## **15.0 Recommended Order**

### **Planning and development Acts 2000 to 2019**

#### **Planning Authority: Fingal County Council**

- 15.1. Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 3<sup>rd</sup> Day of Castlestar (Swords) Limited care of John Spain Associates, 39 Fitzwilliam Place, Dublin 2, D09 ND561.

#### **Proposed Development**

- 15.2. The proposed development consists of:

- 104 no. 1 bedroom apartments;
- 111 no. 2 bedroom apartments (including 12 no. 2 bed 3 person apartments and 99 no. 2 bed 4 person apartments);
- 4 no. 3 bedroom apartments;
- 170sqm creche with associated playspace;
- Set out in 5 blocks ranging from 3 to 9 storeys in height:
  - Block A1 comprises 15 no. apartments in a block of 3 storeys;
  - Block A2 comprises 17 no. apartments in a block of 3-4 storeys;
  - Block B1 comprises 40 no. apartments in a blocks of 3-5 storeys;
  - Block B2 comprises 74 no. apartments in a block of 5-8 storeys;
  - Block B3 comprises 73 no. apartments in a block of 5-9 storeys;
- The proposed development will also provide for 1,510sqm of public open space and 2,020sqm of communal amenity space;
- Provision of private open space in the form of balconies or terraces is provided to all individual apartments to all elevations;
- The proposed development will provide 470 no. bicycle parking spaces of which, 348 no. are long term spaces provided in secure bicycle stores, 116 no. are short term space for visitors – mainly distributed at surface level, and 6 no. spaces are provided for creche staff;

- A total of 144 no. car parking spaces are provided, located at surface and undercroft level. This car parking provision includes 14 no. Electric Vehicle Charges, 2 no. car parking spaces to serve the creche staff, 12 visitor spaces (with 3 of those spaces allocated for car sharing) and 2 no. universally accessible spaces. In addition 6 no. motorcycle spaces are also to be provided;
- Vehicular, pedestrian and cyclist access routes are provided from a new entrance to the west off Boroimhe Oaks, north of Boroimhe Elms. Pedestrian and cyclist access is also provided along the eastern and the southern boundaries. Improvements to the public footpath are to be provided to the west at the entrance along Boroimhe Oaks and to the south at the boundary to the L2300 (Boroimhe Road);
- The development will also provide for all associated ancillary site development infrastructure including site clearance / demolition, demolition and partial demolition of boundary walls, the construction of foundations, telecommunications infrastructure, ESB substations, switch room, water tank rooms, storage room, meter room, sprinkler tank room, comms room, bin storage, bicycle stores, green roofs, photovoltaic panels, hard and soft landscaping, two playgrounds, boundary railings and wall, attenuation area and all associated works and infrastructure to facilitate the development including connection to foul and water supply and surface run off.

## **Decision**

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

## **Matters Considered**

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

## 16.0 Reasons and Considerations

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

- (a) the location of the site in the established settlement area for Swords in an area zoned for residential (Objective RS – Residential, where residential (and childcare) is permitted in principle.);
- (b) the policies and objectives of the Fingal Development Plan 2017-2023;
- (c) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016 and Housing for All: A new Housing Plan for Ireland 2021;
- (d) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (e) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (f) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government 2020;
- (g) Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- (h) The nature, scale and design of the proposed development and the accessibility of the site to surrounding facilities and feasibility of connection to water services infrastructure;
- (i) The pattern of existing and permitted development in the area;
- (j) The planning history of the area;
- (k) The submissions and observations received;
- (l) The Chief Executive Report from the Planning Authority; and
- (m) The report of the inspector.

The Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would otherwise be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment Screening**

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

### **Environmental Impact Assessment Screening**

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

Having regard to: -

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

- (b) the location of the site on lands zoned under the Fingal County Development Plan 2017-2023 as residential.
- (c) The pattern of development and planning approvals in surrounding area.
- (d) The availability of mains water and wastewater services to serve the proposed development.
- (e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended).
- (f) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003).
- (g) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended); and
- (h) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Ecological Impact Assessment and Construction and Environmental Management Plan.

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

### **Conclusions on Proper Planning and Sustainable Development**

Having regard to the zoning objective for the site as set out in the Fingal County Development Plan 2017-2023, the pattern of existing and approved development in the immediate vicinity of the site, the AA Screening Report submitted with the application, the location in the existing settlement area for Swords and situated on a quality bus corridor with good public transport links, it is considered that with the incorporation of amendment and mitigation described in conditions, the proposed development would not seriously injure the residential or visual amenities of the area or of property/land in the vicinity. At a reduced maximum 7 storeys in height, it was concluded that the proposed development would be consistent with national and

local planning policy in terms of design, scale, height, mix and quantum of development, and in terms of pedestrian and traffic safety. It was also concluded that the development would not subject future occupiers to flood risk or increase the risk of flood elsewhere. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area, a grant of permission could materially contravene the Fingal Development Plan 2017-2023 with respect to specific objectives relating to Metro North. The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Development Plan would be justified for the following reasons and consideration.

In relation to section 37(2)(b) (i) of the Planning and Development Act 2000 (as amended):

The strategic nature of this site with excellent accessibility for the delivery of housing in Swords. In this sense, the site is strategically important for the delivery of housing in Swords and in the context of national planning policy documents and guidelines which promote compact growth.

In relation to section 37(2)(b) (iii) of the Planning and Development Act 2000 (as amended):

Permission for the development should be granted having regard to national planning policy guidelines that promote increased housing delivery on appropriate sites, including Housing for All, Rebuilding Ireland An Action Plan for Housing and Homelessness, and Project Ireland 2040 – National Planning Framework. The site characteristics align with national principles underpinning sustainable compact growth in urban areas, being situated on a QBC with access to frequent, high capacity public transport. In addition, the proposed development is also in accordance with SPPR1 and development management criteria (under section 3.2) in the Building Height Guidelines, as well as SPPR's and associated guidance in the Apartment Guidelines.

## 17.0 Conditions

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

**Reason:** In the interest of clarity.

2. The period during which the development hereby permitted may be carried out shall be 5 years from the date of this order.

**Reason:** Having regard to the nature of the development, the Board considers it appropriate to specify a period of validity of five years.

3. The proposed development shall be amended as follows:

(a) The maximum height of the development shall be 7 storeys, with the removal of floors 7 and 8 (the 8<sup>th</sup> and 9<sup>th</sup> storey).

(b) Revised drawings relocating the entrance to the bicycle store at ground floor of Block B3 (west) to a location that will increase passive surveillance.

(c) Revised drawings providing a direct link from core no.4 in Block B1 to the communal podium amenity space.

(d) Revised Telecommunications Report demonstrating that adjacent occupiers TV (including satellite) reception will not be adversely impacted by the proposed development.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. As a result of these amendments, the total number of units in the scheme is reduced to 204.

**Reason:** In the interests of visual and residential amenity.

4. The mitigation measures contained in the Ecological Impact Assessment (EclA) which was submitted with the application shall be implemented in full. Clearance



of vegetation from the development site shall only be carried out between September and February outside main bird breeding season. A survey of the ivy clad ash tree identified as having potential as a bat roost to be undertaken prior to the removal of vegetation from the site by a licensed specialist.

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

5. A phasing scheme shall be submitted to and agreed in writing by the planning authority prior to commencement of the development.

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

6. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

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

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

occupation.

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

8. The historic milestone RPS no.866 shall be adequately protected during the construction phase. Details of the measures to safeguard the milestone shall be submitted and agreed in writing with the Conservation Officer of Fingal Council prior to any form of construction activity on site including ground preparation. Elevation drawings of the milestone and its relationship with the eastern site boundary shall also be submitted prior to the commencement of development.
9. The site shall be landscaped (and earthworks carried out) in accordance with the detailed comprehensive scheme of landscaping (including specification of tree planting, playspace and boundary treatments throughout the site, as well as maintenance details), to be submitted and agreed in writing with the planning authority prior to commencement of development. Landscaping shall be compatible with SUDs proposals to the satisfaction of the Planning Authority. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development [or until the development is taken in charge by the local authority, whichever is the sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority. A piece of public art or sculpture or architectural feature should also be incorporated, the location of which shall be agreed with the Planning Authority in writing. The development shall not be gated.

**Reason:** In the interest of residential and visual amenity

10. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.
- (b) No construction equipment, machinery or materials shall be brought onto

the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

(c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of trees and hedges to be retained, as submitted with the application or subsequently agreed with the Planning Authority in accordance with conditions under this consent, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.

(d) No trench, embankment or pipe run shall be located within three metres of any trees or hedging which are to be retained on the site.

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

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

**Reason:** In the interest of public health.

12. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Rainwater butts shall be installed to each house. Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit. Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

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

13. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to,

and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

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

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

14. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and

Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

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

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

16. Each apartment unit and the creche shall be provided with noise insulation to an appropriate standard, having regard to the location of the site within Dublin Airport Noise Zone C. Any proposals for crane operations shall be agreed in advance of construction, by the Planning Authority in consultation with the Dublin Airport Authority and Irish Aviation Authority.

**Reason:** In order to safeguard residential amenity.

17. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, access road and the underground car park (including access ramp with segregated provision for cyclists) shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. A set-down / drop-off area shall also be provided for the creche. No gates, security barrier or other access control shall be permitted at entrances to the site. Details shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

18. Details of the arrangement and security provisions for bicycle spaces shall be submitted and agreed in writing with the planning authority prior to commencement of development.

**Reason:** To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

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

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

20. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. Where areas are to be taken in charge, details shall include drawings shading areas to be taken in charge.

**Reason:** To ensure the satisfactory completion and maintenance of this development.

21. The land required for the proposed future upgrade of the R132 as part of the Bus Connects Core Bus Corridor No.2, as illustrated in drawing No.PL25 'Illustrative Bus Connects Interface', shall be kept free of any development and the boundary shall be setback at a future date when required and land ceded to Fingal County Council.

**Reason:** In the interest of the delivery of strategic transport infrastructure and traffic safety.

22. Details of the materials, colours and textures of all the external finishes to the proposed dwellings/buildings shall be agreed in writing with, the planning authority/An Bord Pleanála prior to commencement of development. Samples of materials shall be presented to the Planning Authority on site. In default of agreement the matters in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of visual amenity.

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

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

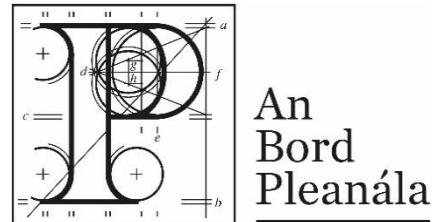
24. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the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

**Reason:** It is a requirement of the Planning and Development Act 2000, as

amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



## 18.0 Appendix A: EIA Screening



### EIA - Screening Determination for Strategic Housing Development Applications

#### A. CASE DETAILS

An Bord Pleanála Case Reference

ABP-314253-22

Development Summary

7 year permission for 219 no. apartments, creche and all associated site works.

	Yes / No / N/A	
1. Has an AA screening report or NIS been submitted?	Yes	An AA Screening Report was submitted with the application

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

**No**

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

**Yes**

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

B. EXAMINATION	Yes/ No/ Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant)  (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
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		Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	
<b>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</b>			
<b>1.1 Is the project significantly different in character or scale to the existing surrounding or environment?</b>	<b>No</b>	The residential use proposed and the size and design of the proposed development would not be unusual for this part of Fingal. While the height is a maximum 9 storeys as proposed (7 storeys recommended amendment), and the height of adjacent buildings in the Boromhe Estate is 2 and 3 storey, the proposed scale is not exceptional, relative to the established urban context which includes the taller buildings in the Airside Retail Park adjacent to the site.	<b>No</b>
<b>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</b>	<b>Yes</b>	The works will involve levelling out in some areas, but with no significant change to topography. Changes in land use and form are not considered to be out of character with the pattern of development in the surrounding area, and the site is situated in an existing urban area.	<b>No</b>
<b>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</b>	<b>Yes</b>	Construction materials will be typical of such development. While the development will result in the intensity of land coverage by buildings, this is not on a significant scale at either national or county level. The proposed landscape	<b>No</b>

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

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

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

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

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



<b>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</b>	<b>No</b>	The subject site is located in an existing urban area and is formed of lands formally occupied by residential dwellings and associated garden areas.	No
<b>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</b>	<b>No</b>	The site is separated to watercourses and no risk to groundwater bodies is identified.	No
<b>2.6 Is the location susceptible to subsidence, landslides or erosion?</b>	<b>No</b>	There is no evidence in the submitted documentation that the lands proposed for development are susceptible to lands slides or erosion and the topography of the area is generally flat.	No
<b>2.7 Are there any key transport routes (eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</b>	<b>Yes.</b>	The site is adjacent to the R132. The submitted Traffic and Transport Report demonstrates that there would be no significant negative impact upon the capacity of surrounding junctions in the post development condition, with future growth in the area accounted for.	No

<b>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?</b>	<b>No</b>	The subject site is not immediately adjacent to any sensitive land uses, with existing residential to the north, west, residential/residential development site and petrol station south, and retail uses to the east.	<b>No</b>
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<b>3. Any other factors that should be considered which could lead to environmental impacts</b>			
<b>3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?</b>	<b>No</b>	Developments have been identified in the vicinity, however these are all of a scale and nature that would be anticipated under the Fingal County Development Plan 2017-2023 and would not give rise to significant cumulative environmental effects alongside this development.	<b>No</b>
<b>3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?</b>	<b>No</b>	No trans boundary considerations arise	<b>No</b>
<b>3.3 Are there any other relevant considerations?</b>	<b>No</b>		<b>No</b>

<b>C. CONCLUSION</b>			
<b>No real likelihood of significant effects on the environment.</b>	<b>Yes</b>	EIAR Not Required	
<b>Real likelihood of significant effects on the environment.</b>	<b>No</b>		

## D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended.
- (b) the location of the site on lands zoned under the Fingal County Development Plan 2017-2023 as residential.
- (c) The pattern of development and planning approvals in surrounding area.
- (d) The availability of mains water and wastewater services to serve the proposed development.
- (e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended).
- (f) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003).
- (g) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended); and
- (h) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Ecological Impact Assessment and Construction and Environmental Management Plan.

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

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Rachel Gleave O'Connor  
Senior Planning Inspector

09 February 2023