



An  
Bord  
Pleanála

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

### **Inspector's Report ABP-314446-22**

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#### **Strategic Housing Development**

Demolition of existing building and the construction of 127 no. residential units (65 no. houses, 62 no. apartments), creche and associated site works.

#### **Location**

Flemington Lane, Bremore, Balbriggan, Co. Dublin. ([www.flemington-shd.ie](http://www.flemington-shd.ie))

#### **Planning Authority**

Fingal County Council

#### **Applicant**

Kinvara Properties Limited

#### **Prescribed Bodies**

Department of Housing, Local Government and Heritage

Irish Water

<b>Observer(s)</b>	Damien Browne and Adrienne Moore
	Derek and Shelia McEvoy
	Helen and Paul Doherty
	Jason and Helen Victory
	Kevin and Jamie Doyle
	Siobhan and Niall Tuckey
<b>Date of Site Inspection</b>	8 <sup>th</sup> February 2023
<b>Inspector</b>	Elaine Power

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## **1.0 Introduction**

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

## **2.0 Site Location and Description**

- 2.1. The subject site is located at Flemington Lane, c. 4 km northwest of Balbriggan town centre and 1 km east of the M1 Motorway. The surrounding area is rural in character with a linear pattern of residential development along Flemington Lane.
- 2.2. The subject site is currently vacant and has a stated gross total area of 4.4ha. There is an existing derelict structure (134sqm) located at the sites eastern boundary. The remainder of the site was previously in agricultural use. The site forms part of a larger landholding within the applications ownership.
- 2.3. The site is undulating and generally slopes from the southern boundary to the northern and eastern boundaries with a c. 4.5m difference within the site. There are no water-courses or physical features within with site. There is a drainage ditch running along the sites northern boundary with Flemington Lane. The sites northern, eastern and part of the southern boundary are delineated by vegetation.
- 2.4. There is disused vehicular access to the site from Flemington Lane.

## **3.0 Proposed Strategic Housing Development**

- 3.1. The proposed development includes the demolition of an existing derelict structure (134sqm) and the construction of 127 no. residential units (65 no. houses and 62 no. duplex units) and a creche. The residential units comprise 14 no. 2-bed houses, 47 no. 3-bed houses, 4 no. 4-bed houses, 31 no. 2-bed duplex units and 31 no. 3-bed duplex units. The houses are provided in 2-storey terraces and the duplex units are provided in 3-storey terraces.

3.2. The development includes public open space and communal open space with a children's play area and public artwork, 211 no. surface car parking spaces, car sharing provision, electric vehicle charging points, bicycle parking, internal roads, pathways and cycle paths, including connections to adjoining lands, hard and soft landscaping and boundary treatments, temporary pumping station, plant, revised entrances and tie-in arrangements to Flemington Lane including new cycle lane and footpath, solar panels, attenuation tank and related SUDS measures, signage public lighting and all site development and excavation works above and below ground.

3.3. Key Development Statistics are outlined below:

	<b>Proposed Development</b>
<b>Site Area</b>	4.4 ha gross / 3.4 ha net
<b>No. of Units</b>	127 no.
<b>Unit mix</b>	65 no. houses and 62 no duplex units
<b>Density</b>	37.4 units per ha
<b>Height</b>	2-3 storeys
<b>Plot Ratio</b>	0.41
<b>Site Coverage</b>	54%
<b>Dual Aspect</b>	100%
<b>Other Uses</b>	550sqm creche
<b>Public Open Space</b>	4,132sqm
<b>Car Parking</b>	211 no.
<b>Bicycle Parking</b>	218 no.

3.4. The application included the following:

- Planning Statement and Statement of Consistency
- Statement of response to the Pre-Application Consultation Opinion
- Design Report
- Material Contravention Statement
- Landscape and Visual Impact Assessment
- Materials and Finishes Report

- Daylight and Sunlight Assessments
- EIA Screening Report
- Appropriate Assessment Screening
- Ecological Impact Assessment
- Bat Assessment
- Arboricultural Impact Assessment
- Landscape Rationale
- Traffic and Transport Assessment
- DMURS Statement of Consistency
- Site Specific Flood Risk Assessment
- Engineering Services Report
- Construction and Demolition Waste Management Plan
- Outline Construction Management Plan
- Operational Waste Management Plan
- Building Lifecycle Report
- Childcare Demand Assessment
- Social and Community Infrastructure Audit
- Outdoor Lighting Report
- Verified Photomontages and CGI's

## 4.0 Planning History

### Subject Site

- **Reg. Ref. F07A/0641:** Permission was granted in 2008 for 179 no residential units. Condition no. 4 required a creche facility to be provided on site and Condition no. 6(i) required that no works commence on the site pending the construction of the 'Boulevard' Road Scheme.
- **Reg. Ref. 21A/0399:** Permission was refused by Fingal County Council in 2021 for the construction of 81 no. residential units on a 2.25 ha site, which forms

part of the subject site and is referenced in the application as Phase 1. The 7 no. reasons for refusal related to (1) the location of the residential element of the scheme on lands zoned 'OS' Open Space, (2) the absence of pedestrian, cycle and public transport infrastructure linking the site to Balbriggan, (3) the requirement for a masterplan, (4) unsatisfactory urban design response, (5) location of the attenuation tank under the public road, (6) non-compliance with Objective DMS28 to provide a 22m separation distance between first floor rear opposing windows and (7) no provision of communal open space to serve the duplex units.

### **Surrounding Sites**

There are a number of planning applications on sites located to the south and south east of the subject site. The applicant has provided a summary of all planning applications in the vicinity of the subject site in the submitted Planning Statement and Statement of Consistency Report. The relevant applications are outlined below.

- **PL06.231457, Reg. Ref. F07A/1249:** Permission was granted in 2009 for the construction of 1,057 no. residential units, part of the C Ring Road and a pumping station, on a 36.08 ha site located c. 240m south of the subject site.
- **PL06F.249267, Reg. Ref: F17A/0372:** Permission was refused for alterations to PL06.231457, Reg. Ref. F07A/1249 to provide 233 no. residential units and a creche. The reason for refusal stated that the proposed development would seriously injure the residential amenities of future occupants of the development and the area and would not be acceptable in terms of pedestrian and traffic safety and convenience
- **PL.06F.235048, Reg. Ref. F08A/1329:** A 10 year permission was granted in 2010 for the construction of 532 no. residential units, a creche, exhibition hall, indoor sports / recreation hall, 5 no. bar / restaurant units, the Balbriggan C-Ring Road and Boulevard, Class 1 public open space and an urban square / civic space. This permission was extended for 5 years in 2020 under Reg. Ref. F08A/1329E1. This site adjoins a portion of the subject site to the south east.

- **PL06F.301843, Reg. Ref. F18A/0137:** Permission was refused in 2018 for the construction of 73 no. houses at a site c. 300m north east of the subject site. The 3 no. reason for refusal related to (1) the requirement for a masterplan, (2), density and (3) location of underground storage tanks under the public open space.
- **Reg. Ref. F15A/0550:** Permission was granted in 2016 for the construction of 148 no. residential units, a creche and Class 1 public open space including a GAA full sized all weather pitch, a full sized football pitch, GAA pitch, dog training and exercise area, changing rooms, pedestrian and cycling infrastructure and public car park. The development was proposed on 2 no. separate land parcels. The public open space site is located immediately south of the subject site. The application for public open space included a pedestrian / cycle link to Hamlet Lane (public road) to the east.
- **Reg. Ref. 21A/0055, ABP-312048-21:** Permission was granted by Fingal County Council in 2021 for the construction of 99 no. residential dwellings on a greenfield site located c. 300m south of the subject site. This decision is currently on appeal.

## 5.0 Section 5 Pre-Application Consultation

5.1. A Section 5 pre-application virtual consultation took place on the 7<sup>th</sup> April 2022 in respect in respect of a development for the construction of 125 no. residential units (71 no houses and 54 no. apartments) and a creche. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. The main topics discussed at the meeting were –

- Land use and development principle and masterplan requirement
- Connectivity and accessibility
- Design and layout
- Drainage

Copies of the record of the meeting and the inspector's report are on this file.



- 5.2. In the Notice of Pre-Application Consultation Opinion dated 6<sup>th</sup> May 2022 (ABP-312261-21) An Bord Pleanála stated that it was of the opinion that the documents submitted required further consideration and amendment in order to constitute a reasonable basis for an application for strategic housing development with regard to the following: -

*Open Space Zoning Objective*

1. Further consideration of the status of the proposed development as a Strategic Housing Development, as defined in section 3 of the Planning and Development (Housing) & Residential Tenancies Act 2016, as amended, having regard to the land use objectives set out in the Fingal County Development Plan 2010-2016 relating to these lands.

In this regard a detailed statement of consistency and planning rationale should be provided, clearly outlining how, in the prospective applicant's opinion, the proposed development is in compliance with local zoning objectives having specific regard to the location of elements of this development within lands zoned Public Open Space in the Fingal County Development Plan. Regard should also be had to the provisions of section 9(6)(b) of the Act in this regard. This may require amendment to the documents and/or design proposals submitted.

*Connectivity*

2. Further consideration of, and possible amendment to the documentation submitted, having regard to the lack of public transport, and safe and convenient pedestrian and cycle connections between the proposed development site and services and amenities in the local area. Consideration should provide a detailed planning rationale / justification for development at this location and may include specific proposals to overcome such deficiencies / improve connectivity and reduce dependency on private car journeys. Further consideration of this issue may require an amendment to the documents and/or design proposals submitted

5.3. The opinion also stated that the following specific information should be submitted with any application for permission.

1. Plans clearly identifying areas intended to be taken in charge by the planning authority and proposals for the management of public open spaces.
2. A phasing plan for the proposed development, which should include the delivery of associated road and drainage infrastructure and public open space.
3. Details of permitted development, including active recreational spaces, on adjoining lands and their relationship with the proposed development. The application should describe how continuity in respect of landscaping, uses, pedestrian and cycle routes and connectivity can be achieved.
4. The application shall clearly describe the relationship with adjoining residential properties and any potential impacts thereon in terms of overlooking or overshadowing. Detailed section drawings should be provided in this regard, indicating both existing and proposed ground levels.
5. In relation to access and transportation, the following should be submitted:
  - a) A response to the matters raised in the report of Fingal County Council Transportation Planning Section, dated 14/01/2022.
  - b) A Quality Audit in accordance with Advice Note 4 of the Design Manual for Urban Roads and Streets (DMURS) to include a Road Safety Audit.
  - c) A detailed Transport Impact Assessment, which should include a justification for any assumptions made regarding modal split.
  - d) A Travel Plan / Mobility Management Plan and a statement describing how the proposed development will contribute to sustainable travel patterns and a reduced dependency on private car journeys.
  - e) Proposals for secure cycle parking provision, which have regard to the provisions of the guidelines for Sustainable Urban Housing: Design Standards for New Apartments (2020).
6. A report addressing the matters raised in the report of Fingal County Council Water Services section dated 13/01/2022.

7. Documentation clearly demonstrating that the proposed development can connect to the water and waste networks of Irish Water. In particular, the application should provide evidence of any third-party consent / agreement necessary to connect to, or through, third-party infrastructure or lands.
8. A complete tree survey including an Arboricultural Impact Assessment, Tree Constraints Plan, Tree Protection Plan and Arboricultural Method Statement in accordance with BS 5837: 2012, Trees in relation to Design, Demolition and Construction - Recommendations.
9. An assessment of the site for the presence of bats and/ or bat roosting sites.
10. An archaeological impact assessment report.
11. A report that specifically addresses the proposed materials and finishes to the scheme, including specific detail of external finishes, landscaping and paving, pathways, entrances and boundary treatments. Particular regard should be had to the requirement to provide high quality, durable and sustainable finishes which have regard to the context of the site.
12. The prospective applicant should satisfy themselves in relation to whether the proposed development represents a material contravention of the Development Plan and satisfy any subsequent submission requirements in relation to this regard.
13. The information referred to in article 299B(1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018 unless it is proposed to submit an EIAR at application stage.

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

- Irish Water
- Fingal County Childcare Committee
- National Transport Authority
- Minister for Housing, Local Government and Heritage
- The Heritage Council
- An Taisce

## 5.5. ***Applicant's Statement***

- 5.5.1. A statement of response to the Pre-Application Consultation Opinion was submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016. The Items that required further consideration are summarised below: -

### ***Item 1: Open Space Zoning Objective***

No residential development is proposed on lands zoned Open Space.

### ***Item 2: Connectivity***

The proposed development provides links to adjoining park lands to the south. This provides a direct link to the nearest bus stop, c. 470m from the subject site and Castlemill Shopping Centre / Balbriggan Town Centre c. 600m from the site. This is considered to be a reasonable walking distance for Intermediate Urban Locations. Providing for connections to the south of subject lands provides for appropriate levels of connectivity, permeability and integration with the surrounding land uses. The proposed pedestrian and cycle connectivity to Balbriggan town centre is considered to be in accordance with the provisions of the Development Plan Objective BALBRIGGAN 11.

- 5.5.2. The applicant addressed items 1-13 of the specific information to be submitted with the application. Items of note are outlined below: -

1. A drawing identifying areas intended to be taken in charge has been submitted.
2. A phasing plan has been submitted.
3. Details of permitted development has been provided in the Planning Statement and Statement of Consistency.
4. The scheme has been designed to avoid overlooking and overshadowing. A daylight and sunlight report and detailed section drawings have been submitted.

5. The requirements of Fingal County Council Transportation Planning Section have been incorporated into the design of the scheme. A Quality Audit, a Transport Impact Assessment, a Travel Plan / Mobility Management Plan were submitted.
6. The requirements of Fingal County Council Water Services section have been incorporated into the scheme.
7. Documentation has been submitted demonstrating that the proposed development can connect to the water and waste networks of Irish Water.
8. A tree survey including an Arboricultural Impact Statement, Tree Constraints Plan, Tree Protection plan and Arboricultural Method Statement have been submitted.
9. A Bat Assessment has been submitted.
10. An archaeological study was carried out.
11. A Materials and Finishes Report was submitted.
12. A Material Contravention Statement was submitted.
13. An EIAR Screening Report was submitted.

## 6.0 Relevant Planning Policy

### 6.1. ***Fingal County Development Plan 2017-2023 (as amended)***

The site is subject to 2 no. land use zoning objectives. The majority of the site is Zoned RA - Residential Area with the associated land use objective to *'provide for new residential communities subject to the provisions of the necessary social and physical infrastructure'*. A portion of land at the sites southern and south-eastern boundary is zoned OS Open Space with the associated land use objective to *'preserve and provide for open space and recreational amenities'*.

The site forms part of an area identified as a 'Masterplan Area' and c. 200m east of the site there is an objective for a 'Road Project'

Section 2.9 notes that Balbriggan is Fingal's only Large Growth Town and it is the largest urban centre within the Hinterland Area. It is characterised by a young and expanding population which has rapidly grown to in excess of 20,000 people over the

last two decades. Major investment by Fingal County Council and other stakeholders in the town's water services and roads infrastructure has provided a basis for the town to continue to grow in a sustainable manner.

**Objective SS19:** *To support and facilitate residential, commercial, industrial and community development to enable Balbriggan to fulfil its role as a Large Growth Town in the Settlement Hierarchy recognising its important role as the largest town in the hinterland area.*

Section 4.3 of the development plan set out the development strategy for Balbriggan including 16 no. objectives, which includes: -

**Objective BALBRIGGAN 11** *Ensure a safe and convenient road, pedestrian and cycle system promoting permeability, accessibility and connectivity between existing and new developments within the town*

**Objective BALBRIGGAN 16:** *Prepare and/or implement the following Masterplans during the lifetime of this Plan: North West Balbriggan Masterplan.*

The main element to be included in the North West Balbriggan Masterplan is to provide for a programme for the phasing of construction of residential and commercial development in tandem with the delivery of transport, recreational, community and educational infrastructure.

The following policies and objectives are considered relevant: -

**Objective PM14** *Prepare Masterplans for areas designated on Development Plan maps in co-operation with relevant stakeholders, and actively secure the implementation of these plans and the achievement of the specific objectives indicated.*

**Objective SS16:** *Examine the possibility of achieving higher densities in urban areas adjoining Dublin City where such an approach would be in keeping with the character and form of existing residential communities, or would otherwise be appropriate in the context of the site.*

**Objective PM38** Achieve an appropriate dwelling mix, size, type, tenure in all new residential developments.

**Objective PM39** Ensure consolidated development in Fingal by facilitating residential development in existing urban and village locations.

**Objective PM40** Ensure a mix and range of housing types are provided in all residential areas to meet the diverse needs of residents

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

**Objective PM42** The Guidelines for Planning Authorities 'Sustainable Urban Housing: Design Standards for New Apartments', 2015 issued by the then Minister for the Environment, Community and Local Government under Section 28 of the Planning and Development Act, 2000 (as amended) are required to be applied by the Planning Authority in carrying out its functions.

**Objective DMS20:** Require the provision of a minimum of 50% of apartments in any apartment scheme are dual aspect.

**Objective DMS28:** A separation distance of a minimum of 22 metres between directly opposing rear first floor windows shall generally be observed unless alternative provision has been designed to ensure privacy. In residential developments over 3 storeys, minimum separation distances shall be increased in instances where overlooking or overshadowing occurs.

**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 DMS74:** Underground tanks and storage systems will not be accepted under public open space, as part of a SuDS solution.

6.2. ***Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019.***

The RSES is underpinned by key principles that reflect the three pillars of sustainability: Social, Environmental and Economic, and expressed in a manner which best reflects the challenges and opportunities of the Region. It is a key principle of the strategy to promote people's quality of life through the creation of healthy and attractive places to live, work, visit and study in.

The site is located with the 'Dublin Metropolitan Area'. The Metropolitan Area Strategic Plan (MASP), which is part of the RSES, seeks to focus on a number of large strategic sites, based on key corridors that will deliver significant development in an integrated and sustainable fashion. The followings RPOs are of particular relevance:

**RPO 5.4:** Future development of strategic residential development areas within the Dublin Metropolitan Area shall provide for higher densities and qualitative standards set out in the 'Sustainable Residential Development in Urban Areas'. 'Sustainable Urban Housing; Design Standards for New Apartment' Guidelines, and Draft 'Urban Development and Building Heights Guidelines for Planning Authorities'.

**RPO 5.5:** Future residential development in the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, supported by the development of Key Metropolitan Towns in a sequential manner as set out in the Dublin Area Strategic Plan (MASP) and in line with the overall settlement strategy for the RSES.

6.3. ***National Planning Framework***

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

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



- National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

#### 6.4. ***Section 28 Ministerial Guidelines***

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

- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2022
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area, 2009
- Urban Development and Building Heights Guidelines, 2018
- Urban Design Manual, A Best Practice, 2009
- Design Manual for Urban Roads and Streets, 2013
- The Planning System and Flood Risk Management Guidelines, 2008

#### 6.5. ***Applicants Statement of Consistency***

- 6.5.1. The applicant has submitted a Statement of Consistency (as part of the Planning Report) as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is

consistent with the policies and objectives of section 28 guidelines and the relevant Development Plan.

#### **6.6. *Material Contravention Statement***

6.6.1. The applicant submitted a Material Contravention Statement. The statement provides a justification for the material contravention of the Fingal County Development Plan 2017 - 2023 in relation to Table 12.8 car parking and Objective DMS74 regarding the location of the underground tanks and storage systems. The statement is summarised below: -

#### **6.6.2. *Section 37(2)(i) – Strategic or National Importance***

The development of the Flemington SHD is being sought through the Strategic Housing Development planning process which, in itself, outlines the strategic importance of this application. The national and regional importance of the proposed residential development and associated childcare facility is well recognised under the Government's plan 'Rebuilding Ireland, an Action Plan for Housing and Homelessness', the National Planning Framework: Ireland 2040 Our Plan and the Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031.

#### **6.6.3. *Car Parking***

In accordance with Table 12.8 the proposed scheme would normally require 239 no. spaces. It is proposed to provide 211 no. Although the proposed development is below the car parking requirement as set out within the Development Plan, it is considered that the proposed development promotes sustainable travel patterns such as walking and cycling by linking with adjoining lands. The proposed development is considered to be consistent with the policies in relation to car parking provision and shifting to sustainable active travel modes of transport outlined in Rebuilding Ireland, an Action Plan for Housing and Homelessness, the National Planning Framework: Ireland 2040 Our Plan, the Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 and the Sustainable Urban Housing, Design Standards for New Apartments (2020).

It is also noted that the proposed car parking provision was reduced specifically in response to previous concerns raised by the Local Authority regarding the dominance of car parking within the proposal.

#### 6.6.4. ***SuDS Provision***

Objective DMS74 of FDP states that underground tanks and storage systems will not be accepted under public open space, as part of a SuDS solution. Due to the sites topography of the site and to utilize the subject lands through sustainable development parameters it is not deemed feasible to use the open space areas to allow retention ponds or other largescale suds features. Site investigation works established that the site has poor infiltration characteristics therefore providing ponds or detention basins would lead to large bodies of water being present in a residential area. This would lead to health and safety concerns.

#### 6.6.5. ***Conclusion***

The justification to grant permission for the proposed development is sufficient, notwithstanding any material contravention of the Development Plan, by reference to Section 37(2)(b) of the 2000 Act, as amended

## 7.0 **Third Party Submissions**

7.1. 6 no. third party submissions were received. The concerns raised are summarised below: -

### ***Design and Layout***

- This area is identified in the development plan as a highly sensitive landscape. The proposed scheme is not in keeping with the character of the area.
- The site is locally elevated. The proposed height of the dwellings would result in overshadowing and overlooking of existing properties.
- Clarification is required on the proposed boundary treatments.
- Concerns regarding undue noise disturbance.
- The proposed scheme does not respect the building line on Flemington Lane

### ***Transportation***

- It is unlikely that future residents would walk 2.7km to use public transport.
- Hamlet Lane, Flemington Lane and the surrounding road network already experience traffic congestion during the peak periods.
- Flemington Lane is a lane. It does not have the capacity to accommodate the proposed development. It already operates above capacity as it is a main route to access the M1 and local schools and is used by trackers to access local agricultural lands.
- The proposed access is very close to the junction of Flemington Lane with Flemington Road and could cause a traffic hazard.
- There is no footpath or lighting on this section of Flemington Lane. There are no current plans to widen the lane.
- There is no realistic way to provide a cycle route along Flemington Lane.
- The proposed vehicular link to the south is via third party lands, are currently in agricultural use.
- There is no evidence that the proposed link road to the Boulevard would exist any time soon and it is not within the capability of the applicant to provide it. Permission should not be given until the road is in place.
- Concerns raised regarding the traffic count data from 2016. This should be updated.

### ***Drainage***

- The location of the storage tanks is not in accordance with the provisions of the development plan. It is unclear how this tank would be maintained.
- There is regular flooding in the back gardens of the existing houses. Concerns that the proposed development would increase flooding and have a negative impact on existing septic tanks.

## **8.0 Planning Authority Submission**

- 8.1. The Chief Executive's Report, in accordance with the requirements of Section 8(5)(a) of the Act 2016, was received by An Bord Pleanála on the 19<sup>th</sup> October 2022. The report includes a summary of the pre-planning history, site location and description,

relevant planning history, third-party submissions and prescribed bodies the proposed development and policy context. The views of the elected members of the Balbriggan / Rush-Lusk / Swords Area Committee, at a meeting held on the 7<sup>th</sup> September 2022 are summarised as follows: provision of family dwellings is welcomed, additional traffic congestion, impact on existing residential amenity, active travel and green infrastructure. Reports from Water Services Department, Transportation Department, Parks and Green Infrastructure Division, Housing Department, Environmental Health Officer have also been provided.

- 8.2. The key planning considerations of the Chief Executive's report are summarised below.

***Principle of the Proposed Development:*** Residential and childcare facilities are permitted in principle under the residential area zoning objective of the site. There is no development on the area zoned for open space.

A pedestrian / cycle link is indicated through the open space zoned lands to the south. Community facilities / sports clubs, golf course and open space are the only permitted uses within zoned open space lands within the Draft Fingal County Development Plan 2023 – 2027.

***Proposed Use and Density:*** The net density is considered to be 37.4 units per ha, which is in accordance with the provisions of the Sustainable Residential Development in Urban Areas Guidelines.

Connectivity to Balbriggan town centre is proposed via a pedestrian and cycle link through the lands to the south. There is no cycle infrastructure in the vicinity of the site. A pedestrian / cycle link is proposed via open space to the south. It is proposed to provide a vehicular link road from the site to Hamlet Lane. This cannot be implemented as it is outside of the applicants control. The future occupiers of the development are therefore car dependant as multi modes of transport cannot be provided. As such, the proposal would materially contravene Balbriggan 11, which promotes safe pedestrian and cyclist permeability and connectivity to Balbriggan.

No Masterplan has been prepared in accordance with Objective Map 4.B. The preparation of a Masterplan by the planning authority is considered to be an essential prerequisite to ensure an integrated and plan led approach to the development of the area and to guide public funding of important social and physical infrastructure for the area in a co-ordinated manner. The proposed development does not represent a masterplan for the area. The proposed scheme would materially contravene objective PM 14 of the development plan.

The provision of a 'C link' road connecting to Balbriggan as envisioned in the masterplan for the area has not been identified in the Council's capital work programme for the short to medium term.

The proposed creche should be constructed before the dwellings are occupied.

***Layout and Height:*** Blocks B7, B9, B10, B12, B13 and B19 should incorporate windows on the southern elevation to provide surveillance to the open space area.

The parking layout for Block B1 is remote from the houses. The parking should be removed from the eastern boundary and trees should be provided in lieu.

The creche is remote from the main entrance. It would be better positioned at Flemington Road boundary.

A 22m separation distance is not achieved between blocks B12 and B13, B9 and B10 and B17 and B18. Block B7 is set back 9.5m from the end units of Blocks B5 and B6 and would overlook the rear gardens of the 2 no. end houses of these blocks.

***Architecture, Urban Design and Visual:*** A condition should be attached to any grant of permission that the final details of finishes and materials be agreed with the planning authority.

It is acknowledged that the proposed development would provide a strong edge to the frontage of the site, however, it is considered that the height of the duplex blocks along Flemington Lane would appear overbearing and out of character with the surrounding area.

**Residential Units:** The information provided in the Housing Quality Assessment is noted.

**Residential Amenity:** The information provided in the Daylight and Sunlight Assessment Report is noted.

**Green Infrastructure:** The report of the Parks and Green Infrastructure Division is noted which recommends a number of conditions regarding tree and ecological protection and mitigation measures during construction.

**Movement and Transport:** Flemington Lane is a narrow c. 4.5m – 5m wide road with no footpath provision of cycle infrastructure. Residents would be reliant on private car for transport as walking, cycling and public transport is very poor at this location. The pedestrian / cycle link to the open space lands, constructed under F15A/0550 is welcomed, however, concerns remain over the attractiveness of this route due to lack of passive surveillance and public lighting, until such time as the adjoining lands are developed. Future access to the 'C Ring' road would provide greater connectivity to Balbriggan and its environs, however, the delivery of this road is subject to an agreement with a third party.

A minimum 2m wide cycle path and 2m wide footpath should be provided along the sites boundary with Flemington Lane.

There is a lack of street trees within the scheme to break up the areas of surface car parking.

The information provided in the Traffic Impact Assessment is noted.

The report of the Transportation Planning Section is noted. The level of car parking is generally considered to be in accordance with the provisions of the development plan standards with the exception of the provision of 0.5 no. spaces per 2-bed duplex units, which is viewed as particularly low when considering the location of the site. Also concerns regarding the lack of surveillance for some of the parking court areas.

Secure covered bicycle parking storage should be provided to the front of terraced houses. very little detail is provided regarding the bicycle storage for the duplex units.

All residential bicycle parking should be provided within the building footprint to a high standard with parking for each unit provided in a separate secure compartment. Individual lockers for each unit should be provided.

**Infrastructure and Services:** The report of the Water Services Section is noted. The surface water proposal is not considered acceptable in its current form and would be contrary to objective DMS74 which states that underground tanks and storage systems will not be accepted under public open space, as part of a SuDS solution.

**Archaeology:** If permission is granted, a condition should be attached requiring archaeological monitoring of ground disturbance aspects of the development.

**Public Art:** Details of proposals for the design of the piece of public art should be approved by the planning authority prior to the completion of the open space within the development.

**Part V:** The application has liaised with the Housing Department in this regard. A suitable condition should be attached to any grant of permission.

**Appropriate Assessment Screening Report and EIA Screening Report:** The applicants Appropriate Assessment Screening Report and EIA Screening Report are noted.

**Recommendation:**

It is recommended that permission be refused for the following reasons:

1. The subject site forms part of the Flemington Lane lands, a strategically important area of development land to the north of Balbriggan town centre. Policy PM14, as set out in the current County Development Plan 2017-2023 for the area requires the preparation of a masterplan for these lands (Objective MP 4.B), which is a prerequisite to ensure an integrated and plan led approach to the development of the area. The proposed development of 127 residential units on a part of the overall lands, without adequate reference to the sustainable and coordinated development of the remaining lands, would represent an



ad hoc and piecemeal approach to the development of the integrated and equitable community facilities and public infrastructure. The proposed development would, therefore, contravene materially Policy Objective PM14, as set out in the current County Development Plan 2017-2023 for the area and would be contrary to the proper planning and sustainable development of the area.

2. In the absence of pedestrian and cycle infrastructure from the subject lands linking to Balbriggan town centre and given the poor availability of public transport at this location, it is considered that the proposed development is largely car dependant and would promote unsustainable transport modes. As such, the proposal would materially contravene Objective BALBRIGGAN 11 of the Fingal County Development Plan 2017 – 2023 and would therefore be contrary to the proper planning and sustainable development of the area.
3. The provision of an underground attenuation tank under the public open space is not considered acceptable. Objective DMS74 of the Fingal County Development Plan 2017-2023 provides that ‘underground tanks and storage systems will not be acceptable under public open space, as part of a SUDS solution’. Accordingly, the surface water drainage design for the proposed development would contravene materially Objective DMS74 of the Fingal County Development Plan 2017 – 2023 and would be contrary to the proper planning and sustainable development of the area.
4. Objective DMS28 of the Fingal County Development Plan 2017 – 2023 requires a minimum separation distance of 22 meters between first floor rear opposing windows. The minimum separation distances between Blocks B12 & B13, B17 & B18 is below 22 meters and as such fails to comply with Objective DMS28. Overlooking opportunities also exist from first floor terrace areas of Block B7 onto the rear private open space of B5 & B6 and the rear gardens associated with the ground floor units in these blocks. As such the proposal in its current format would be seriously injurious to the residential amenity of future residents and would therefore be contrary to the proper planning and sustainable development of the area.

5. The three storey duplex Block 3 would appear out of character and incongruous with the established pattern of development along Flemington Lane by reason of its massing and scale and would appear overbearing and would be contrary to the proper planning and sustainable development of the area.

If permission is being contemplated that planning authority provided 27 no. recommended conditions.

## 9.0 Prescribed Bodies

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

- Irish Water
- Fingal County Childcare Committee
- National Transport Authority
- Minister for Housing, Local Government and Heritage
- The Heritage Council
- An Taisce

Section 6(7) opinion. The letters were sent on the 25<sup>th</sup> August 2022. A summary of the comments received are summarised below:

### ***Irish Water***

*Water:* it is confirmed that since the publication of the Confirmation of Feasibility in July 2018 a new 600mm main was installed between the Jordanstown SR and the Kilsough SR, to serve the proposed development.

*Wastewater:* A connection is feasible without infrastructure upgrade.

***Development Applications Unit, Department of Housing, Local Government and Heritage***

*Archaeology:* On the basis of the information submitted, the results of previous test excavations and the proposed archaeological mitigation it is recommended that a planning condition pertaining to Archaeological Monitoring of ground disturbance aspects of the development is included in any grant of planning permission that may issue. The condition should read as follows:

- 1. The applicant is required to employ a qualified archaeologist to monitor all groundworks associated with the development.*
- 2. Should archaeological material be found during the course of monitoring, the archaeologist may have work on the site stopped, pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by the National Monuments Service of the Department of Housing, Local Government and Heritage with regard to any necessary mitigating action (e.g. preservation in situ, or excavation) and should facilitate the archaeologist in recording any material found.*
- 3. The Planning Authority and the Department of Housing, Local Government and Heritage shall be furnished with a report describing the results of the monitoring.*

*Nature Conservation:* Though no breeding bird survey was carried out, four common bird species were recorded during field work on the site in February 2021, all species which nest in trees or shrubs. It would be expected that survey work during the bird breeding season would identify other species which might be nesting in the trees and shrubs present in the hedgerows bounding the site. The planting of circa 250 trees on the site as part of the development's proposed landscaping, should in the long run compensate to a considerable extent for the loss of nesting habitat for the bird species currently breeding there, however, any clearance of vegetation from the development site during the main bird breeding season from March to August inclusive could lead to the direct destruction of nests, eggs and nestlings and therefore should be avoided.

The findings of the Bat activity surveys are noted.

Despite the lack of detail in the AA Screening Report and the Engineering Services Report regarding the eventual destination of the surface water runoff from the proposed development and the failure of the Outline Construction Management Plan (OCMP) to contain measures regarding the control of surface water runoff during the development's construction phase, given the scale of the proposed development, distance and dilution factors, it is considered unlikely that this development will have any significant adverse effects on the Nanny Estuary and Shore SPA or other local marine Natura 2000 sites.

## **10.0 Assessment**

10.1. The Board has received a planning application for a housing scheme under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. My assessment focuses on the National Planning Framework, the Regional Economic and Spatial Strategy and all relevant Section 28 guidelines and policy context of the statutory development plan and has full regard to the chief executive's report, 3<sup>rd</sup> party observations and submission by prescribed bodies. The assessment considers and addresses the following issues: -

- Principle of Development
- Connectivity and Movement
- Design Approach
- Residential Amenity
- Traffic and Car Parking
- Water Services and Flood Risk
- Ecology
- Part V
- Archaeology
- Material Contravention
- Chief Executives Recommendation

## 10.2. ***Principle of Development***

### *Zoning Objective*

- 10.2.1. The subject site is subject to 2 no. land use zoning objectives. The majority of the site is zoned RA - Residential Area with the associated land use objective to '*provide for new residential communities subject to the provisions of the necessary social and physical infrastructure*'. The residential scheme and the creche would be provided within this area. Therefore, the principle of residential development and creche with associated road infrastructure is considered in accordance with the RA zoning objective.
- 10.2.2. A portion of land at the sites southern and south-eastern boundary is zoned OS Open Space with the associated land use objective to '*preserve and provide for open space and recreational amenities*'. The scheme incorporates a pedestrian / cycle link in the southern portion of the site on lands zoned for Open Space. These routes would connect to footpaths and cycle routes on lands to the south of the subject site, previously approved under Reg. Ref. F15A/0550. The lands to the south are also zoned for Open Space. The planning authority notes that only community facilities / sports clubs, golf course and open space are permitted through lands zoned for open space. While this concern is noted, it is my opinion that a footpath and cycle route would constitute a recreational amenity and are, therefore, in accordance with the zoning objective.
- 10.2.3. It is noted that the zoning objectives for the subject site are unchanged in the Draft Fingal County Development Plan 2023-2027.

### *Masterplan*

- 10.2.4. The subject site forms part of a larger area identified as Masterplan Area MP 4.B on the zoning map. Objective BALBRIGGAN 16 of the development plan aims to prepare and / or implement the North West Balbriggan Masterplan (MP 4.B) and Objective PM14 aims to prepare Masterplans for areas designated on Development Plan maps. It would appear from the information submitted that the planning authority have not commenced the preparation of a masterplan for these lands and that the requirement is for the applicant to prepare a masterplan. Section 3.2 of the development plan states

that Masterplans will be subject to a public consultation process and presentation to the Elected Members of the Planning Authority for agreement.

- 10.2.5. The planning authority's first recommended reason for refusal considers that the preparation of a masterplan is a prerequisite to ensure an integrated and plan led approach to the development of the area and that the proposed development would represent an ad hoc and piecemeal approach to the development of the integrated and equitable community facilities and public infrastructure and that the proposed scheme would materially contravene objective PM 14 of the development plan. It is noted that the masterplan objective for the subject site is unchanged in the Draft Fingal County Development Plan 2023-2027.
- 10.2.6. Section 3.2 of the development plan states that masterplans will assist in achieving high quality developments in terms of design, structure, delivery of community/amenity facilities and permeability. It also sets out a number of criteria that should be included in a masterplan. In this regard, design approach including house types and mix of housing units, maximum heights, external finishes of structures and the general appearance and design, including that of the public realm; integration with surrounding development and land uses; transportation; infrastructure and utilities; amenities, facilities and services; public access to the proposed amenity areas; and sport and recreational infrastructure. Although this information has not been submitted within a standalone masterplan document, which has been previously agreed with the planning authority, it is my view that sufficient information has been submitted in accordance with Section 3.2 of the development plan to allow for the full assessment of the impact of the site on the overall masterplan lands. It is also noted that a masterplan has no statutory framework and would be reliant on the agreement of a number of land owners.
- 10.2.7. While it is acknowledged that no masterplan has been submitted or agreed with the planning authority it is my view that having regard to the sites residential zoning objective, its siting with direct vehicular access onto Flemington Lane and the significant planning history on lands to the south and south east of the subject site, that the site could be appropriately developed without prejudicing the development of adjacent lands and would not represent an ad hoc and piecemeal approach to the development.

Therefore, it is my opinion that the development of this site is not reliant on the adoption of a masterplan and should be assessed on its merits. Having regard to the above, it is also my view that the proposed development does not represent a material contravention of Objective BALBRIGGAN 16 or Objective PM14 of the development plan.

### 10.3. ***Connectivity and Movement***

- 10.3.1. The subject site is located c. 4km north west of Balbriggan town centre, at the edge of the urban area. The Architectural Design Statement illustrates that it would be a 38 minute walk or 10 minute drive from the site to the town centre / train station via Flemington Lane. Flemington Lane is a local road with a speed limit of 60kph. It is c. 4.5m – 5m in width with no footpath or public lighting. It is proposed to increase the width of the carriageway to 6m, with an additional 2m wide footpath along the sites c.130m boundary with Flemington Lane. The increased width of the carriageway and the provision of a footpath is welcomed. However, there remains a c. 550m section of the road, from the subject site to the junction with Flemington Park, that would have no footpath or public lighting. This would result in pedestrians having to enter onto the existing narrow carriageway to access the town centre. Having regard to the lack of pedestrian infrastructure, public lighting and the 60kph speed limit on Flemington Lane, I have serious concerns that an increase in pedestrian movements generated by the proposed development along this road would endanger public safety by reason of a traffic hazard and is, therefore, unacceptable.
- 10.3.2. It is also proposed to improve pedestrian connectivity between the site and the town centre by providing a pedestrian / cycle link to the open space lands to the south of the subject site. The southern boundary of the site is located c. 300m (as the crow flies) from the western boundary of Hamlet Lane (public road). This route would provide a connection to existing suburban housing estates and the Castlemills Shopping Centre. The Architectural Design Statement illustrates that it would be a 14 minute walk / 1.2km from the southern boundary of the subject site to the Castlemills Shopping Centre and c. 900m to the local bus stop on Hamlet Lane. A circuitous footpath and cycle route through the open space lands to the south of the subject site were approved under Reg. Ref. F15A/0550 as part of the proposed Public Open Space. During my site visit on the 8th February 2023 the public park with associated footpath

and cycle routes was part constructed, however, the open space is currently gated. There was no evidence of on-going construction work.

- 10.3.3. The provision of additional connectivity through the open space lands to the south of the site is welcomed. However, having regard to the distance to services and amenities and the lack of public lighting and passive surveillance within the area of public open space I have serious concerns regarding the usability of this route to provide connectivity to services and amenities within Castlemills shopping centre, public transport and the town centre. It is my view that this route would be a secondary route that would provide access to the open space and associated amenities. It is my opinion that this is not suitable as a main pedestrian and / or cycle link to the town centre. It is also noted that the open space is within the ownership of a third party and it is unclear when it would be completed and open to the public or taken in charge by Fingal County Council.
- 10.3.4. In addition, the zoning maps identify a 'Road Project' Objective c.200m east of the subject site. The proposed road layout of the scheme includes a future potential vehicular, pedestrian and cycle link to lands to the south east which were previously approved for development under PL.06F.235048, Reg. Ref. F08A/1329 and extended under Reg. Ref. F08A/1329E1. This permission is for a mixed use development and includes the provision of the Balbriggan C-Ring Road. It is noted that access to these lands would require the agreement of a third party. During a site visit on 8th February 2023 no construction had begun on the approved mixed use development or the road. Therefore, it is my opinion that in the short to medium term this is not considered feasible connection to the town centre. The planning authority also noted that the provision of a 'C link' road connecting to Balbriggan town centre as not been identified in the Council's capital work programme for the short to medium term.
- 10.3.5. There is no cycle infrastructure located within the vicinity of the site. The planning authority note that a minimum 2m wide cycle path should be provided along the sites boundary with Flemington Lane. Having regard to the standards set out in the National Cycling Manual, I agree with the planning authority that if permission is being contemplated that a condition should be attached that a minimum 2m wide cycle lane should be provided along the sites boundary with Flemington Lane.



- 10.3.6. As noted above, there is a bus stop on Hamlet Lane, c. 900m south east of the subject site. This stop is served by the Balbriggan Town Service B1, which provides a link between Hamlet Lane and Balbriggan town centre and the train station. Balbriggan town centre is also served by a number of bus routes. In this regard, the 101 (Bus Eireann) Route runs through the main street of Balbriggan and provides connectivity between Dublin city centre, the airport and Drogheda. This stop is located c. 1.5m east of the subject site (as the crow flies) and operates every 20 min in the peak period. The no. 33 (Dublin Bus) serves the southern portion of Balbriggan c. 2.6km from the subject site (as the crow flies). This is an infrequent service with c. 13 no. buses per day. The no. 191 (Balbriggan express) provides connectivity between Stamullen and Dublin city centre with a stop located c.1.4km (as the crow flies) south east of the subject site. This is an infrequent service with 4 no. buses in the AM peak and 4 no. buses in the PM peak. The 192 (TFI Local Link) provides connectivity between Stamullen and Balbriggan with a stop located c.2km (as the crow flies) south east of the subject site. This is an infrequent service with limited with an average of 4 no. buses per day. The 195 (TFI Local Link) provides connectivity between Ashbourne and Balbriggan with a stop located c.1.4km (as the crow flies) south east of the subject site. This is also an infrequent service with an average of 5 no. buses per day. Balbriggan is also served by rail, with the Balbriggan Train Station located c. 2.2km (as the crow flies) south east of the subject site which provides connectivity between Dublin and Dundalk. Balbriggan town centre is well served by public transport in the form of both bus and rail, however, due to the separation distances it is evident that the subject site is not well served by public transport and is not connected to the town centre by adequate pedestrian or cycle infrastructure.
- 10.3.7. Objective BALBRIGGAN 11 aims to ensure a safe and convenient road, pedestrian and cycle system promoting permeability, accessibility and connectivity between existing and new developments within the town. The planning authority's second recommended reason for refusal considers that in the absence of pedestrian and cycle infrastructure from the subject lands to Balbriggan town centre and given the poor availability of public transport at this location, the proposed development is largely car dependant and would promote unsustainable transport modes. As such, the proposal

would materially contravene Objective BALBRIGGAN 11. Concerns regarding the lack of connectivity to the town centre and public transport are also raised by third parties.

10.3.8. The applicant considers that the subject site is an intermediate urban location, as identified in the Apartment Guidelines and is within reasonable walking distance for services and amenities and is in accordance with Objective Balbriggan 11. The Apartment Guidelines identify intermediate locations as sites within 800m – 1km of a town or suburban centre or employment locations; within 1km -1.5km of high capacity urban public transports; or within 400m - 500m of frequent urban bus services. It is my view that that site is not an intermediate urban location and that it is a peripheral / or less accessible urban location. I agree with the planning authority and the concerns raised by the third parties that the proposed scheme does not provide for safe and convenient road, pedestrian and cycle permeability and that future residents of the scheme would be car dependant and that this would set an undesirable precedent for similar sites where connectivity is limited or non-existent.

10.3.9. In the absence of adequate pedestrian and cycle infrastructure connecting the subject site to Balbriggan town centre and given the poor availability of public transport at this location, it is my recommendation that permission be refused as the proposed development would endanger public safety by reason of traffic hazard, would promote unsustainable transport modes and would be contrary to the provisions of Objective BALBRIGGAN 11 of the Fingal County Development Plan 2017 – 2023.

#### 10.4. **Design Approach**

##### *Density*

10.4.1. The proposed development comprises the construction of 127 no. residential units and a creche. The scheme has a density 37.4 units per hectare. Section 5.11 of the Sustainable Residential Development in Urban Area guidelines states that for outer suburban / 'Greenfield' sites the greatest efficiency in land usage would be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities, involving a variety of housing types where possible, should be

encouraged generally. Objectives 4, 13, 33 and 35 of the National Planning Framework and SPPR 4 of the Building Height Guidelines all support higher density developments in appropriate locations, to avoid the trend towards predominantly low-density commuter-driven developments.

- 10.4.2. The site is zoned and adequately serviced and is located on the urban edge of Balbriggan, c. 550m west of the Flemington Park residential estate. However, it is my view that the area surrounding the site is rural in character and is not adequately connected to the town centre by pedestrian and cycle infrastructure or public transport. However, to ensure efficiency in land usage and having regard to the surrounding residential estates, a density of 37.4 units per ha is considered acceptable and not excessive, in this instance. It is noted that the planning authority raised no objection to the proposed density.

*Design, Layout and Height*

- 10.4.3. The site is undulating and generally slopes from the southern boundary to the northern and eastern boundaries with a c. 4.5m difference within the site. The scheme has a linear block layout, which takes account of the topography of the site. It is proposed to provide a single vehicular access to the site from Flemington Lane, with a circuitous vehicular route through the site to provide access to the residential units and creche. Having regard to the existing pattern of suburban development within Balbriggan the traditional layout is considered acceptable in this instance.
- 10.4.4. The proposed scheme comprises the demolition of an existing derelict structure (134sqm) and the construction of 127 no. residential units and a creche. The structure to be demolished on site appears to be a derelict single storey detached dwelling. This building does not contain any features of architectural merit and is in a state of disrepair. Therefore, I have no objection to the demolition of this structure to facilitate the development of the site.
- 10.4.5. The proposed residential units comprise 14 no. 2-bed houses, 47 no. 3-bed houses, 4 no. 4-bed houses, 31 no. 2-bed duplex units and 31 no. 3-bed duplex units provided in 19 no. terraces, identified on the submitted documentation as Blocks B1 – B19. A

variety of residential units are provided with 5 no. different typologies ranging in size from a 92.5 sqm 2-bed duplex to a 145.1sqm 4-bed house. The 2-storey corner units (House Types C1 and D) have been designed as dual aspect corner units, which allows for passive surveillance of streets and public spaces. This design feature is welcomed. I have no objection to the proposed housing mix and consider it appropriate at this location. All typologies are contemporary in design with similar elevational treatments. The external materials generally comprise render with brick elements. I have no objection in principle to the proposed materials. However, if permission is being contemplated it is recommended that a robust and durable material, in this regard brick, be provided along the gable end of the 3-storey duplex units to ensure a high quality and robust finish.

- 10.4.6. The Housing Quality Assessment submitted with the application notes that all units reach and exceed the minimum requirements set out in the Apartment Guidelines. It is noted that all units are dual aspect which is in accordance with Objective DMS20 of the development plan and with SPPR4 of the Apartment Guidelines which requires that 50% of apartments in suburban or intermediate locations be dual aspect.
- 10.4.7. The proposed creche is located at the sites eastern boundary, c. 300m from the sites entrance on Flemington Road. I agree with the concerns raised by the planning authority regarding the remote location of the creche and consider that it would be more appropriately located at the sites northern boundary with Flemington Lane, as it would be more accessible to future and existing residents and has the potential to provide a more appropriate active frontage onto Flemington Lane. It is acknowledged that the location of the creche is adjacent to the proposed potential future vehicular access to lands at the south east of the site. However, this potential future access requires the agreement of a third party. It is also noted that the permission granted (PL.06F.235048, Reg. Ref. F08A/1329 and extended under Reg. Reg. F08A/1329E1) for a mixed use development on the lands to the south east included a creche, which would serve that development. The phasing map submitted with the application indicates that the creche would be completed in the sixth and final phase of development. As the creche is to serve the proposed development it is my recommendation that if permission is being contemplated that a condition be attached that the final phasing

details be agreed with the planning authority and that the creche be completed prior to occupation of the houses.

- 10.4.8. The proposed houses are 2-storeys and the duplex blocks are 3-storeys in height. SPPR 4 of the Urban Development and Building Height Guidelines requires that the development of greenfield sites must secure a greater mix of building heights and typologies and avoid mono-type building typologies particularly, in any one development of 100 units or more. Having regard to the sites location within the urban area of Balbriggan and to the provisions of Design Standards for New Apartments Guidelines, 2022 and Urban Development and Building Height Guidelines, 2018, it is my view that the provision of 2-storey houses and 3-storey duplex units is appropriate in this instance, as they provide for a variety of unit types and sizes. It is also noted that the finished floor levels and ridge heights are varied throughout the development which is a reflection of the natural topography of the site, which has informed the layout. The planning authority and third parties raised no objection in principle the proposed height, however, concerns were raised regarding the siting of the 3-storey duplex units onto Flemington Lane.
- 10.4.9. The planning authority's fifth reason for refusal considered that the height of the duplex blocks along Flemington Lane would appear overbearing and out of character with the surrounding area. While I have no objection in principle to the provision of 2/3 storey residential units on the subject site I agree with the concerns raised regarding the location of the 3-storey duplex units fronting onto Flemington Lane.
- 10.4.10. The subject site is located on the southern side of Flemington Lane. There are c. 14 no. existing dwellings on this side of the road and c. 3 no. existing dwellings on the northern side of the road, and as noted above the surrounding area has a rural character. The dwellings on the southern side of the road are set back a minimum of c. 13m from the road. Block B1 comprises a terrace of 7 no. 2-storey houses and Block B3 comprises a terrace of 3-storey 7 no. duplex units comprising 14 no. residential units, these units fronting onto Flemington Lane. The front building line of these terraces is located c. 6.5m from the sites northern boundary and c. 4m from the proposed cycle route / footpath. As outlined above, there is a requirement for an additional 2m

wide cycle route along the sites boundary with Flemington Lane, therefore, the proposed dwellings would be located c. 2m from the public road.

- 10.4.11. Concerns are raised by third parties that the proposed scheme breaks the building line on Flemington Lane and would be out of character with the area. I have no objection in principle to the breaking of the established building line on Flemington Lane. However, it is my view that given the rural character and pattern of development along Flemington Lane that these blocks (Block B1 and B3) would be highly visible and result in a development that was visually incongruous on this rural road.
- 10.4.12. A Landscape and Visual Impact Assessment (LVIA) was submitted with the application with a booklet of 5 no. views. I agree with the LVIA that the impact of the scheme from 4 no. long distance views (Views 01, 02, 04 and 05) would be Moderate to Neutral in the long term. In my opinion the visual impact is generally in keeping with the expanding suburban development of the north west Balbriggan. However, I disagree that the visual impact from Flemington Road (view 03) would be Moderate in the long term. View 03 is the only view that clearly shows the visual impact of the scheme and in my opinion, given the short distance range it does not show the proposed scheme in the context of the existing dwellings on Flemington Lane and the rural character of this road. This view also appears to show the derelict building to be demolished as retained within the scheme.
- 10.4.13. The LVIA considers that the proposed scheme would improve the visual amenity from the surrounding area by creating an integrated streetscape and attractive usable public realm. While it is acknowledged that this is a zoned site within the urban area of Balbriggan it is my view that insufficient consideration has been given to the design and layout of the scheme, with regard to its contextual relationship with Flemington Lane, which is a rural road with no footpath or public lighting and not an urban street. As noted above, it is my opinion that the proposed creche would be more appropriately located at the sites entrance. It is also my view that having regard to the existing pattern of development that lower density semi-detached or detached dwellings may be more appropriate at the sites boundary with Flemington Lane, which would help in successfully integrating the proposed scheme into the landscape with the taller and denser residential units located at the southern portion of the site, which in the longer

term would connect with the previously approved scheme (PL.06F.235048, Reg. Ref. F08A/1329 and extended under Reg. Ref. F08A/1329E1) and Balbriggan town centre. If the Board are minded to grant permission it is my recommendation that Blocks B1 and B3 be permanently omitted from the scheme and that a new planning application be submitted for more appropriately designed, lower density housing at this section of the site.

#### *Open Space Provision*

- 10.4.14. I also have concerns regarding the relationship between the proposed residential units and the open space provision. Section 03 of the Architectural Design Report provides a breakdown of the open space to be provided within the scheme. The majority of the open space (10,230 sqm) is proposed at the sites southern boundary on lands zoned for open space. This quantum of open space is identified as OS-1 and is excluded from the calculation of public open space provision.
- 10.4.15. A total of 4,130sqm of public open space is proposed within the developable area of the site, which equates to c. 12% of the total developable site area (3.4ha). The public open space provision is provided in 4 no. areas identified as GS-1, GS-2, GS-3 and GS-4 in the applicants documentation.
- 10.4.16. GS-1 comprises 1,720sqm of public open space. It is located to the south of Block B4, at the sites western boundary and is incorporated into the larger area of public open space (OS-1). I have no objection to the location and quantum of public open space along the sites southern and western boundary and note that it would be adjacent to the open space previously approved under Reg. Ref. F15A/0550 which included a GAA full sized all weather pitch, a full sized football pitch, GAA pitch, dog training and exercise area, changing rooms, pedestrian and cycling infrastructure and public car park. During my site visit on the 8<sup>th</sup> February 2023 these facilities have yet to be provided.
- 10.4.17. The landscape drawings indicate that a kickabout area would be provided within this (GS-1) area of public open space. While the location and quantum of this portion of

public open space is considered acceptable, I have concerns regarding how the proposed residential scheme relates to it. The planning authority also raised concerns regarding the lack of surveillance of this open space area and considered that this could be amended by providing windows on the southern elevation of Blocks B7, B9, B10, B12, B13 and B19. While I agree with the planning authority that additional windows on the southern elevation would improve the passive overlooking of the area of public open space, it is my view that a more fundamental redesign of the scheme is required which would re-orientate blocks to provide direct overlooking of the space and provide a sense of hierarchy and enclosure within the open spaces, which in my opinion the proposed design does not achieve. Notwithstanding this, if the Board are minded to grant permission it is recommended that a condition be attached that additional windows be provided on the southern elevation of residential units in Blocks B12, B13 and B19 and the western elevation of Block B7. It is also recommended that a condition be attached to any grant of permission that details of passive and active uses to be provided within this area of open space be agreed with the planning authority.

10.4.18. GS-2 comprises 1,685sqm of public open space located in the centre of the scheme. It is bound to the north, east and west by the proposed internal road network and to the south by duplex blocks B12 and B13. I have no objection in principle to the location and quantum of public open space and consider that the space would be sufficiently overlooked by Blocks B10, B14 and B17. If permission is being completed it is recommended that a condition be attached that additional windows be provided on the northern (side) elevation of duplex Blocks B12 and B13 to provide overlooking of the area of public open space. The submitted landscape drawings indicate that a public playground would be provided within this area. It is also my view that this would be an appropriate location for a piece of public art. It is considered that this could be addressed by way of condition.

10.4.19. GS-3 comprises 420sqm of public open space in the north east corner of the site, excluding the open space associated with the creche. This area of public open space is located immediately north of the creche. It would also accommodate the pump station and a piece of public art. The landscape drawings also indicate that this area



would comprise a kickabout space. Given the peripheral location of this area of public open space and the lack of passive surveillance, especially in the evenings and weekends when the creche would not be operational, I have concerns regarding the potential for antisocial behaviour and consider this space to be incidental to the scheme and an inappropriate location for a piece of public art.

10.4.20. GS-4 comprises 215sqm of public open space located between Blocks B8 and B9. I have no objection to this area of public open space and note that it includes a footpath which provides a more direct link between the eastern and western portions of the site.

10.4.21. It is acknowledged that the scheme incorporates a large quantum of public open space that would connect to previously approved public open space to the south of the site. It is also noted that the Daylight and Sunlight Assessment indicates that the areas of public open space would be well lit. I have no objection to the quantum of open space proposed, however, I have concerns that insufficient consideration has been given to the quality of the public open space, with particular regard to passive overlooking, a clear hierarchy of spaces, a sense of enclosure within the spaces and detail of the mix of active and recreational spaces that would be provided within these spaces which in my view is required to provide high quality and usable open space for future and existing residents. If permission is being contemplated it is recommended that a condition be attached that the final details of hard and soft landscaping and the location of a piece of public art and a public playground should be agreed with the planning authority.

10.4.22. Blocks B3, B4, B7, B9, B10 and B19 comprise duplex units, with a total of 62 no. duplex units proposed. Each duplex unit is provided with private open space at either ground floor level or at first floor level. The development plan does not set out communal open space standards and it is my view that having regard to the design and layout of the units and the quantum of public open space that there is no requirement for communal open space to serve the duplex units.

10.4.23. Notwithstanding this, Appendix 1 of the Sustainable Urban Housing: Design Standards for New Apartments 2020 set out minimum required areas for public communal amenity space in this regard 7 sqm per 2-bed (4 person) unit and 9 sqm per 3 bed unit.

Therefore, there is a minimum requirement for 496 sqm of residential amenity space to serve the duplex units. The proposed development includes c.681sqm of communal open space. The communal open space is provided in 4 no. areas identified as CS-1, CS-2, CS-3 and CS-4 in the applicants documentation.

- 10.4.24. CS-1 comprises 212sqm of open space at the sites north west boundary adjacent to Block B3. It is my opinion that this area would be more appropriate as public open space as it would allow for an additional pedestrian / cycle access into the scheme and it is noted that the landscape drawing indicate that a footpath would be provide through the space, providing access to the scheme. It is also my view that the communal open space would be more appropriately located between Blocks B3 and B4 as more direct access and overlooking of the communal open space would be provided. As outlined above, I have concerns regarding the design approach to Block B3. Therefore, it is recommended that if permission is being contemplated that a condition be attached that the communal open space also be omitted from the scheme, and a revised design and layout be submitted for this portion of the site.
- 10.4.25. CS-2 comprises 190sqm of open space. It is located to the north of Block B7 and to the south of Blocks B5 and B6. This area of open space is c. 5m in width. Having regard to the narrow width of this space I have concerns regarding the usability of the space. It is also noted that this space has not been assessed in the Daylight and Sunlight Assessment. Having regard to the shadow diagrams submitted with the assessment it would appear that this area would be poorly lit.
- 10.4.26. CS-3 comprises 235sqm of communal open space located between Blocks B12 and B13. I have no objection to the quantum or quality of open space and considered it to be appropriately located to serve the duplex units.
- 10.4.27. CS-4 comprises 190sqm of communal open space. This is a triangular area of open spaces located at the sites southern boundary and adjacent to on-street car parking associated with B19. Having regard to the isolated nature and irregular shape of this area of communal open space I have serious concerns regarding its usability and consider it to be incidental to the scheme. It is also noted that this space has not been

assessed in the Daylight and Sunlight Assessment. Having regard to the shadow diagrams submitted with the assessment it would appear that this area would be poorly lit.

- 10.4.28. I have concerns that insufficient consideration has been given to the areas of communal open space, and how they relate to the duplex units. However, it is noted that the quantum of communal open space exceeds the standard set out in the Apartment Guidelines and that each unit within the scheme is provided with private open space. Given the significant portion of public open space proposed within the scheme, and the sites proximity to previously approved public open space it is my view that the sufficient open space has been provided to serve the future occupants of the scheme.

#### *Landscaping*

- 10.4.29. The information submitted in the Landscape and Visual Impact Assessment indicates that hedgerows would be retained along the sites northern boundary with the existing properties that front onto Flemington Lane. The site layout plan indicates that the rear gardens of these proposed dwellings in Blocks B8, B11, B14, B15 and B16 would extend to the sites northern boundary. Therefore, it is unclear from the information submitted how the hedgerow would be maintained in the long term.

- 10.4.30. The Landscape Design Rational report notes that the proposed scheme incorporates 289 no. new trees with 402sqm of native hedge planting, 80sqm of ornamental hedge planting and 1,799sqm of shrub planting. The provision of additional trees and vegetation within the site is welcomed and would have a positive impact on the visual amenities of the scheme and in the long term would have the added benefit of improving biodiversity within the site.

#### *Car Parking Layout*

- 10.4.31. The planning authority also raised concerns that the parking layout for Block B1 is remote from the houses and recommend that the parking should be removed from the eastern boundary and trees should be provided in lieu. I agree with the concerns raised by the planning authority and consider that the proposed layout would result in haphazard car parking along the proposed footpath / cycle path on Flemington Lane and

along the internal access road adjacent to Block B1. As outlined above, I have concerns regarding the design approach to Block B1. Therefore, it is recommended that if permission is being contemplated that the car parking area to the east of Block B1 also be omitted from the scheme, and a revised design and layout be submitted for this portion of the site.

- 10.4.32. The report of the Transportation Planning Section also concerns regarding the lack of surveillance for some of the parking court areas. Subject to the car park to east of Block B1 being omitted, I am satisfied that the car parking areas would be adequately overlooked.

### *Conclusion*

- 10.4.33. In conclusion, given the established pattern of development within the north west portion of Balbriggan and the sites topography I have no objection in principle to the traditional design and layout of the proposed scheme and the proposed height and density, and I consider that it would support the emerging suburban character of the wider area. However, having regard to the site's locational context, c. 4km north west of Balbriggan town centre and a minimum of c. 550m from the nearest suburban estate to the south and east, its single vehicular access onto Flemington Lane which is a local road with a rural character with no pedestrian infrastructure or public lighting, to the design and layout of Blocks B1 and B3, which I consider to be visually incongruous at this rural location, the isolated location of the creche, the poor relationship between the residential units and the areas of open space and the lack of physical or visual connection between the different areas of open space and the poor quality of the communal open space, it is my view that inadequate consideration was given to the design approach and that the proposed design and layout would not make a positive contribution to place-making and does not provide the optimal design solution for the subject site. Therefore, it is my opinion that the development would be contrary to the proper planning and sustainable development of the area.

- 10.4.34. If permission is being contemplated it is recommended that the conditions outlined above be attached to any grant of permission. However, in my opinion the amend-

ments required would fundamentally alter the scheme and, therefore, it is my recommendation that permission be refused as the applicant has not satisfactorily demonstrated that the proposed development would successfully integrate into the surrounding area.

## 10.5. ***Residential Amenity***

### *Overlooking and Overbearing Impact*

- 10.5.1. Concerns are raised by third parties and the planning authority regarding undue overlooking and overbearing impact on existing residential properties. The site is bound to the south and east by agricultural fields, to the north the site is partly bound by Flemington Lane and partly bound by 7 no. dwellings, to the east the site is bound by 1 no. dwelling and agricultural fields.
- 10.5.2. The rear building line of proposed Blocks B8, B11, B14, B15 and B16, which comprise 5 no. terraces of 2-storey dwellings, are located c. 11m from the sites northern boundary and a minimum of c. 18m from first floor rear windows of existing dwellings that front onto Flemington Lane. While it is acknowledged that the proposed scheme would be visible from these properties, having regard to the relatively limited height of the proposed scheme and the separation distances proposed, I am satisfied that the proposed development would not unduly overlook or have an overbearing impact on any existing properties to the north of the site. The planning authority raised no objection regarding the proposed separation distances.
- 10.5.3. The side elevation of Block B3 which is a 3-storey duplex block is located c. 8m from the sites eastern boundary and the side elevation of Block B4, which is a terrace of 2-storey dwellings is located c. 9m from the sites eastern. The gable ends of these blocks do not directly oppose the existing detached dwelling to the east, and there is a minimum separation distance of c. 25m between the proposed blocks and the existing dwelling to the east. While it is acknowledged that the proposed scheme would be visible from this property, having regard to the relatively limited height of the proposed scheme, the orientation of the proposed blocks and the separation distances proposed, I am satisfied that the proposed development would not unduly overlook or

have an overbearing impact on the existing dwelling to the east of the subject site. The planning authority raised no objection regarding the proposed separation distances.

- 10.5.4. The planning authority's fourth recommended reason for refusal notes the minimum separation distances between Blocks B12 and B13, and between B17 and B18 is below 22 meters and as such fails to comply with Objective DMS28 which requires a minimum separation distance of 22 meters between first floor rear opposing windows. The recommended reason for refusal also considers that overlooking opportunities exist from first floor terrace areas of Block B7 onto the rear private open space of B5 and B6.
- 10.5.5. The separation distance at first floor level between the duplex Blocks B12 and B13 is c. 18m and increases to 21m at second floor level. It is acknowledged that this is below the recommended target of 22m. However, it is my opinion that this separation distance is sufficient to ensure there would be no undue overlooking between the blocks.
- 10.5.6. There is a separation distance of c. 22m between the rear first floor windows in the proposed 2-storey dwellings in Blocks B17 and B18. Therefore, this separation distance is in accordance with the provisions of the development plan.
- 10.5.1. There is a 9m separation distance between 4 no. 3-storey duplex units in Block B7 and the rear gardens of the end of terrace 2-storey dwellings in Blocks B5 and B6. It is noted that the proposed units have not been numbered in the information submitted. I have concerns that this limited separation distance between Block B 7 and the rear amenity space in Block B5 and B6 would result in undue overlooking. Notwithstanding this, if permission is being contemplated it is recommended that the 8 no. 2 storey houses in Blocks B5 and B6, which have an east – west orientation, be omitted and that dwellings with a north - south orientation be provided in lieu of these dwellings. It is noted that this would result in a loss of c. 2 no. dwellings. However, it would have the additional benefit of increasing the size of the communal open space for B7 and reducing the potential for undue overlooking. It should also be noted that Block B7 cannot be relocated further south as it would impinge on the area zoned for public open space. While it is considered that this concern could be addressed by way of

condition, as outlined above, I have serious concerns that adequate consideration has not been given to the design and layout of the scheme.

- 10.5.2. With regard to concerns raised that the separation distances would materially contravene Objective DMS28 it is noted that this objective also states that this (22m) distances shall generally be observed unless alternative provision has been designed to ensure privacy. It is acknowledged that the minimum separation distance of 22m have not been provided between some of the blocks. However, the objective allows for flexibility where the design ensures privacy for future residents. It is my opinion that the proposed development would ensure privacy and, therefore, would not be a material contravention of Objective DMS28.

*Daylight, Sunlight and Overshadowing*

- 10.5.3. Section 3.2 of the Urban Development and Building Height Guidelines (2018) states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. The Sustainable Urban Housing Design Standards for New Apartments Guidelines, 2022 also state that planning authorities should have regard to quantitative performance approaches to daylight provision outlined in guides like A New European Standard for Daylighting in Buildings IS EN17037:2018, UK National Annex BS EN17037:2019 and the associated BRE Guide 209 2022 Edition (June 2022), or any relevant future standards or guidance specific to the Irish context, when undertaken by development proposers

which offer the capability to satisfy minimum standards of daylight provision. In addition Objective DMS30 of the development plan aims to ensure that 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.

10.5.4. The applicant's assessment of daylight and overshadowing relies on the standards in the following documents:

- BR209 2022: BRE: Site Layout Planning for Daylight and Sunlight (Third edition).
- BS EN 17037:2018+A1 Daylight in Buildings
- IS EN 17037:2018 Daylight in Buildings
- UK NA.1 – BS EN 17037:2021+A1

10.5.5. I have considered the reports submitted by the applicant and have had regard to the documents outlined above.

#### *Internal Daylight and Sunlight*

10.5.6. All residential units within the scheme are dual aspect. Only the proposed duplex units were assessed for daylight provision. I have no objection to the submitted sample analyses and consider this to be a reasonable approach, as these are considered to be the worst case scenario. The rooms were assessed in accordance with both the illuminance method outlined in IS EN 17037:2018 and BS EN 17037:2021+A1 and the minimum daylight provision UK NA.1 – BS EN 17037:2021+A1.

10.5.7. *Illuminance Method:* The illuminance method assesses the daylight levels, over at least 50% daylight hours in the year, and uses a weather file data set. This method takes into account the orientation of the space. The recommended targets are: -

- Target Illuminance: 300 lux over 50% of floor area for at least 50% of daylight hours.
- Minimum Illuminance: 100 lux over 95% of floor area for at least 50% of daylight hours.



- 10.5.8. 100% of the habitable rooms assessed achieve the Minimum Illuminance levels and 90% of habitable rooms achieve the Target illuminance levels. The report notes that the majority of the rooms that do not achieve the Target illuminance levels are bedrooms. A summary of the results is provided in Table 6 with full details provided in Appendix A of the applicants report.
- 10.5.9. *Minimum Daylight Factor:* The target minimum Daylight Factor method assesses the ratio of direct illumination between outside and inside the space. This is calculated with an overcast sky which does not take into account orientation. The target minimum daylight factor for Dublin based on the UN National Annex is:
- 100 lux for a bedroom
  - 150 lux for a living room
  - 200 lux for a kitchen.
- 10.5.10. 100% of the rooms within the duplex units achieve the BS EN17037:2021+A1 UK National Annex target values for Dublin. A summary of the results is provided in Table 7 with full details provided in Appendix B of the applicants report.
- 10.5.11. BR209:2022 and BS EN 17037 also set out recommendations for sunlight hours to be achieved, on the 21st March. The guidelines set out three levels, in this regard Minimum (1.5 hours), Medium (3 hours) and High (4 hours). 100% of rooms within the duplex units achieve the minimum standard, with a significant number of rooms exceeding the minimum standard. A summary of the results is provided in table 8 of the applicants report.
- 10.5.12. Having regard to the information submitted with the application, which is robust and evidence based, I am satisfied that all of the rooms within the scheme would be well lit. Section 3.3 of the BRE guide states that good site layout planning for daylight and sunlight should not limit itself to providing good natural lighting inside buildings. Sunlight in the spaces between buildings has an important impact on the overall appearance and ambience of a development. It is recommended that at least half of the amenity areas should receive at least 2 hours of sunlight on 21<sup>st</sup> March. Figure 7 and Table 10 of the applicant's assessment demonstrates that all areas of open space assessed within the scheme achieve the BRE target. It is noted that the areas CS-2

(190sqm) and CS-4 (190sqm) of communal open space were not accessed and it is my opinion that due to their size, location and layout that they would not achieve the minimum standard.

*External Daylight, Sunlight and Overshadowing*

- 10.5.13. Concerns are raised by third parties that the proposed scheme would unduly overshadow existing properties. The Daylight and Sunlight Assessment submitted with the application also assessed the potential impact of the development on the existing neighbouring properties.
- 10.5.14. As noted above, the site is generally bound to the south, east and west by agricultural lands. To the north the site is bound by 7 no. detached dwellings and to the east it is bound by 1 no. dwelling. The proposed Blocks B8, B11, B14, B15 and B16 which comprise terraces of 2-storey dwellings are located c. 11m from the sites northern boundary. The dwelling to the east is located a minimum of c. 25m from Blocks B3 and B4. The BRE guidelines notes that loss of light to existing windows need not be analysed if the distance of the new development from the existing window is 3 or more times its height above the centre of the existing window. Figure 2 of the applicants report illustrates existing windows that may be within the 'zone of influence' of the proposed development. It indicates that 2 no. dwellings to the north of the site fall within this 'zone of influence'. These are references of no. 2 and no. 4 'Brambles' on the applicants documentation. It is also noted that a previously approved dwelling to the south east would also fall within this 'zone of influence'. All other properties are located outside of this 'zone of influence' and in accordance with the BRE, no further assessment is required.
- 10.5.15. The BRE guidelines also note that if a proposed development does not block a 25° angle from the centre point of the lowest window within the existing / proposed dwellings, then there would be no perceptible impact on access to daylight for the existing dwellings.

- 10.5.16. Section 3.3 of the applicants report provides a section of each of the 3 no. existing / proposed dwellings within the 'zone of influence' and the proposed development, indicating the 25° angle from the centre point of the lowest window of the existing / proposed dwelling. Due to the relatively limited height of the proposed development it would not block a 25° angle from the centre point of the lowest window within the existing / proposed dwellings. This indicates that there would be no perceptible impact on access to daylight for the existing / proposed dwellings. It is noted that no. 2 'Brambles' does not have any windows that directly oppose the proposed development and, therefore, there would be no impact.
- 10.5.17. As outlined above the BRE guidelines recommends that at least half of the amenity areas should receive at least 2 hours of sunlight on 21<sup>st</sup> March. The applicants report has not carried out a detailed assessment of the impact of the proposed development on private amenity spaces associated with adjacent properties. However, shadow diagrams have been submitted for 21<sup>st</sup> March, 21<sup>st</sup> June, 21<sup>st</sup> September and 21<sup>st</sup> December. The diagrams for March indicate that the proposed scheme would have no overshadowing impact on existing properties.
- 10.5.18. In conclusion, I advise the board that the submitted documentation properly describes the performance of the proposed development in relation to the standards on daylight and sunlight set out in the guidance documents cited in the 2018 Building Height Guidelines, the 2022 Apartment Design Guidelines and the development plan. As such the proposed development would be in keeping with the provisions of those Guidelines on daylight and sunlight. The proposed residential units and open spaces would have sufficient daylight and sunlight to provide an acceptable standard of residential amenity for future occupants and would not result in any undue overshadowing of existing / proposed properties. It is noted that no concerns were raised by the planning authority regarding overshadowing.

#### *Noise*

- 10.5.19. Concerns were raised by third parties that the proposed development would result in undue noise disturbance for existing residents. It is my view that the proposed scheme

would not give rise to levels of noise that would be inappropriate in a residential context within a suburban area.

## 10.6. ***Traffic and Car Parking***

### *Traffic Assessment*

- 10.6.1. As noted above, the subject site is accessed from Flemington Lane. Concerns are raised by third parties that Flemington Lane and the surrounding road network does not have the capacity to accommodate the proposed development as it already experiences traffic congestion during the peak periods.
- 10.6.2. The applicants Traffic and Transport Assessment (TTA) utilised the TRICS database to estimate the number of trips potentially generated by the proposed development and the results were refined using 2016 CSO data with regard to the car ownership within 5 miles of the development site. Table 5 of the applicants TTA indicates that the scheme (127 no. residential units and a creche) would generate 95 no. trips (30 no. arriving and 65 no. departing) in the AM peak (0800 – 09.00) and 89 no. trips (58 no. arriving and 31 no. departing) in the PM peak (17.00 – 18.00). It is noted that this is based on the assumption that the creche would primarily serve the proposed development. Having regard to the separation distance from the town centre, this is considered reasonable.
- 10.6.3. The third parties raised concerns regarding the traffic count data. It is noted that the traffic counts were carried out over a 12 hour period in May 2022 at 4 no. existing junctions: Junction 1. Drogheda Street (R132) / Flemington Lane (3-arm priority junction); Junction 2. Flemington Lane / Flemington Park (3-arm priority junction); Junction 3. Flemington Road / Flemington Lane (3-arm priority junction); and Junction 4. Flemington Road / Balscadden Inn Road. It is my view that the data is likely to form a reasonable reflection of vehicular movements in the area and is, therefore, acceptable.
- 10.6.4. Traffic modelling carried out for the AM and PM peak in 2022 (baseline year) and 2025, 2030 and 2040 with and without the proposed development at the 4 no. junctions. The information submitted indicates that these 4 no. junction currently operate

within their design capacity and would continue to operate within their design capacity for all future scenarios.

10.6.5. The concerns raised by the third-party regarding traffic congestion and the capacity of the surrounding road network are noted, however, having regard to the information provided in the TTA which is robust and evidence based and in my view provides a reasonable assumption of the impact of the development on the capacity of the surrounding road I am satisfied that the impact of the proposed development on the surrounding road network would not be significant. It is also noted that the planning authority raised no objections to the impact of the proposed development on the capacity of the road network.

10.6.6. Concerns are raised by third parties regarding the proximity of the proposed access on Flemington Lane to the junction with Flemington Road could cause a traffic hazard. The proposed access is located c. 150m from the junction. Section 7 of the TTA notes that unobstructed sight lines of 90m are available in both directions from the proposed vehicular access, which is in accordance with Transport Infrastructure Ireland Guidance (TII DN-GEO-03043 'Geometric Design of Major/Minor Priority Junctions'). I have no objection to the location of the proposed vehicular access and considered that it is sufficiently set back from the existing junction of Flemington Lane / Flemington Road.

#### *Car Parking*

10.6.7. Table 12.8 of the development plan sets out car parking standards. The table below provides a breakdown of the development plan standards.

Standard	Proposed Use	Recommend Provision	Proposed Provision
House (1 -2 bed) 1-2 spaces (within curtilage)	14 no. 2-bed houses	14 – 28 no. spaces (1-2 per unit)	21
House (3+ beds) 2 spaces (within curtilage)	51 no. 3+ bed houses	102 no. (2 per unit)	102
Apartment / townhouse (2 bed) 1.5 spaces plus 1 visitor space per 5 units.	31 no. 2-bed duplex units	47 no. spaces (1.5 no. per unit) plus 6 no. visitor spaces	16

Apartment / townhouse (3+ bed) 2 spaces plus 1 visitor space per 5 units.	31 no. 3-bed duplex units	62 no. spaces (2 per unit) plus 6 no. visitor space	46
Creche 0.5 spaces per classroom	4 classrooms	2 spaces	9 no. spaces
Visitor			17 no. spaces
<b>Total</b>		<b>227 no.</b>	<b>211 no.</b>

- 10.6.8. In accordance with Table 12.8 of the development plan the proposed scheme would require 227 no. spaces. It is proposed to provide 211 no. which is marginally below the development plan standard. It is noted that the level of car parking to serve the houses is in accordance with the development plan standards, in this regard 2 no. spaces per 3+ bed house and 1.5 no. spaces per 2-bed house. These spaces are provided in a combination of in-curtilage parking and on street parking.
- 10.6.9. The report of the Transportation Planning Section considers that the level of car parking is generally considered to be in accordance with the provisions of the development plan standards with the exception of the provision of 0.5 no. spaces per 2-bed duplex units, which is viewed as particularly low when considering the location of the site. I agree with the concerns raised by the Transportation Planning Section and consider that due to the distance from the town centre and public transport that a minimum of 1 no. car parking space within the scheme should be assigned to each residential unit. I am satisfied that there is sufficient car parking provided within the site to ensure each unit is provided with 1 no. car parking space. If permission is being contemplated it is my view that could be addressed by way of condition.
- 10.6.10. The applicants material contravention statement notes that the level of car parking may be considered a material contravention of the development plan. Section 12.10 of the development plan 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. I am satisfied that sufficient car parking has been provided within the scheme. Having regard to the provisions of Section 12.10 I am satisfied that there is sufficient flexibility within the car parking standards and that the proposed level of car parking is not a material contravention of the development plan. It is also noted that the standards do not relate to a policy within the development plan.

## **10.7. *Water Services and Flood Risk***

### *Wastewater*

- 10.7.1. The subject site currently comprises a greenfield site. Therefore, the proposed development requires a new network to collect and convey effluent generated by the proposed development. It is proposed that the development on the western portion of the site would drain by gravity to the public network under Flemington Lane. Due to the topography of the site it is not possible for the development on the eastern portion of the site to drain by gravity to Flemington Lane. It is proposed that a temporary foul pumping station would pump foul effluent for the western portion of the site to the gravity system within the development. It is envisioned that when the lands to the south east, which are outside of the applicants ownership, are developed (in accordance with PL.06F.235048, Reg. Ref. F08A/1329 as extended under Reg. Reg. F08A/1329E1) the pumping station would be removed and a gravity connection to the south east would be installed. Due to the topography of the site it is acknowledged that it is not feasible to drain by gravity to the public network and discharging to the south is not a feasible option in the short term. Therefore, to facilitate development on these zoned lands, I have no objection to the pumping of wastewater to the public system on Flemington Lane. It is noted that temporary foul pumping station would be constructed to Irish Water standards and specifications. However, it would not be taken in charge by Irish Water. It is my view that the maintenance and management of the pumping station could be addressed by suitable conditions that should be attached to any grant of permission. The submission from Irish Water raised no concerns regarding the foul network and notes that a connection is feasible without infrastructure upgrade.

### *Water Main*

- 10.7.2. The proposed scheme would connect to the existing public network located under Flemington Lane to the north of the site. The submission from Irish Water notes that the proposed scheme would connect to the public system.

#### *Surface Water*

- 10.7.3. The site is a greenfield site and there is currently no surface water management system within the site. There is an existing open drainage ditch along the sites northern boundary with Flemington Lane, which ultimately discharges in the public sewer located to the east of Flemington Lane. Unrestricted runoff from the subject lands currently drains to this ditch.
- 10.7.4. The proposed surface water management system for the subject site would be divided into 2 no. catchments, Catchments A and B. The western portion of the site generally relates to Catchment A. This area would drain by gravity to the existing ditch at the sites northern boundary with Flemington Lane. The eastern portion of the site generally relates to Catchment B. Due to the topography of the site, storm water from Catchment B would be stored and pumped to the drainage network within Catchment A and ultimately the drainage ditch. The proposed storm water system would remain in private ownership and would not be taken in charge. In the long term it is envisioned that storm water from Catchment B would connect to a new stormwater network that would be constructed on lands to the south of the subject site as part of PL.06F.235048, Reg. Ref. F08A/1329 as extended under Reg. Reg. F08A/1329E1. The Water Services Department of the planning authority state that the pumping of surface water is not permitted and that an outfall to the south should be provided to facilitate development on the lands. It is acknowledged that the provision of a outfall at the southern portion of the site would resolve the concerns raised regarding the pumping of surface water, however, it is noted that these lands are within third party ownership and currently comprise greenfield sites. Therefore discharging of stormwater to the south is not a feasible option.
- 10.7.5. Due to the topography of the site it is acknowledged that it is not feasible to drain by gravity to the public network and discharging to the south is not a feasible option in the short term. Therefore, to facilitate development on these zoned lands, I have no



objection to the pumping of surface water to the public system on Flemington Lane. It is my view that the maintenance and management of the pumping station could be addressed by suitable conditions that could be attached to any grant of permission.

- 10.7.6. The proposed surface water network includes 2 no. underground storage tanks. The attenuation system would be under the control of the management company for the scheme and would not be taken in charge. SuDS measures within the scheme include the provision of rainwater 'butts', bio-retention and tree pit areas, permeable paving and road gullies, silt traps and oil separator. The stormwater system will be designed to cater for the 1 in 100-year storm plus a 20% allowance for climate change. The Water Services Department of the planning authority raise serious concerns regarding the proposed surface water proposal, in particular the report notes that the use of concrete underground attenuation tanks is not permitted and that an alternative system for the storage of surface water should be provided. The planning authority's third recommended reason for refusal considers that the provision of an underground attenuation tank under the public open space is not considered acceptable and would materially contravene Objective DMS74 of the Fingal County Development Plan 2017-2023. Third parties also raise concerns that the provision of underground storage tanks is not in accordance with the provisions of the development plan.
- 10.7.7. The applicants material contravention statement acknowledges that in accordance with Objective DMS74 underground tanks and storage systems will not be accepted under public open space, as part of a SuDS solution. However, due to the sites topography and to utilise the subject lands through sustainable development parameters it is not deemed feasible to use the open space areas to allow retention ponds or other largescale suds features. Site investigation works established that the site has poor infiltration characteristics, therefore, providing ponds or detention basins would lead to large bodies of water being present in a residential area. This would lead to health and safety concerns. It is also noted that the attenuation tanks would remain in private ownership. Having regard to the information submitted by the applicant I am satisfied that it is not possible to provide an alternative attenuation system within the constraints of the current layout of the scheme and, therefore, consider the use of attenuation

tanks acceptable. However, it is recommended that if permission is being contemplated that the final details of the proposed surface water system be agreed with the planning authority. The issue of material contravention is addressed below in Section 10.11.

#### *Flood Risk*

- 10.7.8. The OPW maps indicate that the subject site is located within Flood Zone C. A Site Specific Flood Risk Assessment was submitted with the application. Modelling indicates that the subject site is outside of the fluvial and tidal floodplains. Therefore, the risk of fluvial or tidal flooding is negligible. There is no record of historic pluvial flooding on the site and having regard to the topography of the site the risk of fluvial flooding is negligible. There is no known history of ground water / springs within the site and the proposed scheme would not increase the potential for groundwater flooding.
- 10.7.9. With regard to flood risk from surface water generated within the site, it is proposed to provide attenuation tanks which would release storm water in a controlled manner. By restricting the flow the likelihood of the proposed development adversely affecting the public drainage network or contributing to down stream flooding is mitigated. The scheme has also incorporates overland storm water routes, in the unlikely event that the storm water drainage system was not operational the proposed dwellings would be unaffected.
- 10.7.10. It is noted that third parties raised concerns that the proposed scheme would exacerbate flooding in the rear garden of existing properties. However, having regard to the sites location in Flood Zone C and to the information submitted, which is robust, and evidence based, I am satisfied that the proposed development would not result in a potential flood risk within the site or to any adjoining sites and I am satisfied that there are no infrastructural aspects to the proposed development that present any conflicts or issues to be clarified. It is also noted that no concerns were raised by the planning authority or third parties regarding flood risk.

#### 10.8. ***Ecology***

- 10.8.1. The subject site consists of large fields previously under Arable crops (BC1). The southern boundary comprises a disturbed low hedgerow (WL1) with gaps. There are artificial hedgerows at the sites northern boundary with existing residential properties. There are no Annexed Habitats or Species present within the boundary of the Proposed Development site. The applicants Ecological Impact Assessment notes that the site is located in an area of low ecological value.
- 10.8.2. The applicants Ecological Impact Assessment (EcIA) notes that a Habitats survey was carried out on the 25 February 2021 and that Bat Surveys were carried out in July and August 2022.
- 10.8.3. The habitat surveys indicated that there were no signs of badger setts or movement within the site and that there is no suitable habitat for otters within the site. Therefore, no further assessment is required.
- 10.8.4. The subject site does provide suitable habitat for common bird species. Table 2 of the applicants EcIA details the 4 no common bird species recorded during the site survey. There were no rare or Annex 1 bird species recorded on the site and there is no suitable habitat to support coastal annexed bird species in the River Nanny Estuary c. 3.8km north west of the subject site. There are no predicted direct effects on Birds as a result of the proposed development
- 10.8.5. The submission from the DAU noted that the bird species recorded within the site nest in trees or shrubs and that it would be expected that survey work during the bird breeding season would identify other species which might be nesting in the trees and shrubs present in the hedgerows bounding the site. The planting of c. 250 no. trees on the site, should in the long run compensate to a considerable extent for the loss of nesting habitat for the bird species currently breeding there, however, any clearance of vegetation from the development site during the main bird breeding season from March to August inclusive could lead to the direct destruction of nests, eggs and nestlings and therefore should be avoided.
- 10.8.6. A Bat Assessment was submitted with the application. During the survey period bat activity was low, with 3no. bat species (Leisler's bat, Common pipistrelle and Soprano

pipistrelle) were identified feeding and commuting through the site. The trees and building on site have low roosting potential. No roosts were found on site. However, the report notes that there is potential for roosting opportunities within the structure. To ensure the protection of bats the EclA recommends a number of conditions be attached to any grant of permission, including the resurvey of the structure on the site, suitable lighting and the provision of bat boxes. The submission from the DAU notes the findings of the bat survey and agrees that that conditions recommended in the report should be attached to any grant of permission.

- 10.8.7. Having regard to the present condition of the site, with no special concentrations of flora or fauna, I am satisfied that the development of the site and the proposed landscaping and planting provides greater benefits in terms of biodiversity. I draw the Boards attention to the AA section of my report (Section 12) where the potential impact of the proposed development on designated European sites in the area is discussed.

10.9. ***Part V***

- 10.9.1. The applicants planning report notes that it is proposed to provide 13no. residential units or c. 10% of the development in accordance with the provisions of Part V. The Affordable Housing Act, 2021 requires that land purchased on or after the 1<sup>st</sup> of August 2021 or prior to September 2015 must have a 20% Part V requirement. In this regard at least half of the Part V provision must be used for social housing. The remainder can be used for affordable housing, which can be affordable purchase, cost rental or both. The Architectural Design Report notes that the site was purchased before 2021. However, it is unclear if the site was in the ownership of the applicant prior to September 2015 and if this increased provision (20%) applies in this instance. Notwithstanding this, it is my view that the details of the Part V provision could be addressed by way of condition.

10.10. ***Archaeology***

- 10.10.1. The applicant submitted an Archaeological Desk Study with the application which notes that the site lies within an area of high level of archaeological significance. There

are recorded monuments or sites within the subject site, however, Figure 1 of the applicants report identifies 16 no. recorded monuments and places within the immediate vicinity of the subject site. Details of each monument is provided within the report.

10.10.2. The applicants report notes that test trenching was undertaken on the site in 2007, as part of a previous planning application. Potential archaeological features were noted. However, no finds were recovered. It is considered that if permission is granted that a suitable archaeological monitoring condition be attached. The submission from the DAU also recommends that a condition be attached to any grant of permission pertaining to Archaeological Monitoring of ground disturbance aspects of the development. Having regard to the archaeological potential of the site I agree that an archaeological monitoring condition should be attached to any grant of permission.

#### 10.11. ***Material Contravention***

10.11.1. The applicant's Material Contravention Statement states that the proposed development could be considered to materially contravene Fingal County Development Plan 2017 - 2023 in relation to Table 12.8 car parking and Objective DMS74 regarding the location of the underground tanks and storage systems.

##### *Car Parking*

10.11.2. Table 12.8 of the development plan sets out car parking standards. A breakdown of the recommended standards is provided in Section 10.6.7 above. In accordance with Table 12.8 the proposed scheme would normally require 227 no. spaces. It is proposed to provide 211 no. which is marginally below the development plan standard. Section 12.10 of the development plan 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. I am satisfied that sufficient car parking has been provided within the scheme. Having regard to the provisions of Section 12.10 I am satisfied that there is sufficient flexibility within the car parking standards and that the proposed level

of car parking is not a material contravention of the development plan. It is also noted that the standards do not relate to a policy within the development plan.

*Objective DMS74*

10.11.3. Objective DMS74 states that underground tanks and storage systems will not be accepted under public open space, as part of a SuDS solution. The proposed scheme incorporates 2 no. underground storage tanks which does not accord with the provisions of Objective DMS74.

*Section 37(2)(b)*

10.11.4. Having regard to the above it is my opinion that the proposed development materially contravenes objective DMS74 of the Fingal County Development Plan 2017-2023.

10.11.5. Section 37(2)(b) of the Planning and Development Act, 2000 (as amended) states that where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with *paragraph (a)* where it considers that:

-

- (i) the proposed development is of strategic or national importance,
- (ii) there are conflicting objectives in the development plan, or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- (iii) permission for the proposed development should be granted having regard to the regional spatial and economic strategy for the area, guidelines under *section 28*, policy directives under *section 29*, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

Having regard to the characteristics of the proposed development, Section 37 (2) (b)

(i) and (v) are considered relevant in this instance.

*Section 37 (2) (b)(i)*

10.11.6. The subject site has an area of c. 4.2ha and would deliver 127 no. residential units. The site's urban location supports the consolidation of the urban environment as outlined in within the Metropolitan Area Strategic Plan (MASP), which is part of the Regional Spatial and Economic Strategy. The provision of a significant quantum of residential units is also in accordance with the government policy as set out in Rebuilding Ireland – Action Plan for Housing and Homelessness and Housing for All – A New Housing Plan for Ireland. It is considered that this scheme is strategic by reason of its location and scale and is critical and integral to the success of national policy, in addressing both housing and homelessness in the City and consolidating the urban environment. The proposed material contraventions are, therefore, justified by reference to section 37(2)(b)(i) of the act.

*Section 37(2)(b)(v)*

10.11.7. Since the making of the Fingal County Development Plan 2017-2023 Fingal County Council granted permission for developments in the vicinity of the site that include underground storage tanks as part of a residential scheme. In this regard: -

- An extension of duration of permission in 2020 under Reg. Reg. F08A/1329E1 (PL.06F.235048, Reg. Ref. F08A/1329) for a mixed use development including 532 no. residential units, a creche, exhibition hall, indoor sports / recreation hall, 5 no. bar / restaurant units, the Balbriggan C-Ring Road and Boulevard, Class 1 public open space and an urban square / civic space. This scheme incorporates 5 no. underground attenuation ponds. This site adjoins a portion of the subject site to the south east.
- Permission was granted in 2021 under Reg. Ref. 21A/0055 for the construction of 99 no. residential dwellings with a combination of above and below ground attenuation storage systems on a site located c. 300m south of the subject site. This decision is currently on appeal ABP-312048-21

10.11.8. Having regard to the permissions granted in the area which included underground storage systems, since the making of the development plan, the proposed material

contravention to Objective DMS74 of the Fingal County Development Plan 2017 -2023 is justified by reference to section 37(2)(b)(v) of the act.

#### 10.12. ***Chief Executives Recommendation***

- 10.12.1. As noted above the planning authority recommended that permission be refused for 5 no. reasons. In the interest of clarity, the reasons for refusal are addressed below.

##### *Masterplan*

- 10.12.2. The planning authority's first reason for refusal noted that the subject site forms part of the Flemington Lane lands, a strategically important area of development land to the north of Balbriggan town centre. Policy PM14 of the development plan requires the preparation of a masterplan for these lands (Objective MP 4.B), which is a prerequisite to ensure an integrated and plan led approach to the development of the area. The planning authority considered that the proposed development of 127 no. residential units on a part of the overall lands, without adequate reference to the sustainable and coordinated development of the remaining lands, would represent an ad hoc and piecemeal approach to the development of the integrated and equitable community facilities and public infrastructure and would contravene materially Policy Objective PM14.

It is noted that no standalone masterplan document has been submitted or agreed with the planning authority. However, it is my view that that sufficient information has been submitted in accordance with the masterplan criteria outlined in Section 3.2 of the development plan, which allows for the full assessment of the impact of the site on the overall masterplan lands. It is also noted that a masterplan has no statutory framework and would be reliant on the agreement of a number of land owners. Having regard to the sites residential zoning objective, its siting with direct vehicular access onto Flemington Lane and the significant planning history on lands to the south and south east of the subject site, and the previous grant of permission on the subject site, that the site could be appropriately developed without prejudicing the development of adjacent lands and would not represent an ad hoc and piecemeal approach to the development. Therefore, it is my opinion that the development of this site is not reliant on



the adoption of a masterplan and, therefore, does not represent a material contravention of Objective BALBRIGGAN 16 or Objective PM14 of the development plan.

#### *Connectivity and Movement*

10.12.3. The planning authority's second reason for refusal considered that in the absence of pedestrian and cycle infrastructure from the subject lands linking to Balbriggan town centre and given the poor availability of public transport at this location, it is considered that the proposed development is largely car dependant and would promote unsustainable transport modes. As such, the proposal would materially contravene Objective BALBRIGGAN 11 of the Fingal County Development Plan 2017 – 2023 and would therefore be contrary to the proper planning and sustainable development of the area.

10.12.4. I agree with the concerns raised by the planning authority and consider that permission should be refused on this basis.

#### *Surface Water Drainage Design*

10.12.5. The planning authority's third reason for refusal considered that the provision of an underground attenuation tank under the public open space is not considered acceptable. Objective DMS74 of the Fingal County Development Plan 2017-2023 provides that 'underground tanks and storage systems will not be acceptable under public open space, as part of a SUDS solution'. Accordingly, the surface water drainage design for the proposed development would contravene materially Objective DMS74 of the Fingal County Development Plan 2017 – 2023 and would be contrary to the proper planning and sustainable development of the area.

10.12.6. Having regard to the information submitted by the applicant I am satisfied that it is not possible to provide an alternative attenuation system within the current layout of the scheme. It is also noted that the attenuation tanks would be kept in private ownership and not taken in charge. Therefore, I consider that the use of attenuation tanks under the scheme is acceptable in this instance.

10.12.7. It is also noted that this is a material contravention of Objective DMS74, which is justified by reference to section 37(2)(b)(v) of the act.

### *Overlooking*

- 10.12.8. The planning authority's fourth reason for refusal notes Objective DMS28 of the development plan, which requires a minimum separation distance of 22 meters between first floor rear opposing windows. The minimum separation distances between Blocks B12 and B13 and between B17 and B18 is below 22 meters and as such fails to comply with Objective DMS28. The planning authority also considered that overlooking opportunities exist from first floor terrace areas of Block B7 onto the rear private open space of B5 and B6 and the rear gardens associated with the ground floor units in these blocks. As such the proposal in its current format would be seriously injurious to the residential amenity of future residents and would therefore be contrary to the proper planning and sustainable development of the area.
- 10.12.9. I agree with the planning authority that the limited (9m) separation distance between 4 no. 3-storey duplex units in Block B7 and the rear gardens of the end of terrace 2-storey dwellings in Blocks B5 and B6 would result in undue overlooking, and that this issue in combination with a number of other design and layout concerns should form part of a reason for refusal.
- 10.12.10. Objective DMS28 also states that the 22m separation distances shall generally be observed unless alternative provision has been designed to ensure privacy. It is acknowledged that the minimum separation distance of 22m have not been provided between some of the blocks. However, the objective allows for flexibility where the design ensures privacy for future residents. Therefore I disagree with the planning authority that the proposed separation distances do not comply with Objective DMS28.

### *Design Approach*

- 10.12.11. The planning authority's fifth reason for refusal considered that the three storey duplex Block B3 would appear out of character and incongruous with the established pattern of development along Flemington Lane by reason of its massing and scale and would appear overbearing and would be contrary to the proper planning and sustainable development of the area.

10.12.12. It is my view that given the rural character and pattern of development along Flemington Lane that both Block B1 and B3 would be visually incongruous on this rural road. Therefore, I agree with the planning authority that Block B3 would appear out of character and incongruous with the established pattern of development along Flemington Lane. It is my opinion that this issue in combination with a number of other design and layout concerns should form part of a reason for refusal.

## 11.0 Environmental Impact Assessment

11.1.1. The applicant has addressed the issue of Environmental Impact Assessment (EIA) in the submitted EIA Screening Report, and I have had regard to same in this screening assessment. The information provided is in accordance with Schedule 7 and 7A of the Planning and Development Regulations 2001. Section 4 of the EIA Screening Report, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

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

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

11.1.3. It is proposed to construct a 127 no. residential units on a site with a stated area of c. 3.4ha. The site is located in the urban area (other parts of a built up area). The site is, therefore, below the applicable threshold of 10ha. There are no excavation works proposed as part of the development. Having regard to the relatively limited size and the

location of the development, and by reference to any of the classes outlined above, a mandatory EIA is not required. I would note 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. The proposed development would use the public water and drainage services of Irish Water and Fingal County Council, upon which its effects would be marginal. An Appropriate Assessment Screening Report was submitted with the application which note that the proposed development individually or in combination with other plans and projects would not adversely affect the integrity of the European Sites can be excluded and that associated environmental impacts on these sites, by reason of loss of protected habitats and species, can, therefore, be ruled out.

- 11.1.4. Section 299B (1)(b)(ii)(II)(A) of the regulations states that the Board shall satisfy itself that the applicant has provided the information specified in Schedule 7A. The criteria set out in schedule 7A of the regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that could and should be the subject of environmental impact assessment. Section 4 of the report directly addresses the criteria set out in Schedule 7 and 7A. It is my view that sufficient information has been provided within the report to determine whether the development would or would not be likely to have a significant effect on the environment.
- 11.1.5. Section 299B (1)(b)(ii)(II)(B) states that the Board shall satisfy itself that the applicant has provided any other relevant information on the characteristics of the proposed development and its likely significant effects 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 with regard to other permitted developments in proximity to the site, and demonstrate that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment. I have had regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts and all other submissions. I have also considered all information which accompanied the application including inter alia:

- Planning Statement and Statement of Consistency
- Architectural Design Statement
- Screening Report for Appropriate Assessment
- Ecological Impact Assessment
- Bat Assessment
- Engineering Services Report
- Construction and Demolition Waste Management Plan
- Outline Construction Management Plan
- Operational Waste Management Plan

11.1.6. Noting the requirements of Section 299B (1)(b)(ii)(II)(C), whereby the applicant is required to provide to the Board a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account. A standalone statement has not been provided. However, I would note that the following assessments / reports have been taken into account: -

- Appropriate Assessment Screening Report and Ecological Impact Assessment which had regard to the Habitats Directive (92/43/EEC), the Birds Directive (2009/147/EC)
- The Site-Specific Flood Risk Assessment (FRA) which had regard to the Fingal County Development Plan 2017-2023 which undertook a Strategic Flood Risk Assessment (FRA).
- The Outline Construction Management Plan has regard to the Integrated Pollution Prevention and Control Directive (1996/61/EC) and the Waste Framework Directive (2008/98/EC).
- The Construction and Demolition Waste Management Plan has regard to the Waste Framework Directive (2008/98/EC).

- The Strategic Environmental Assessment (SEA) for the Fingal County Development Plan 2017 – 2023

- 11.1.7. The applicants EIA Screening Report, 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 purpose of EIA Screening.
- 11.1.8. I have completed an EIA screening determination as set out in Appendix A of this report. I consider that the location of the proposed development and the environmental sensitivity of the geographical area would not justify a conclusion that it would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency, or reversibility. In these circumstances, the application of the criteria in Schedule 7 and 7A, to the proposed sub-threshold development, demonstrates that it would not be likely to have significant effects on the environment and that an environmental impact assessment is not required before a grant of permission is considered. This conclusion is consistent with the information provided in the applicant's report. It is noted that third parties and the planning authority raised no concerns regarding EIA or the cumulative impact of residential development in the wider area
- 11.1.9. A Screening Determination should be issued confirming that there is no requirement for an EIAR based on the above considerations.

## **12.0 Appropriate Assessment**

- 12.1.1. The applicant has submitted a Screening Report for Appropriate Assessment prepared by Moore Group – Environmental Services. The Report provides a description of the proposed development, identifies and provides a brief description of European Sites within a possible zone of influence of the development and an assessment of the potential impacts arising from the development. The AA screening report concludes that significant effects on any European sites as a result of the Proposed Development can

be ruled out and, therefore, potential significant effects on European sites can be excluded.

- 12.1.2. Having reviewed the documents and submissions, I am satisfied that the submitted information allows for a complete examination and identification of all the aspects of the project that could have an effect, alone, or in combination with other plans and projects on European sites.

#### *Stage 1 AA Screening*

- 12.1.3. The project is not directly connected with or necessary to the management of a European Site and, therefore, it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

#### *Brief Description of the Development*

- 12.1.4. In summary, the proposed development comprises the construction of 127 no. residential units (65 no. houses and 62 no. duplex units) and a creche a c. 4.4 ha site at a greenfield site located c. 4km north west of Balbriggan town centre. The surrounding area is generally rural in nature with suburban estates and associated uses located c. 300m south east of the site. The site is serviced by public water supply. Foul effluent and surface water will drain by gravity and be pumped to the existing network on Flemington Lane to the north east of the site. The site is currently vacant and was previously in agricultural use. No flora or fauna species for which Natura 2000 sites have been designated were recorded on the application site.

#### *Zone of Influence*

- 12.1.5. The proposed development is not located within or immediately adjacent to any European Site. Concerns are raised by a third party that the Zone of Influence has not been reasoned or explained. Appropriate Assessment Guidance (2009) recommends an

assessment of European sites within a Zone of Influence of 15km. However, this distance is a guidance only and a potential Zone of Influence of a proposed development is the geographical area over which it could affect the receiving environment in a way that could have significant effects on the Qualifying Interests of a European site. In accordance with the OPR Practice Note, PN01, the Zone of Interest should be established on a case-by-case basis using the Source- Pathway-Receptor framework and not by arbitrary distances (such as 15km). The Zone of Influence may be determined by connectivity to the proposed development in terms of:

- Nature, scale, timing and duration of works and possible impacts, nature and size of excavations, storage of materials, flat/sloping sites;
- Distance and nature of pathways (dilution and dispersion; intervening 'buffer' lands, roads etc.); and
- Sensitivity and location of ecological features.

12.1.6. Table 1 of the applicants report considers that the River Nanny Estuary and Shore SPA (004158) which is located c. 3.8km from the subject site is the only European Site within the zone of influence. Figure 4 of the report also identifies 9 no. designated sites within 15km of the subject site. These are outlined below:

- Boyne Coast and Estuary SAC (001957)
- Boyne Estuary SPA (004080)
- River Boyne and River Blackwater SAC (002299)
- River Nanny Estuary and Shore SPA (004158)
- Rockabill SPA (004014)
- Rockabill to Dalkey Island SAC (003000)
- Skerries Islands SPA (004122)
- Rogerstown Estuary SPA (004015)
- Rogerstown Estuary SAC (000208)

12.1.7. The proposed development has no potential source pathway receptor connections to any other European Sites.



### *Consideration of the Impacts*

- 12.1.8. It is considered that there is nothing unique or particularly challenging about the proposed development, either at construction or operational phase. There are no rivers or streams within the vicinity of the site and there is no connectivity to any European sites. There are no surface water features within the site. There is a surface water drainage ditch to the north of the site along Flemington Lane, which connects to the public network. During the operational stage surface water from the proposed development will flow by gravity and be pumped to the public network on Flemington Lane. The nearest European site to the proposed development site is the River Nanny Estuary and Shore SPA (004158), located c. 3.8 km downstream of the site.
- 12.1.9. During the construction phase standard pollution control measures would be put in place. Pollution control measures during both construction and operational phases are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface water treatment measures were not implemented or failed, I remain satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites can be excluded given the distance and lack of a hydrological connection to the Natura 2000 sites.
- 12.1.10. The foul discharge from the proposed development would drain, via the public network, to the Balbriggan WWTP for treatment.
- 12.1.11. All waste from the construction phase would be disposed of by a registered facility.
- 12.1.12. The site has not been identified as an ex-situ site for qualifying interests of a designated site and I am satisfied that the potential for impacts on wintering birds, due to increased human activity, can be excluded due to the separation distances between the European sites and the proposed development site, the absence of relevant qualifying interests in the vicinity of the works and the absence of ecological or hydrological pathway.

- 12.1.13. The submission from the DAU notes a lack of detail regarding the eventual destination of the surface water run-off from the proposed development. Notwithstanding this, it is considered that due to the scale of the proposed development, distance and dilution factors, that the development would not have any significant effects on any Natura 2000 sites.
- 12.1.14. Having regard to the above, I am satisfied that the potential for impacts on the designated sites can be excluded at the preliminary stage due to the separation distance between the European site and the proposed development site, the nature and scale of the proposed development, the absence of a hydrological link, the subject site provides no ex-situ habitat for any of the waterbird/seabird species and an absence of relevant qualifying interests in the vicinity of the works and to the conservation objectives of the designated sites.

#### *AA Screening Conclusion*

- 12.1.15. In reaching my screening assessment conclusion, no account was taken of measures that could in any way be considered to be mitigation measures intended to avoid or reduce potentially harmful effects of the project on any European Site. In this project, no measures have been especially designed to protect any European Site and even if they had been, which they have not, European Sites located downstream are so far removed from the subject lands and when combined with the interplay of a dilution affect such potential impacts would be insignificant. I am satisfied that no mitigation measures have been included in the development proposal specifically because of any potential impact to a Natura 2000 site.
- 12.1.16. It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## 13.0 Recommendation

- 13.1. Having regard to the above assessment, I recommend that permission is REFUSED for the development as proposed for the reasons and considerations set out below.

## 14.0 Recommended Order

**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 25<sup>th</sup> day of August 2022 by CWPA Planning and Architecture, on behalf of Kinvara Properties Limited.

**Proposed Development:** The proposed development includes the demolition of an existing derelict structure (134sqm) and the construction of 127 no. residential units (65 no. houses and 62 no. duplex units) and a creche. The residential units comprise 14 no. 2-bed houses, 47 no. 3-bed houses, 4 no. 4-bed houses, 31 no. 2-bed duplex units and 31 no. 3-bed duplex units. The houses are provided in 2-storey terraces and the duplex units are provided in 3-storey terraces.

The development includes public open space and communal open space with a children's play area and public artwork, 211 no. surface car parking spaces, car sharing provision, electric vehicle charging points, bicycle parking, internal roads, pathways and cycle paths, including connections to adjoining lands, hard and soft landscaping and boundary treatments, temporary pumping station, plant, revised entrances and tie-in arrangements to Flemington Lane including new cycle lane and footpath, solar panels, attenuation tank and related SUDS measures, signage public lighting and all site development and excavation works above and below ground.

### **Decision:**

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

### **Matters Considered:**

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

## 15.0 **Reasons and Considerations**

The Board Considers that: -

1. In the absence of adequate pedestrian and cycle infrastructure connecting the subject site to Balbriggan town centre and given the poor availability of public transport at this location, the proposed scheme would generate pedestrian movements onto Flemington Lane, which would endanger public safety by reason of traffic hazard. The proposed development would be largely car dependent and would, therefore, promote unsustainable transport modes which would be contrary to the provisions of Objective BALBRIGGAN 11 of the Fingal County Development Plan 2017 – 2023.
2. Given the site's locational context, circa 4km north west of Balbriggan town centre and a minimum of circa 550m from the nearest suburban estate to the south and east, its single vehicular access point onto Flemington Lane which is a local road with a rural character with no pedestrian or cycling infrastructure or public lighting, to the design and layout of Blocks B1 and B3 which it is considered would be visually incongruous when viewed from Flemington Lane, the limited separation distance between Block B7 and Blocks B5 and B6 which would result in undue overlooking, the isolated location of the creche at the sites eastern boundary, the poor relationship between the residential units and the areas of open space with regard to passive overlooking, the lack of physical or visual connection between the different areas of open spaces, the lack of detail of active and passive uses within the open spaces and the poor quality of communal open spaces CS-2 and CS-4, it is my view that inadequate consideration was given to the design approach and that the proposed design and layout would not make a positive contribution to place-making and does not provide

the optimal design solution for the subject site and would be contrary to the proper planning and sustainable development of the area.

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Elaine Power

Senior Planning Inspector

17<sup>th</sup> February 2023

## Appendix 1

### EIA – Screening Determination for Strategic Housing Development Application

A. CASE DETAILS		
An Bord Pleanála Case Reference		ABP-314446-22
Development Summary		Construction of 127 no. residential units and a creche.
	Yes / No / N/A	
1. Has an AA screening report or NIS been submitted?	Yes	A Stage 1 AA Screening Report was submitted with the application
2. Is an 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	No

<p><b>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</b></p>	<p>Yes</p>	<ul style="list-style-type: none"> <li>• Appropriate Assessment Screening Report and Ecological Impact Assessment which had regard to the Habitats Directive (92/43/EEC), the Birds Directive (2009/147/EC)</li> <li>• The Site-Specific Flood Risk Assessment (FRA) which had regard to the Fingal County Development Plan 2017-2023 which undertook a Strategic Flood Risk Assessment (FRA).</li> <li>• The Outline Construction Management Plan has regard to the Integrated Pollution Prevention and Control Directive (1996/61/EC) and the Waste Framework Directive (2008/98/EC).</li> <li>• The Construction and Demolition Waste Management Plan has regard to the Waste Framework Directive (2008/98/EC).</li> <li>• The Strategic Environmental Assessment (SEA) for the Fingal County Development Plan 2017 – 2023</li> </ul>



B. EXAMINATION	Yes/ No/ Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant)  (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
<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>	No	The development comprises the construction of residential units and a creche on lands zoned for residential development, on which a creche is permissible. The nature and scale of the proposed development is not regarded as being significantly at odds with the surrounding pattern of development.	No
<b>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</b>	Yes	The proposed development is located on a greenfield site within the urban area of Balbriggan. The proposed scheme would not result in	No

		any physical changes to the locality. Any works would be minor in nature.	
<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>	Yes	Construction materials will be typical of such urban development. The development of this urban site would not result in any significant loss of natural resources or local biodiversity.	No
<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>	Yes	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 Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.	No

<b>1.5 Will the project produce solid waste, re-lease pollutants or any hazardous / toxic / noxious substances?</b>	Yes	<p>No significant risk identified.</p> <p>Operation of a Construction Management Plan will satisfactorily mitigate emissions from spill-ages during construction. The operational development will connect to mains services. Surface water drainage will be separate to foul services. No significant emissions during operation are anticipated.</p>	No
<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>	No	<p>No significant risk identified.</p> <p>Operation of a Construction Management Plan will satisfactorily mitigate emissions from spill-ages during construction. The operational development will connect to mains services. Surface water drainage will be separate to foul services. No significant emissions during operation are anticipated.</p>	No

<p><b>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</b></p>	<p>Yes</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 Management Plan.</p> <p>Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.</p>	<p>No</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>No</p>	<p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction Management Plan would satisfactorily address potential impacts on human health.</p> <p>No significant operational impacts are anticipated.</p>	<p>No</p>

<b>1.9 Will there be any risk of major accidents that could affect human health or the environment?</b>	No	<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>There are no Seveso / COMAH sites in the vicinity of this location.</p>	No
<b>1.10 Will the project affect the social environment (population, employment)</b>	Yes	The development 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 suburban location of the site and surrounding pattern of land uses in north west Balbriggan.	No
<b>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</b>	No	<p>This is a stand-alone development, comprising the development of a site and is not part of a wider large scale change.</p> <p>Other developments in the wider area are not considered to give rise to significant cumulative effects.</p>	No

2. Location of proposed development			
<p><b>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</b></p> <ul style="list-style-type: none"> <li><b>1. European site (SAC/ SPA/ pSAC/ pSPA)</b></li> <li><b>2. NHA/ pNHA</b></li> <li><b>3. Designated Nature Reserve</b></li> <li><b>4. Designated refuge for flora or fauna</b></li> <li><b>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</b></li> </ul>	No	<p>No European sites located on the site. An AA Screening Assessment accompanied the application which concluded the development would not be likely to give rise to significant effects on any European Sites.</p> <p>This site does not host any species of conservation interest.</p>	No
<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>	No	<p>No such species use the site and no impacts on such species are anticipated.</p>	No

<b>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</b>	No	No such features arise in this location	No
<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>	No	No such features arise in this location.	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>	No	<p>No such features identified at this site.</p> <p>The development will implement SUDS measures including underground attenuation of surface water, to control run-off.</p>	No

<b>2.6 Is the location susceptible to subsidence, landslides or erosion?</b>	No	No risks are identified in this regard.	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>	No	The site is served by a local road network. 121 no. car parking spaces are proposed on the site. No significant contribution to such congestion is anticipated.	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>	Yes	No. The development would not be likely to generate additional demands on educational facilities in the area.	No
<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>	No	No developments have been identified in the vicinity which would give rise to significant cumulative environmental effects.	No



		Some cumulative traffic impacts may arise during construction. This would be subject to a construction traffic management plan.	
<b>3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?</b>	No	No trans boundary considerations arise	No
<b>3.3 Are there any other relevant considerations?</b>	No	No	No
<b>C. CONCLUSION</b>			
<b>No real likelihood of significant effects on the environment.</b>	Yes	EIAR Not Required	EIAR Not Required
<b>Real likelihood of significant effects on the environment.</b>	No		
<b>D. MAIN REASONS AND CONSIDERATIONS</b>			
Having regard to: -			

- the nature and scale of the proposed development, which is below the threshold in respect of Class 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- the location of the site on lands subject to 2 no. zoning objectives. The majority of the site is zoned RS Residential Area with the associated land use objective to *'provide for new residential communities subject to the provisions of the necessary social and physical infrastructure'*, a portion of land at the sites southern eastern boundary is zoned OS Open Space with the associated land use objective to *'preserve and provide for open space and recreational amenities'* in the Fingal County Development Plan 2017-2023. The development plan was subject to a strategic environmental assessment in accordance with the SEA Directive (2001/42/EEC).
- The location of the site within the urban area of Balbriggan, which is served by public infrastructure, and the existing pattern of suburban development to the south east of the subject site.
- The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003),
- the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction and Demolition Waste Management Plan, the Outline Construction Management Plan, the Operational Waste Management Plan, Specific Flood Risk Assessment, Appropriate Assessment Screening and Ecological Impact Assessment.

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

Inspector: Elaine Power

Date: 17<sup>th</sup> February 2023