



An
Bord
Pleanála

Inspector's Report

ABP-315602-23

Development	Mixed-use development consisting of the demolition of the Swords Day Centre for Senior Citizens and the construction of 121 apartments, 4 retail units, a replacement Senior Citizens Centre and a commercial car park etc.
Location	Junction of Forster Way and Chapel Lane, including Swords Day Centre for Senior Citizens, Swords, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F22A/0608
Applicant(s)	Brookclam Land Ltd.
Type of Application	Permission (s. 34)
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party (s. 37)
Appellant(s)	Brookclam Land Ltd.
Observer(s)	M Cahill and Others M Grimes iPáirc – Irish Car Parks P Rousseau S Behan and Others

Date of Site Inspection

27th November 2023

Inspector

Philip Maguire

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1.0 Site Location and Description

- 1.1. Located along and to the east of Forster Way in Swords, County Dublin, the appeal site is brownfield land with a stated area of 0.56ha. Forster Way is an unmarked road which connects Chapel Lane to the north and the Malahide Road to the south. It has a north-south alignment, parallel to, and c. 70m east of Main Street. There is also one-way vehicular access from Main Street via Swords Town Centre Mall, aligned east to west. There are pedestrian links via Swords Plaza to the south and at Coachyard House Lane and Mainscourt to the north. The Ward River lies c. 170m to the west.
- 1.2. The appeal site is rectangular shaped and consists of a surface car park, a substation, a day centre for senior citizens and a section of Forster Way. The substation is a small, pitched roof building located to the south of the appeal site, adjacent to a large 5-storey residential building (Burgundy Court) with commercial and retail at ground floor level. The day centre is located towards the north of the site and along the eastern boundary. It is a two-storey pitched roof building with hipped projection, and slate and fair face blockwork finishes. It is separated from the car park by a low block wall, high piers and railings along its northern, southern and western boundaries. Palisade fencing defines its eastern boundary, adjacent to which are trees and a walkway to Oaklands Park. St. Colmcille's Church (RPS ref. 0356) and graveyard is further east.
- 1.3. The remainder of the eastern site boundary is defined by a wall, earth bank, vegetation and boundary walls associated with the Oaklands estate. The southern boundary is partly defined by the gable wall of Burgundy Court and security fencing to the rear. The northern boundary is open to Chapel Lane. The western boundary is similarly undefined but does include sections of footpath along the western side of Forster Way. The surrounding area is characterised by a mix of commercial and residential uses with civic and cultural uses in the form of Swords Castle and County Hall to the north.
- 1.4. Site levels rise from c. 19mAOD to c. 22mAOD, north to south. There is a pronounced difference in levels along the eastern boundary with marginal fall from east to west.

2.0 Proposed Development

- 2.1. Planning permission is sought for a mixed-use development consisting of 121 no. apartments, 4 no. retail units, a senior citizens centre, a commercial car park and all

associated site works. The proposal also includes the demolition of the existing Swords Day Centre for Senior Citizens and an ESB substation to facilitate the works.

2.2. The proposed development would consist of:

- Construction of a part 2-, part 8-storey mixed-use building in 2 no. 8-storey blocks ('Northern Block' and 'Southern Block') above basement to include 121 no. apartments consisting of 56 no. one-bed units, 2 no. two-bed (3-person) units, 52 no. two-bed units and 11 no. three-bed units with setbacks at 2nd floor level on the south and east elevation, and at 7th floor level on the southern elevation;
- Apartment units would include balconies on the north, south, east and west facing elevations;
- Provision of 4 no. retail units at ground and 1st floor level (c. 255.3sq.m);
- Provision of 1 no. senior citizen centre at ground and 1st floor level (c. 807sq.m);
- Provision of a commercial car parking at basement and ground floor levels comprising 162 no. spaces;
- Provision of 11 no. car parking spaces to serve the senior citizens centre and 59 no. car parking spaces for the residential development at 1st floor level;
- Provision of 238 no. residential bicycle parking spaces (41 no. visitor and 197 no. residential spaces) as well as 15 no. additional bike stands along Forster Way;
- Provision of c. 478sq.m of communal open space at 2nd floor level and c. 1,074sq.m at roof level (527sq.m at the Northern Block and 547sq.m at the Southern Block);
- Provision of 3 no. vehicular access/egress points along Forster Way;
- Provision of 1 no. ESB double substation, plant and switch rooms at basement, ground and 1st floor level;
- Provision of photovoltaic array and automatic opening vent (AOV) at roof level; and
- Demolition of existing Swords Day Centre for Senior Citizens (399sq.m), existing ESB substation (34.5sq.m) and removal of existing surface car parking; and
- All associated site development and landscaping/public realm works as well as revision to vehicle circulation necessary to facilitate the development.

2.3. The following tables summarise the key elements of the proposed development:

Table 1 – Key Figures

Site Area (Gross / Net)		0.56ha
Dwelling Units		121 no. apartments
Density (Gross / Net)		216dph / 231dph*
Building Height		Northern Block: 2-8 storey over basement (c. 26.7m) Southern Block: 2-8 storey over basement (c. 25.3m)
Floor Areas (sq.m)	Demolition	433.5 (399 Senior Citizens Centre, 34.5 substation)
	Stated GFA	16,350 (excl. 3,952 basement level)
	Non-resi GFA	1,062.3 (255.3 retail, 807 new Senior Citizens Centre)
	Resi GFA	15,287.7
Dual Aspect		55% (67 of 121 no. units)
Part V		16.5% (20 of 121 no. units)
Open Space / Amenities		27% communal open space (1,552sq.m of site area) 4 no. retail units, 1 no. Senior Citizens Centre (SSC)
Car Parking Spaces		232 (162 no. public, 59 no. residential**, 11 no. SCC) 0.49 spaces per residential unit
Bicycle Parking Spaces		268 (197 no. residential, 41 no. visitor, 15 no. bike stands with 2 no. spaces per stand) 1.62 spaces per residential unit

*As per Appendix B of the Compact Settlements Guidelines

**Including 5 no. car club spaces

Table 2 – Apartment Unit Mix

Block	1-bed	2-bed (3P)	2-bed (4P)	3-bed	Total
Northern	13	1	34	6	54
Southern	43	1	18	5	67
Total	56 (46%)	2 (2%)	52 (43%)	11 (9%)	121 (100%)

2.4. In addition to a Planning Report (JSA, Oct. 2022), application documents include:

- Appropriate Assessment Screening Report (Enviroguide, October 2022)
- Ecological Impact Assessment Report (Enviroguide, October 2022)
- Operational Waste Management Plan (Enviroguide, October 2022)
- Telecommunications Report (Independent Site Management, October 2022)
- Townscape and Visual Impact Assessment (Model Works, October 2022)
- Verified Photomontages (Model Works, October 2022)
- Daylight and Sunlight Report (JV Tierney & Company, October 2022)
- External Lighting Strategy (JV Tierney & Company, October 2022)
- Energy Strategy and BER Report (JV Tierney & Company, October 2022)
- Site Utilities Infrastructure Report (JV Tierney & Company, October 2022)
- Archaeological Testing (The Archaeology Company, October 2008)
- Civil Engineering Infrastructure Report (Barrett Mahony, September 2022)
- Outline Construction Management Plan (Barrett Mahony, September 2022)
- Outline Construction and Demolition WMP (Barrett Mahony, September 2022)
- Traffic Assessment (Barrett Mahony, October 2022)
- Mobility Management Plan (Barrett Mahony, October 2022)
- Wind Microclimate Modelling (Barrett Mahony, September 2022)

2.5. In addition to an appeal statement (JSA, January 2023), appeal documents include:

- Architectural Design Statement with revised drawings (Plus Architecture, January 2023). It illustrates a part 2-, part 6-storey mixed-use building including 79 no. apartments consisting of 34 no. one-bed, 38 no. two-bed and 7 no. three-bed units.
- Updated Townscape and Visual Impact Assessment (Model Works, January 2023)
- Updated Daylight and Sunlight Report (JV Tierney & Company, January 2023)
- Engineering Note (Barrett Mahony, January 2023)
- Environmental Impact Assessment Screening Report (Enviroguide, January 2023)

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Permission was refused on 14th December 2022 for the following reasons:

- 1. The height, scale and massing of the proposed development is considered to be excessive and would not sufficiently respect the existing setting and scale of development in the vicinity of the subject site and would undermine the role and hierarchy of the Main Street of Swords. Having regard to the existing pattern of development in the area, to the excessive height and extent of development proposed on site and to its close proximity to existing adjacent houses within the Oaklands housing estate, it is considered that the proposed development would be out of character with the established pattern of development in the area, would result in overdevelopment of the subject site and would create a visual perception of encroachment on, overlooking of, and overshadowing of, adjoining residential two-storey houses. The proposed development would seriously injure the visual and residential amenities of the area, would depreciate the value of property in the vicinity, would materially contravene the provisions of the Fingal Development Plan 2017-2023 and would be contrary to the 'MC' Major Town Centre zoning of the subject site which aims to 'Protect, provide for and/ or improve major town centre facilities'. The proposed development in this form would, therefore, be contrary to the proper planning and sustainable development of the area.*
- 2. The proposed eight-storey development would be contrary to the Swords Masterplan 2009 which envisions varied heights for Opportunity Site 5 in order to modulate the scale of any proposed development on this long and predominant site to the rear of Main Street Swords. The proposal in this form lacks visual interest by providing a monolithic structure to this prominent site and therefore negatively affects views from Main Street, Chapel Lane, St. Colmcille's Church and graveyard and Oakland housing estate and would set an undesirable precedent for other similar developments, which would in themselves and cumulatively be harmful to the visual and residential amenities of the area and to the vitality and hierarchy of the Main Street of Swords and would therefore be contrary to the proper planning and sustainable development of the area.*

3. *It is considered that the proposed development fails to fully accord with the requirements of the Sustainable Urban Housing: Design Standards for New Apartment Guidelines for Planning Authorities (Department of Housing, Local Government and Heritage, December 2020) by reason of an inadequate level of daylight and sunlight requirements into all units, together with a deficiency in private amenity provision for all units, which would result in an unacceptable low level of residential amenity for future residents of the proposed apartments. The proposed development would be contrary to the Sustainable Urban Housing: Design Standards for New Apartment Guidelines for Planning Authorities which have been issued to Planning Authorities under Section 28 of the Planning and Development Act, 2000, as amended, and would be injurious to the amenities of the future occupants of such units and would be contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

- 3.2.1. The Planning Officer's Report (14/12/22) can be summarised as follows:

Zoning and Principle

- It notes that residential use complies with the zoning objective and may be permitted where compatible with other policies and objectives of the area.

Density

- It notes regional policies RPO 4.3 and RPO 5.4 which seek to support higher density within Dublin City and Suburbs and MASP areas. It also notes Fingal Development Plan 2017-2023 (FDP) objective PM41 in relation to density.
- It states that the site may be suited to higher density but considers 216dph excessive having regard to the nature and scale of the development and site context, noting that density may be constrained by amenity impacts.

Design and Impact on Visual Amenity

- It states that the overbearing impact of 8 storeys, over an uninterrupted 63.5m frontage, as viewed from the Oaklands estate and St. Colmcille's Church is a concern. It notes that whilst increased height and density are somewhat

appropriate at this location, it considers that the bulk and massing is too monolithic and therefore injurious to the residential and visual amenities of the area.

- It notes the requirements of FDP objective SWORDS 4 and the Swords Masterplan 2009 where the appeal site forms part of Opportunity Site 5. Whilst it considers there to be scope for variation in character in terms of additional apartments, retail and community uses on this infill site, it states that any redevelopment should incorporate buildings of the highest architectural quality, with greater height variations to enhance the streetscape, improve the visual amenity along Forster Way, and maintain the amenity of Oaklands Park and views of the church.

Apartment Guidelines

- It notes compliance with SPPR 3, SPPR 4(i), SPPR 5 and SPPR 6.
- In terms of Appendix 1, it notes that Bedroom 2 of 5 no. units in the Southern Block is 11.29sq.m and below the 11.4sq.m standard. It also notes that the storage area for 2 no. units in the Northern Block is 4.72sq.m and below the 6sq.m standard.
- It states that the private open spaces do not all meet the minimum requirements, with a large number of two-bed units and several three-bed units below the required standards which would negatively impact on residential amenity. Some discrepancies between the HQA and drawings are also noted in this regard.
- It notes that 1,552sq.m of communal open space sufficiently meets the standards.

Landscaping and Boundary Treatment

- It notes that no public open space has been provided and therefore a financial contribution would be required in lieu and applied to the continued upgrade of open space facilities in the Ward River Regional Park. It also notes that no play provision is proposed, and this should be provided in the communal open space areas.
- It states that the pedestrian street is acceptable but there is also a need for an open public plaza to provide amenity and visual relief and break-up the overbearance of the scheme as required by the Swords Masterplan. It also highlights issues with street tree planting and vegetation removal along the Oaklands Park boundary.
- It considers that activation at street level from the senior citizens centre and retail units would add to the public realm created along Forster Way and provide

community gain, however it considers that the lack of an open plaza and boundary treatment along the boundary with Oaklands Park remains a serious concern.

Residential Amenity

- It states that the proposal would improve the urban design and public realm of Forster Way and notes the planning gain associated with the senior citizens centre.
- However specific elements cause concern including daylighting to, and internal layout of, the apartments and lack of play areas for children. It also raises concerns regarding the impact on adjacent properties in terms of level differences and proximity, and in relation to the efficacy of the Daylight and Sunlight Report.
- Given the scale, mass, design and height, the site levels relative to adjacent properties and orientation of the site, it raises serious concerns that the proposal would result in a significant negative impact on the adjacent properties in terms of undue levels of overlooking, overbearing, overshadowing and loss of natural light.

Access and Parking

- It notes that Forster Way would be partly reconfigured to a one-way system. It suggests that this compliments the draft Sustainable Swords Strategy but raises concerns regarding the Chapel Lane junction, lack of segregated cycling infrastructure including southbound contraflow lane and traffic calming.
- Whilst it welcomes the inclusion of public parking, which would be accessed towards the northern end of the development, it raises concerns regarding the adjacent senior citizens centre parking layout in terms of aisle and bay widths.
- It notes that the parking for the apartments would be provided separately to the public parking, at first floor level, and accessed from the southern end of the development. It states that this parking provision rate of 0.49 would be significantly below the FDP standards and 1 space per 3-bed unit should be provided at a minimum. It also notes the lack of accessible parking bays and motorbike parking, and seeks clarification regarding the existing spaces to the northern boundary. It also states that the bicycle parking provision is below FDP standards and raises concerns regarding a lack of bicycle equipment storage and e-bike charging etc.

- It notes the submitted Mobility Management Plan and considers further updates would be required. It also states that a Construction Traffic Management Plan should be agreed prior to construction in addition to a Stage 1/2 Road Safety Audit.
- As part of the basement car park would be partly under a realigned Forster Way, it states that the Council would be precluded from taking it in charge other than by plebiscite and therefore all finishes should comply with the Council's Standard for Taking in Charge or excluded from the taking in charge process by condition.
- In terms of the submitted TTA, it considers that further information is required in respect of the proposed parking, particularly if it represents an increase on existing, and in respect of the impact of the proposed reconfiguration of Forster Way.

Flood Risk and Drainage

- It notes that SuDS measures are incorporated in the form of green and blue roofs and does not raise any concerns regarding flood risk or surface water drainage.
- It also notes that Irish Water does not have water/wastewater infrastructure within the public road fronting the proposal and a mains/sewer extension will be required to cater for the development which is not within the Capital Investment Plan.

Aviation Noise

- It notes that the site is located within Dublin Airport Noise Zone D and therefore noise mitigation conditions would be required in the event of a grant of permission.
- Additionally, it notes that the applicant should undertake a screening assessment to confirm that the development and associated cranes during construction would have no negative impact on the safety of flight operations at Dublin Airport, or be conditioned to notify IAA and DAA of the intention to commence crane operations.

Waste Management

- It acknowledges the location and capacity of the bin stores associated with the senior citizens centre and apartments detailed in the Operational Waste Management Plan but states that bin stores for the retail units are not identified.

Archaeology and Conservation

- It notes the proximity of the site to St. Colmcille's Church and graveyard with the church being a protected structure and site of a recorded monument. It considers

that Swords town centre is a sensitive area and new buildings should complement existing protected structures and historic streetscapes.

- Noting that the eastern elevation of the Northern Block faces the graveyard and towards the church, it states that the proposal is dominant and not in keeping with the existing character of the area, detracting from the church's setting. It considers that the scale of the 4-storey County Hall to be more appropriate to this setting.

Construction Management

- It states that a Construction and Demolition Resource Management Plan should be conditioned in the event of a grant permission.

Part V

- It notes that the applicant proposes 20 no. units in order to discharge their Part V obligations, consisting of 13 no. 1-beds and 7 no. 2-beds. It recommends that a standard Part V condition be attached in the event of a grant of permission.

Arts and Culture

- It states that a piece of public art should be conditioned.

Appropriate Assessment (AA) and Environmental Impact Assessment (EIA)

- It states that no AA or EIA issues arise.

Conclusion

- It concludes that the proposed development is not acceptable with regard to the protection of existing residential and visual amenities of the area, would not accord with the provisions of the Fingal Development Plan 2017-2023 and if permitted would set an undesirable precedent for other similar development in the area.

3.2.2. Other Technical Reports

- Archaeology (01/12/22): No objection.
- Architecture (01/12/22): Non-committal.
- Arts & Culture (as per PO Report): No objection subject to condition.
- Conservation (06/12/22): Further information required.
- Environment (11/11/22): No objection subject to condition.

- Environmental Health (30/11/22): No objection subject to condition.
- Housing (as per PO Report): No objection subject to condition.
- Parks (08/12/22): No objection subject to condition.
- Roads (as per PO Report): Further information required.
- Water (10/11/22): Further information required.

3.3. Prescribed Bodies

- DAA (22/11/22): No comments.
- IAA (22/11/22): No objection subject to condition.
- Irish Water (28/11/22): Further information required.

3.4. Third Party Observations

3.4.1. The planning authority received a total of 50 no. third-party observations. Whilst the need for additional housing and redevelopment of a community facility are acknowledged, the main concerns can be summarised under the following themes:

- Height etc. would impact on character and amenity, contrary to planning guidance;
- Concerns over traffic and car parking constraints and capacity in the area;
- Concerns regarding open space and public realm provision; and
- Other - impacts on broadband, conservation and archaeology, drainage, social infrastructure and health, antisocial behaviour, subsidence and general disruption.

3.4.2. These concerns are similar to the appeal observations – see section 6.3 below.

4.0 Planning History

4.1. Relevant to appeal site:

4.1.1. PA ref. F08A/0884 – in April 2009, the planning authority granted permission for a 6-storey mixed use building including multi-storey car park, 7 no. retail units, commercial space above, replacement senior citizens building and 32 no. apartments etc. An

application to extend the duration of this permission was granted by the planning authority in January 2014 (ref. F08A/0884/E1). This permission lapsed in April 2019.

4.2. Adjacent sites:

Rear of 27 Main Street – Immediately West

- 4.2.1. PA ref. F17A/0406 – in November 2018, the Board upheld a decision of the planning authority and refused permission for a 5-storey apartment building containing 6 no. units (case ref. ABP-300678-18). Having regard to the excessive height etc. and inappropriate level of integration with the existing buildings along Forster Way, the Board considered that the proposal would be visually obtrusive and incongruous, and would seriously injure the visual amenities of the streetscape and surrounding area. The Board also considered that the proposal would provide poor quality residential amenity for the future occupants due to inadequate daylight and sunlight penetration, seriously injuring their amenities. Finally, the Board was not satisfied that the proposal would not give rise to a traffic hazard or endanger the safety of other road users.

27 Main Street – Due West

- 4.2.2. PA ref. F17A/0363 – in December 2017, the planning authority granted permission for a 4-storey mixed use building with ground floor retail and upper floor offices.
- 4.2.3. PA ref. F16A/0247 – in December 2016, the Board upheld the decision of the planning authority and refused permission for a part 3-, part 5-storey mixed use building with ground floor retail and 12 no. upper floor apartments (ref. PL 06F.247016). By reason of design and layout, the Board considered that the proposal would be out of character with the pattern of development in the area, contrary to the Swords Masterplan 2009, and would seriously injure the visual amenities of the area. The Board also considered that the proposal would result in significant overlooking between the apartment blocks and the substandard communal open space, by reason of excessive overshadowing etc., would seriously injure the amenities of future occupants. Finally, the Board considered that the proposal would endanger public safety by reason of a traffic hazard because of the poor sightlines and on-street congestion from queuing traffic.
- 4.2.4. PA ref. F15A/0303 – in January 2016, the Board upheld the decision of the planning authority and refused permission for a part 5-storey mixed use building with ground floor retail and 16 no. upper floor apartments (PL 06F.245438). The Board considered

that the proposal would be visually obtrusive and seriously injure the visual amenities of the area, contrary to the Swords Master Plan 2009, which sought to restrict building heights to 1-3 storeys along this section of the Main Street. The Board also considered that the layout etc. would produce a cramped and substandard form of development for future occupants due to excessive overshadowing etc., seriously injuring their amenities. Having regard to its built form and the character of Main Street, the Board also considered that the proposal would be incongruous and would be out of character with the streetscape. Finally, the Board considered that the proposal would endanger public safety by reason of a traffic hazard due to poor sightlines and congestion.

Rear of 47 Main Street – Due Southwest

- 4.2.5. PA ref. F23A/0212 – in December 2023 the planning authority decided to refuse permission for a 5-storey building consisting of 10 no. apartments etc. Material contravention of objective DMSO5, adverse impacts on the protected structure and on its setting, potential adverse impacts on existing and proposed residential amenity by virtue of a lack of daylight and sunlight analysis, insufficient information with regards to surface water drainage, and failure to determine if archaeological features survive in the absence of an Archaeological Impact Assessment were among the reasons.

Burgundy Court – Immediately South

- 4.2.6. PA ref. F99A/1527 – in October 2000 the Board overturned a decision of the planning authority and granted permission for a 4-storey mixed-use development consisting of 1 no. retail unit and 9 no. apartments (ref. PL 06F/118731), since amended under PA ref. F01A/0123 to provide new floor levels, fenestration patterns, eaves and roof levels in accordance with those established by The Crescent development to the south.

- 4.3. Other developments of note:

R132 Connectivity Project

- 4.3.1. ABP-310145-21 – in January 2022 the Board approved the R132 Connectivity Project along a 2.6km section of the R132 between Lissenhall interchange and Pinnock Hill roundabout. It includes a number of infrastructure improvements including ‘at grades’ signalised crossing points, 2m wide cycle ways and pedestrian walkways and pedestrian linkages to Chapel Lane, some 0.4km east of the appeal site.

Metrolink

- 4.3.2. ABP-314724-22 – an application was lodged with the Board in September 2022 for the MetroLink Rail Order. It includes a proposed ‘Seatown Metro Station’ at the R132/Seatown Road junction, some 0.5km northeast of the appeal site.

Bus Connects

- 4.3.3. ABP-317121-23 – in May 2023 an application was lodged with the Board for the Swords to City Centre scheme consisting of bus, cycle and pedestrian infrastructure with an overall length of c. 12km and serving Dublin Airport. The scheme would terminate at Pinnock Hill roundabout c. 0.9km southeast of the site with segregated cycling infrastructure proposed along the Dublin Road towards Swords town centre.

5.0 Policy Context

5.1. Fingal Development Plan 2023-2029

- 5.1.1. The current Development Plan came into effect on 5th April 2023. The planning authority decision of 14th December 2022 was made under the previous Plan for the period 2017-2023. This appeal shall be determined under the current Plan provisions.
- 5.1.2. The appeal site lies just inside the Swords Core Retail Area and is partly zoned ‘MC’ Major Town Centre with a zoning objective to *‘Protect, provide for and/ or improve major town centre facilities’*. Residential, retail, community and car parking uses are amongst the development types ‘permitted in principle’ in this zoning. The remainder of the appeal site is unzoned, including Forster Way and the majority of the car park.
- 5.1.3. The zoning vision seeks to consolidate the existing Major Towns in the County, including Swords, and to further develop these centres by densification of appropriate commercial and residential developments ensuring a mix of commercial, recreational, civic, cultural, leisure, residential uses, and urban streets, while delivering a quality urban environment which enhances the quality of life of resident, visitor and workers.
- 5.1.4. The appeal site abuts housing with a zoning objective to *‘Provide for residential development and protect and improve residential amenity’*. Section 13.2 of the Development Plan notes that it is important to avoid abrupt transitions in scale and use in the boundary areas of adjoining land use zones. In dealing with proposals in these contiguous areas, it states that it is necessary to avoid developments that would

be detrimental to the amenities of the more environmentally sensitive zone e.g. in zones abutting residential areas, attention must be paid to the use, scale and density of development proposals in order to protect the amenities of residential property.

5.1.5. The main policies and objectives relevant to the proposal are set out under chapters 2 (Planning for Growth), 3 (Sustainable Placemaking and Quality Homes), 6 (Connectivity and Movement) and 14 (Development Management Standards).

5.1.6. The following sections are relevant to the appeal:

- 2.2.11 – The Core Strategy (Table 2.14)
- 2.7.2 – Role of Each Settlement (Key Town Swords)
- 3.5.1 – Healthy Placemaking
- 3.5.11 – Quality of Residential Development (including Density)
- 3.5.13 – Compact Growth, Consolidation and Regeneration
- 6.5.8 – Car Parking Management
- 6.5.10.3 – Roads and Streets Design
- 14.5 – Consolidation of the Built Form (including Building Height and Density)
- 14.6 – Design Criteria for Resi. Development (incl. Overlooking and Overbearance)
- 14.7 – Apartment Development/Standards
- 14.10 – Additional Accommodation in Existing Built-up Areas
- 14.13 – Open Space
- 14.16.1 – Airport Noise
- 14.17 – Connectivity and Movement (Table 14.17 and 14.18)

5.1.7. Summary of the relevant policies and objectives:

- | | |
|-------|---|
| CSP26 | Seeks to facilitate the long-term consolidation and growth of Swords as a Key Town including key infrastructure i.e. <i>Metrolink</i> and <i>Bus Connects</i> . |
| CSP27 | Seeks to support objectives to achieve a minimum of 30% of housing in the Key Town of Swords by way of compact growth etc. |
| CSO39 | Seeks to implement the Sustainable Swords' project. |

- CSO41 Supports the regeneration of underused town centre lands along with sequential infill opportunities to provide for high density and people intensive uses close to high quality transport, existing and planned etc.
- CSO44 Seeks to implement the Swords Masterplans 2019 (Table 2.17).
- SPQHO1 Seeks to ensure that residential development helps create sustainable communities as per the Sustainable Residential Guidelines, as updated.
- SPQHO34 Seeks to encourage higher densities where appropriate and ensuring high quality design and a balance between the protection of existing residential amenities and the established character of the area.
- SPQHP38 Seeks to promote compact growth through infill/brownfield development and increased densities along public transport corridors etc.
- SPQHO38 Seeks to promote residential development at sustainable densities throughout Fingal in accordance with the Core Strategy, particularly on vacant and/or under-utilised sites subject to integration etc.
- SPQHO39 Requires new infill development to respect the height and massing of existing residential units whilst retaining the character of the area.

5.1.8. The following development management objectives are also relevant:

- DMSO24 Apartment Development
- DMSO50 Monetary Value in Lieu of Play Facilities
- DMSO53 Financial Contribution in Lieu of Public Open Space
- DMSO67 Management Companies
- DMSO78 Community and Social Infrastructure Audit
- DMSO105 Development within Airport Noise Zones
- DMSO111 Mobility Management Plan

5.2. Swords Masterplans (May 2019)

- 5.2.1. The purpose of the Swords Masterplans is to provide development frameworks for the long-term sustainable development of major high-quality employment and residential quarters in Swords. It relates specifically to *Barryspark & Crowcastle* and *Forferstown* to the south and *Estuary West* to the north of the town centre (Table 2.17 of the Plan).

5.3. Sustainable Swords Strategy (December 2022)

- 5.3.1. The purpose of Sustainable Swords is to produce a placemaking strategy focused on the strategic regeneration and compact, sustainable development of Swords. A total of 16 no. priority projects have been identified under 5 no. themes including Main Street transformation, public realm; and access, permeability and connectivity. Details and recommendations regarding Project 1 (Main Street) and Project 2 (Liveable Laneways) are outlined in the supporting Public Realm and Transport Strategy.
- 5.3.2. This supporting strategy also includes specific recommendations in relation to Swords Cycle Network (SS 1), *Bus Connects* (SS 2) and *Metrolink* (SS 3). The implementation of a southbound priority bus lane on Main Street in the short-term (1-3 years) and both ways in the long-term (7-10 years) is amongst the recommended measures in relation to *Bus Connects*. Section 5.6 of the Transport Strategy notes that with the southbound lane on Main Street converted to a priority bus lane, the modelling assessment found that general traffic was shown to be displaced to Forster Way. Measures to mitigate this impact include traffic management measures on Forster Way, as per section 5.7.

5.4. National Planning Framework (NPF)

- 5.4.1. Acknowledging demographic trends, Project Ireland 2040, the National Planning Framework (DHLGH, 2018), seeks a 50:50 distribution of growth between the Eastern and Midland region and other regions. It places an emphasis on developing existing settlements including a delivery target of at least 40% of all new housing within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites.
- 5.4.2. The NPF also signals a move away from rigidly applied planning policies and standards in relation to building design, in favour of performance-based criteria, to ensure well-designed, high-quality outcomes. It emphasises that general restrictions on building height may not be applicable in all circumstances in urban areas and should be replaced by performance-based criteria appropriate to the general location.
- 5.4.3. In this regard, National Policy Objective (NPO) 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. NPO 35 seeks to increase residential density in settlements, through a range of measures including infill development schemes, area/site-based regeneration and increased building heights.

5.5. Regional Spatial and Economic Strategy 2019-2031 (RSES)

- 5.5.1. The Eastern and Midland RSES (EMRA, 2019) builds on the foundations of the NPF. It notes that the key enablers for growth include promoting compact urban growth to realise targets of at least 50% of new homes within or contiguous to the existing built-up area of Dublin city and suburbs and a target of at least 30% for other urban areas.
- 5.5.2. Section 4.6 identifies Swords as one of three Key Metropolitan Towns with the capacity and future growth potential to accommodate above average growth. Regional Policy Objective (RPO) 4.29 seeks to support the regeneration of underused town centre lands within Swords, along with sequential infill opportunities to provide for high density and people intensive uses close to high quality transport, existing and planned.
- 5.5.3. Having regard to Swords' location within the Dublin MASP boundary, I note that one of the Guiding Principles is to promote sustainable consolidated growth of the Metropolitan Area, including brownfield and infill development, to achieve this stated target of 50% of all new homes within or contiguous to the built-up area of Dublin City and suburbs, and at least 30% in other settlements; and to support a steady supply of sites and to accelerate housing supply, in order to achieve higher densities in urban built-up areas, supported by improved services and public transport. In this regard, the RSES acknowledges the significant role of the planned *Metrolink* to Swords.

5.6. Guidelines for Compact Settlements

- 5.6.1. The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (DHLGH, 2024) sets out policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential development and the creation of compact settlements. They are accompanied by a non-statutory Design Manual, albeit unpublished at time of writing.
- 5.6.2. Section 2.2 notes that these Guidelines should be read in conjunction with other guidelines where there is overlapping policy and guidance. Where there are differences between these Guidelines and other previously issued Section 28 Guidelines, it is intended that the policies and objectives and specific planning policy requirements (SPPR's) of the Compact Settlements Guidelines will take precedence.
- 5.6.3. In this regard, section 3.0 of the Guidelines deals with settlement, place and density. Section 3.3.1 relates specifically to the five cities and MASP areas. Amongst the key

priorities is to deliver brownfield and infill development within the existing built-up footprint and in a sequential manner closest to the urban core. Table 3.3 states that it is a policy and objective of these Guidelines that net residential densities in the range of 50-150dph shall generally be applied in the centres of Metropolitan Towns. Section 5.0 of the Guidelines sets out the development standards for new housing including SPPR 3 relating to car parking and SPPR 4 relating to cycle parking and storage.

5.7. Guidelines for New Apartments

- 5.7.1. The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (DHLGH, 2022, updated July 2023) focus on the locational and planning specific aspects of apartment development. Design parameters include locational considerations and internal space standards for different apartment types including amenity spaces etc. Many of these parameters are subject to SPPRs which take precedence over any conflicting Development Plan policies and objectives.
- 5.7.2. In terms of locational considerations, the Guidelines suggest that the appeal site falls within a central and/or accessible urban location i.e. within reasonable walking distance (up to 5 minutes or 400-500m) to/from high frequency (i.e. minimum 10 mins peak hour frequency) urban bus services. It notes that such locations are generally suitable for large-scale and higher density apartment development, subject to location. I note that the appeal site is adjacent to Main Street which is serviced by numerous high frequency bus routes operated by Dublin Bus and other bus service providers. I also note that the site will benefit from *Bus Connects* and *Metrolink* upon completion.
- 5.7.3. Section 6.6 of the Guidelines states 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 EN 17037:2018), *UK National Annex* (BS EN 17037:2019) and the associated practice guide BRE 209 2022 (3rd ed., June 2022), or any relevant future standards or guidance specific to the Irish context. The Guidelines do not, however, set out performance criteria for building height or building separation distance relative to location. This is subject to separate guidance.

5.8. Guidelines for Urban Development and Building Heights

- 5.8.1. The Urban Development and Building Heights Guidelines for Planning Authorities (DHPLG, 2018) reflects the policy direction espoused in the NPF in terms of achieving compact growth through urban infill and brownfield development. Section 1.10 states

that it would be appropriate to support the consideration of building heights of at least 6 storeys at street level as the default objective in major town centres identified in the RSES, such as Swords, subject to the criteria in Sections 2 and 3 of the Guidelines.

- 5.8.2. Section 3.1 of the Guidelines sets a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility. It also outlines some broad principles that should be applied when considering proposals for taller buildings including whether such proposals positively assist in securing NPF objectives such as fulfilling targets related to brownfield etc.
- 5.8.3. Section 3.2 of the Guidelines sets out criteria that the proposal should satisfy at the scale of the relevant city/town; at the scale of district/neighbourhood/street; at the scale of the site/building; and other specific assessments. SPPR 3 gives primacy to these criteria even where objectives of the Development Plan may indicate otherwise.

5.9. Guidelines for Retail

- 5.9.1. The Retail Guidelines for Planning Authorities (DECLG, 2012) notes that the planning system must promote and support the vitality and viability of city and town centres thereby contributing to a high standard of urban design and encouraging a greater use of sustainable transport. The Guidelines set out five key policy objectives including the promotion of town centre viability through a sequential approach to development.
- 5.9.2. Section 4 relates specifically to retailing and development management. It notes that development proposals not according with the fundamental objective to support the vitality and viability of town centre sites must demonstrate compliance with the sequential approach before they can be approved. Section 4.2.2 states that the order of priority for the sequential approach is to locate retail development in the city/town centre (and district centre if appropriate), and only to allow retail development in edge-of-centre or out-of-centre locations where all other options have been exhausted.

5.10. Other National Policy and Guidance

5.10.1. Housing for All

Housing for All, a New Housing Plan for Ireland (DHLGH, 2021) is the government's housing policy to 2030. In this regard, it notes that Ireland needs an average of 33,000 homes built per annum until 2030 to meet the NPF targets. These homes need to be affordable, built in the right place, to the right standard and in support of climate action.

5.10.2. **Climate Action Plan 2023**

Changing Ireland for the Better, the Climate Action Plan 2023 (CAP23) (DECC, 2022), sets a national target of halving greenhouse gas emissions by 2030 and being carbon neutral by 2050. Measures to achieve a 50% reduction in transport emissions include a 20% reduction in total vehicle kilometres and a 50% increase in daily active travel.

5.10.3. **National Sustainable Mobility Policy**

The National Sustainable Mobility Policy (Dept. of Transport, 2022) sets out a policy framework to 2030 for active travel and public transport to support Ireland's overall requirement to achieve a 51% reduction in greenhouse gas emissions by 2030.

5.10.4. **Design Manual for Urban Roads and Streets (DMURS)**

Guidance relating to the design of urban roads and streets is set out in DMURS (DTTS and DHPLG, 2013, updated May 2019). Section 3.4.1 notes that one-way streets have been widely implemented, often retrospectively, in order to filter vehicle permeability and relieve traffic congestion. It also notes that conversion to one-way systems may be beneficial on narrow carriageways where the street reserve is limited in order to provide additional space for pedestrians, cyclists and other public realm improvements with counter flow cycle lanes maintaining permeability for cyclists.

Section 4.1.2 promotes the concept of self-regulating streets. Section 4.2.3 notes that designers should seek to promote active street edges to provide passive surveillance of the street and promote pedestrian activity. It considers that increased pedestrian activity has a traffic-calming effect as it causes people to drive more cautiously.

Section 4.3.1 illustrates that the minimum space for two people to pass comfortably in areas of low pedestrian activity is 1.80m. The desirable space in areas of low to moderate pedestrian activity is 2.50m. It also states that the minimum space for small groups to pass comfortably in areas of moderate to high pedestrian activity is 3.00m.

Section 4.3.4 notes that shared surface streets and junctions are particularly effective at calming traffic. It indicates that shared surface streets and junctions are highly desirable where movement priorities are low and there is a high value placed on promoting more liveable streets, such as on local streets within neighbourhood and suburbs; and pedestrian activities are high and vehicle movements are only required for lower-level access or circulatory purposes. It states that the key condition for the

design of any shared surface is that drivers, upon entering the street, recognise that they are in a shared space and react by driving very slowly i.e. 20kph or less.

Section 4.4.1 notes that the standard carriageway width on *Local* streets should be between 5 and 5.5m (i.e. lane widths of 2.50-2.75m) and states that total carriageway width on *Local* streets where a shared surface is provided should not exceed 4.8m.

5.10.5. Cycle Design Manual

Guidance relating to the design of both on-road and off-road cycle facilities for both urban and rural locations is set out in this manual (NTA, 2023). Section 2.6 states that the absolute minimum width of a cycle track at pinch points, over short lengths only, is 1.25m and the desirable minimum width is 2m for less than 300 peak hour flows.

5.10.6. Traffic and Transport Assessment Guidelines (PE-PDV-02045)

This TII technical guidance (May 2014) relates to traffic and transport assessments (TTA). Section 2.1 considers the thresholds at which the production of a TTA in relation to planning applications is recommended. Table 2.1 details the relevant thresholds, including where traffic to/from the development exceeds 5% of the traffic flow on the adjoining road where congestion exists or the location is sensitive; residential development in excess of 200 dwellings; and retail and leisure development in excess of 1,000sq.m. Table 2.2 of the guidelines sets out advisory thresholds where national roads are affected. Table 2.3 of the guidelines sets out sub-threshold criteria for TTA.

5.10.7. Road Safety Audit Guidelines (GE-STY-01027)

This TII standard (Dec. 2017) sets out the procedures required to implement RSA's on national roads. It relates to all schemes on national roads which result in new road construction or permanent change to the existing road or roadside layout. Section 4.3 notes that deferring the requirement for a RSA to a post decision condition is highly inappropriate and does not allow for the full road safety implications to be addressed.

5.11. Natural Heritage Designations

- Malahide Estuary SAC and pNHA (000205) – c. 1.2km northeast
- Malahide Estuary SPA (004025) – c. 1.3km northeast
- North-West Irish Sea SPA (004236) – c. 6km east
- Feltrim Hill pNHA (001208) – c. 2.4km southeast

5.12. EIA Screening

- 5.12.1. The proposed development is for 121 no. apartments and c. 1,062sq.m of non-residential floor space on a site area of c. 0.56ha. An environmental impact assessment (EIA) screening report was not submitted with the planning application.
- 5.12.2. The Planning Officer's Report includes an EIA Screening paragraph (pg. 47). It states that the proposed development does not meet the requirements for sub-threshold EIA as per Article 103 of the Planning and Development Regulations 2001, as amended, ('the Regulations') and therefore concludes that the proposal does not require an EIA.
- 5.12.3. The proposed development is of a class of development included in Schedule 5 of the Regulations, albeit significantly sub-threshold. Schedule 5, Part 2, Class (10)(b) of the Regulations provides that mandatory EIA is required for the following:
- (i) Construction of more than 500 dwelling units,
 - (iv) Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere, where "business district" means a district within a city or town in which the predominant land use is retail or commercial use.
- 5.12.4. The applicant has however submitted an EIA Screening Report (Enviroguide, January 2023) with the appeal including criteria to comply with Schedule 7A of the Regulations. Therefore, under Article 109(2B), where an application is made for sub-threshold development and Schedule 7A information is submitted, the Board must carry out a screening determination and cannot therefore screen it out at preliminary examination.
- 5.12.5. Appendix 1 sets out my preliminary examination and screening determination. In this regard, I am satisfied that the proposal would not be likely to have significant effects on the environment and an environmental impact assessment (and the preparation and submission of an EIAR) would not be required before consent, were it granted.
- 5.12.6. Any suggested conditions, including those altering any design aspects of the proposal, would not have a material impact on the conclusions of this screening determination.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first-party appeal has been lodged by John Spain and Associates on behalf of the applicant, Brookclam Land Limited. In general terms the grounds of appeal can be summarised as follows:

- It presents a revised scheme to assist the Board with assessing the effectiveness of a reduced 6-storey development. This scheme includes a reduction in height by 2 no. floors and a reduction in the number of apartments from 121 to 79 no. units consisting of 43% 1-beds, 48% 2-beds and 9% 3-beds. It suggests that traffic impacts will also be reduced with a total of 205 no. car parking spaces provided.
- It considers that the revised scheme is largely consistent with the previously permitted scale of development under PA ref. F08A/0884 and therefore should be an acceptable form of development on the site. Noting that the previous scheme reached 20m in height in a continuous 6-storey block, whereas the revised scheme is in 2 no. blocks and therefore not considered to be a monolithic structure.
- It notes that 205sq.m of open space has been provided at ground floor level fronting onto Forster Way in response to concerns regarding a lack of open space. The communal open space at second floor terrace level has been reduced by 220sq.m accordingly, but at 1,332sq.m the overall area exceeds the 499sq.m requirement.

6.1.2. In relation to the 1st refusal reason, the grounds can be summarised as follows:

Height, Scale and Massing

- It notes that the overall height has been reduced from 8 to 6 no. storeys and building line set back at ground level to provide open space and where a public art piece could be accommodated by condition. The appropriateness of the site for higher density is also noted, with the revised scheme providing 141dph.
- It considers that given the location of the site in close proximity to numerous services and facilities, the proposed density is appropriate and the reduction in density addresses the concerns of the planning authority.

- It states that the break-up in the building at 2nd floor level and the varied parapet height reduces the impact of encroachment on the neighbouring properties in the Oaklands estate and it considers that the revised scheme makes a positive contribution to Forster Way and Swords town centre.
- It notes that the updated Townscape and Visual Impact Assessment (TVIA) states that the building would not dominate its context but rather represent a natural step in the expansion and evolution of the town centre.
- Referring to the updated Sunlight and Daylight Report, it suggests that the revised proposal results in significant improvements on the existing buildings in terms of access to daylight.
- It considers that the alteration to the massing provides for variation in the façade design which complement the range of surrounding heights and therefore considers that the proposal is not of excessive scale, massing or height, or would result in a monolithic appearance and instead creates visual interest, significantly contributing to placemaking with a new building with high quality finishes, materials and associated public realm along Forster Way. This, it states, will create an enjoyable pedestrian environment and visually attractive development on what is currently an unattractive, visually intrusive and underutilised site.

Main Street Hierarchy

- It states that the reduced development will provide for an upgrade of existing uses on site which takes advantage of its town centre location by providing 79 no. residential units above commercial and community uses.
- It notes that the updated TVIA states that the reduction in height reduces the development's prominence and the degree of contrast with the buildings in the foreground, allowing it to sit comfortably in the town centre environment.
- It considers that the proposal would not undermine the role and hierarchy of Main Street but rather further enhance the surrounding area.

Character of Area

- It notes that the updated Architectural Design Statement states that the site currently provides no form to this locality within the town.

- It notes that the updated TVIA states that the height of the amended proposal is similar to that of the Fingal County Hall building and therefore reinforces the emerging character in terms of scale, rather than imposing an entirely new character. It also states that the building fits comfortably into the street elevation, with only a modest, one storey, step up in height from the neighbouring building with other steps along the street contributing to its character and visual interest.
- It considers that the reduced development is not out of character with the established pattern of development in the area and will provide for suitable development on this town centre site.

Site Zoning

- It states that the proposed residential, retail and community uses, and the commercial car park are permitted in principle under the zoning objective.
- It considers that the proposal is not contrary to the 'MC' zoning objective and submits that the scheme, as presented to the Board, addresses the concerns set out in the 1st refusal reason.

6.1.3. In relation to the 2nd refusal reason, the grounds can be summarised as follows:

Swords Masterplan 2009

- It notes that the Swords Masterplan was published prior to a significant planning policy shift signalled by the NPF, RSES and the Building Heights Guidelines and submits that the Masterplan should be given limited weight in assessing the reduced development presented to the Board.
- Moreover, it notes that the Swords Masterplan 2009 was not listed as an 'operational' or 'new' masterplan in the Draft Development Plan 2023-2029 and considers that it will not be carried forward in the new Development Plan.
- It notes that section 3.6 of the Masterplan identifies Forster Way as a potential location of a multi-storey car park, two levels below ground level and four levels above, but considers that this would be an underutilisation of this town centre site and would be contrary to national and local guidance.
- It notes that the appeal site is predominantly located within Opportunity Site 5 and indicates that the proposal is generally consistent with the design criteria in terms

of the number of residential units, non-residential floor space, public realm and parking. Deviations in terms of building height and open space are acknowledged.

Building Height Justification

- It states that the reduced scheme provides for an appropriate scale of development given the location of the site within the town centre of Swords, in close proximity to a significant number of bus routes as well as the proposed *Bus Connects* scheme and c. 600m from the proposed Seatown *Metrolink* station.
- It considers the reduced 6-storey development appropriate having regard to the location of the appeal site within the Swords town centre and in close proximity to existing and proposed public transport networks.
- It states that the modulation in the building makes reference to the setting of the proposal in the wider context and surrounding buildings, including Fingal County Hall to the north and mixed-use buildings to the south.
- It provides a comprehensive assessment of the revised scheme against the criteria set out in section 3.2 of the Building Heights Guidelines, summarised as follows:
 - With regard to the scale of the town, it notes the Mobility Management Plan and the bus capacity survey which indicates that there is space for public transport users. In terms of integration and enhancement of character, it refers to the updated TVIA which states that the 6-storey building would represent a natural step in the expansion and evolution of the town centre.
 - With regard to the scale of the neighbourhood, street etc., it notes that the updated TVIA states that the change in character would no longer be realised and there would be no significant change in the composition or quality of the view. It states that the retail units and senior citizens centre will provide for a high level of animation and activity at ground floor level, the proposed open space will enhance public realm and the height will assist with wayfinding whilst improving passive surveillance. It considers the proposal will add interest and articulation to the site and its context, whilst breaking down the scale and massing to ensure it sits comfortably within its setting and positively contributing to the mix of uses.

- With regard to the scale of the site and building, it states that the scale, massing and height has been informed by the surrounding and emerging built environment. It notes that the proposal introduces a slightly higher built element in order to optimise the site's location but by stepping down at the edges and increasing in the centre it integrates successfully with its location. In this regard, it notes the updated Sunlight and Daylight Report in terms of daylight available to future occupants and the compensatory design solutions i.e. a break in the two blocks and subsequent reduction in height.
- In terms of specific assessments, it notes the commentary and conclusions set out in the Wind Microclimate Report, Ecological Impact Assessment, Telecoms Report, Architectural Design Statement, AA Screening Report and considers that the proposal meets the criteria for higher buildings. It states that the site is well placed to absorb a high-density development which is appropriately scaled and designed in this urban context.

Visual Interest

- It notes that the proposal involves a varied building height and design by providing a communal terrace at 2nd floor level between the two blocks of apartments.
- It states that the break-up in the building at 2nd floor level and the varied parapet height additionally reduces the impact of encroachment on the neighbouring properties at Oaklands Avenue.
- It considers that the revised development will be a significant improvement and will make a positive contribution to Forster Way and the town centre.
- It considers that the alteration to the massing provides for variation to the façade which complements the surrounding heights and therefore not of an excessive scale, massing or height resulting in a monolithic appearance. It also states that the materials and finishes enhance the quality of appearance, contributing to placemaking and public realm, which is an incomparable improvement.
- It notes that the updated TVIA provides an assessment of the revised scheme in contrast to the refused scheme from particular viewpoints, summarised as follows:
 - St. Colmcille's Church – magnitude of change reduces from medium to low.
 - St. Colmcille's Drive – magnitude of change reduces from high to medium.

- Main Street – magnitude of change reduces from medium to low-medium.
- Forster Way – magnitude of change reduces from medium to low.
- Oaklands Ave. – magnitude of change reduces from medium to negligible.

6.1.4. In relation to the 3rd refusal reason, the grounds can be summarised as follows:

Daylight Provision

- Referring to the updated Sunlight and Daylight Report, it suggests that the revised proposal results in significant daylight improvements at Nos. 6-10 Oaklands Park.
- It notes that compensatory design measures have been included for the apartments below 300 Lux of 50% of daylight, with all above minimum unit size i.e. 4 no. are 15% greater and 5 no. are 19% greater in size. It also notes that additional balconies in excess of the minimum size have been provided.

Private Amenity Space Provision

- Referring to the updated Architectural Design Statement, it notes that an excess of area is provided to the apartments, and it states that minor deviations from the Guidelines can be accommodated with no overall diminution of the quality.
- It accepts that the west-facing 1-bed typology in the northern block (6 no. units) is lacking private amenity space but states that this is a high-quality unit with overall areas in excess of the minimum standards and a 5sq.m balcony could be conditioned. It therefore rejects the suggestion that there is a deficiency in private amenity space for all units.

6.2. Planning Authority Response

6.2.1. The planning authority's response can be summarised as follows:

- It acknowledges the applicant's attempts to address issues regarding scale, height and massing, which were presented with its decision to refuse permission.
- It considers that the proposed revisions are substantial and constitute a significant material change from the original development.
- It considers that that the applicant should submit a new application to comprehensively assess the amended scheme.

- It requests the Board to uphold the decision of the planning authority.
- Provision should be made for financial contribution, bond/cash security and open space contribution in the event that the appeal is successful. It is stated that the bond condition is the Council's sole mechanism to ensure that the roads/footpaths/public lighting etc. are built to their Taking in Charge standard.

6.3. Observations

6.3.1. A total of 5 no. observations were received and generally reflect the third-party observations made to the planning authority. They can be summarised as follows:

- Height, scale and massing, including roof profile, would impact on the character and amenity of the area, contrary to the Swords Masterplan 2009, the Building Heights Guidelines and the Sustainable Swords Strategy.
- Impacts on residential amenity and privacy from lack of separation distance, overlooking and loss of sunlight, lack of social infrastructure including school and GP places, lack of public open space and interference with broadband.
- Impacts on road safety from traffic congestion and parking constraints including the impacts arising from the introduction of one-way system along Forster Way and Main Street. It is also suggested that the proposal does not take into account the parking provided at Swords Plaza car park and the traffic report is flawed.
- Impacts on public health during the construction phase from dust, subsidence etc.
- Concerns regarding the visibility and location of the site notices and validity.

6.4. Further Responses

6.4.1. John Spain and Associates, on behalf of the applicant, has provided a further response in rebuttal to the planning authority response. It can be summarised as follows:

- It notes that the refusal reasons relate to height, scale and massing of the development, compliance with the Swords Masterplan 2009 and compliance with the Apartment Guidelines 2022.
- It states, as suggested previously, that the Board may wish to attach a condition to any grant of permission to reduce the height of the development by 2 no. floors.

- It suggests that the drawings submitted with the appeal illustrate how this might be achieved and the implications of such a reduction in terms of sunlight and daylight have also been assessed to assist the Board in this regard. Alternatively, it states that the Board may wish to seek amended drawings under Section 132.
- It submits that the applicant is willing to accept a financial contribution condition.

6.4.2. Further observations in rebuttal to the planning authority response were received from 2 no. observers. They can be summarised as follows:

- Limited consideration of the traffic and access impacts of the proposal by the planning authority in the refusal of permission and appeal comments.
- The proposed changes to traffic flow along Forster Way will significantly impact on access to other public car parks and on delivery trucks that service premises on Forster Way and Main Street, and would be at odds with the proposed enhancements for Main Street through traffic calming.
- The provision of a 162-space commercial car park along with residential parking is contrary to the Development Plan which seeks to maximise active travel and public transport.
- The revised proposal represents a significant material change from the original development and the applicant should submit a new planning application to comprehensively assess the amended scheme.

7.0 Assessment

7.1. Preliminary Points

7.1.1. By virtue of its height, scale and massing and having regard to the role and hierarchy of Main Street and existing development in the area, including the adjacent houses within the Oaklands housing estate, the planning authority's first refusal reason considers that the proposal would be out of character with the established pattern of development in the area, would result in overdevelopment of the subject site and would create a visual perception of encroachment on, overlooking of, and overshadowing of, adjoining two-storey houses. This, they conclude, would seriously injure the visual and residential amenities of the area, depreciate the value of property

in the vicinity, materially contravene the provisions of the Fingal Development Plan 2017-2023 and would be contrary to the 'MC' Major Town Centre zoning objective.

7.1.2. The planning authority's second refusal reason considers the proposal lacks visual interest and therefore negatively affects views from Main Street, Chapel Lane, St. Colmcille's Church and graveyard and Oaklands Park. This, they conclude, would set an undesirable precedent for other similar developments, which would in themselves and cumulatively be harmful to the visual and residential amenities of the area and to the vitality and hierarchy of Main Street, and contrary to the Swords Masterplan 2009 which envisions varied heights for 'Opportunity Site 5' in order to modulate the scale of any proposal on this long and predominant site to the rear of the Main Street.

7.1.3. Finally, the planning authority's third refusal reason considers that the proposal fails to fully accord with the requirements of the Design Standards for New Apartments Guidelines (DHLGH, 2020) by reason of an inadequate level of daylight and sunlight requirements into all units, together with a deficiency in private amenity provision for all units. This, they conclude, would result in an unacceptable low level of residential amenity for future residents of the proposed apartments, contrary to these Guidelines, and would therefore be injurious to the amenities of the future occupants of such units.

7.1.4. Having examined the application details and all other documentation on the appeal file, including the appeal submissions and observations, and inspected the site, and having regard to relevant local, regional and national policies and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal. The issues can be addressed under the following headings:

- Zoning
- Character and Visual Amenity
- Residential Amenity
- Material Contravention
- Depreciation of Property Value
- Traffic and Transport – *New Issue*
- Appropriate Assessment
- Other Matters

7.2. Zoning

- 7.2.1. The first refusal reason concludes that the proposal would materially contravene the provisions of the Fingal Development Plan 2017-2023 and would be contrary to the 'MC' zoning objective. I will address the issue of material contravention separately, but it is important to consider the zoning of the appeal site in the first instance.
- 7.2.2. As noted, the appeal site lies just inside the Swords Core Retail Area and is partly zoned 'MC' Major Town Centre. Residential, retail, community and car parking uses are amongst the development types 'permitted in principle' in this zoning. Whilst I note that the remainder of the appeal site is unzoned, including Forster Way and the majority of the existing surface car park, I do not consider the proposal is contrary to the overriding objective which seeks to *'Protect, provide for and/ or improve major town centre facilities'*, having particular regard to the zoning vision which seeks to develop these centres by densification of appropriate commercial and residential developments, ensuring a mix of uses, whilst delivering a quality urban environment.

Conclusion on Zoning

- 7.2.3. I am satisfied that the proposed development is consistent with the zoning objective.

7.3. Character and Visual Amenity

- 7.3.1. As noted, the planning authority's first and second refusal reasons raise concerns regarding negative impacts on the visual amenity and character of the area by virtue of height, scale and massing and lack of visual interest thus negatively affecting views and impacting on the vitality and hierarchy of Main Street, contrary to the provisions of the Swords Masterplan 2009 which envisions varied heights for 'Opportunity Site 5'.

Status of the Swords Masterplan 2009

- 7.3.2. Before considering the merits of the refusal reasons on the basis of character and visual amenity, it is important to consider the status of the 2009 Masterplan. Objective SWORDS 4 of the previous Fingal Development Plan 2017-2023 sought to promote the development of lands within Swords town centre in accordance with the principles and guidance laid down in the Swords Masterplan (January 2009). I note that the Planning Officer's Report had specific regard to this objective and highlighted the appeal site's location within 'Opportunity Site 5' of this Masterplan. I also note that the observations made in respect of the appeal place significant weight on this Masterplan.

- 7.3.3. In this regard, I note that section 3.8.5 of the Masterplan outlined a detailed 'Opportunity Site Brief' to allow for the redevelopment of the site with a positive frontage to the street whilst maintaining the amenity of Oaklands Park to the rear. The maximum perimeter building height was 5-storeys or c. 16m. This is indicated along the Forster Way frontage. The indicative heights then drop to 4-storey along the Chapel Lane frontage, 3-storey return adjacent to the walkway and 2-storey in the vicinity of Oaklands Park. The planning authority and the observers therefore correctly highlight that the proposal was contrary to the 2009 Swords Masterplan in terms of unmodulated height and massing and therefore conflicted with the Development Plan.
- 7.3.4. Objective SWORDS 4 has not been replicated in the current Development Plan however, as noted by the applicant. Indeed, I note that a similar objective, CSO44, seeks to implement the 2019 Masterplans as outlined in Table 2.17. This table refers specifically to *Forterstown and Barrystown* and *Crowcastle* to the south, and *Estuary West* to the north of the town centre but does not include the 2009 Masterplan.
- 7.3.5. Indeed, there is no mention of the 2009 Masterplan in the current Development Plan. Therefore, I consider that the 2009 Masterplan no longer has a policy basis for decision-making and I afford it no material weight to the proposal before me. This aspect of the planning authority's second refusal reason should therefore be set aside. Moreover, I agree with the applicant that there has been a significant planning policy shift since its publication, signalled by the NPF, RSES and Building Height Guidelines.

Proposed Development

- 7.3.6. As noted, the proposal comprises a mixed-use development including 121 no. apartments in a 2-8 storey, over basement, building on a cranked north-south axis. The Northern and the Southern blocks would be linked by a two-storey landscaped terrace, c. 21m long and 22m deep. In simple terms, the Northern Block is some 63m long, 18m deep and eight storeys high. It has a parapet level of 24.80m from the ground floor. The roof of the upper terrace is 26.70m from adjoining ground level. The Southern Block is c. 60m long, 18m deep and eight storeys high. It has a parapet level of 24.80m from the ground floor, partly recessed. The roof of the terrace is 25.30m from adjoining ground level. The development includes basement and integral parking.
- 7.3.7. The prevailing height is predominantly two and three storeys to the west, however the proposed building would be bookended by a 5-storey building to the south (Burgundy

Court) with buildings of similar scale further north along Forster Way towards the Malahide Road i.e. Swords Plaza and Plaza Crescent. The four-storey County Hall building, albeit on the opposite side of Chapel Lane, provides a similar scale and bookend to the north. The 8-storey building would project noticeably above these buildings, nonetheless. There would also be a demonstrable difference between the adjoining two-storey houses to the east, Nos. 5-10 Oaklands Park and 74-80 Oaklands Avenue, notwithstanding the elevated nature of these houses above the appeal site.

- 7.3.8. In this regard, section 13.2 of the Development Plan cautions against abrupt transitions in scale and use in the boundary areas of adjoining land use zones and notes that it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zone e.g. in zones abutting residential areas. At eight storeys high with a parapet level of c. 12m above the prevailing ridge height of the adjacent houses, the original proposal represents an abrupt transition notwithstanding the recess to the Southern Block which is more carefully modulated.
- 7.3.9. In this regard, I consider that the proposed 2-8 storey building would result in a development that is jarring, visually incongruous and overbearing on the immediate area generally and adjoining houses specifically. This is evidenced in the Townscape and Visual Impact Assessment (TVIA) and associated Verified Photomontages document (October 2022) where I have particular concerns with Viewpoint 01 (Chapel Lane) and Viewpoint 03 (Main Street), in close proximity to the site, and Viewpoint 11 from Chapel Lane adjacent to St. Colmcille's National School, further west of the site.
- 7.3.10. Viewpoint 01 is of high sensitivity from within a residential neighbourhood and represents views from the environs including the adjacent graveyard and houses in the Oaklands estate. The TVIA identifies a high magnitude of change but suggests that the development follows the alignment of the urban grain, commensurate with the massing of the Fingal County Hall building, albeit out of view, and reinforces the 'MC' zoning objective, albeit without cognisance of its transitional nature. Viewpoint 03 is also of high sensitivity from within a streetscape of aesthetic value and down a vista framed by Coachyard House Lane which would be abruptly terminated by an imposing 8-storey building. The TVIA identifies a low magnitude of change which I find difficult to reconcile with given the obvious juxtaposition, albeit partly obscured by foliage.

- 7.3.11. Viewpoint 11 is of medium sensitivity, although given the location of St. Colmcille's Church in the foreground and having regard to it being along a key approach to Main Street, I consider the viewpoint sensitivity may be more accurately described as high. In this regard, I note that the Fingal County Hall is only marginally visible above the rooftops of the houses in the foreground whereas the 8-storey building dominates the church in the foreground, rising above most of the spire, and is distinctly higher than the adjacent County Hall building. The TVIA identifies a medium magnitude of change, suggesting that the proposal fits with the evolving urban context and intended urbanisation of the area, however I am not convinced that this is accurately described.
- 7.3.12. Whilst I accept that national and regional planning policy and guidance since the publication of the NPF has placed significant emphasis on compact settlements, primarily through increased height and density, and this context has been endorsed at local level through the Fingal Development Plan, it is clearly subject to appropriate controls, including cognisance of transitional zones and the protection of character as set out in objectives SPQHO34 and SPQHO39. Moreover, at 231dph net density, the proposal is significantly above the policy and objective range of 50-150dph as detailed in Table 3.3 of the Compact Settlements Guidelines for Metropolitan Town centres. This, in my opinion, is determinative and points towards overdevelopment of the site.
- 7.3.13. Notwithstanding the presumption in favour of increased building height in urban areas with good public transport, I agree with the planning authority that two 8-storey blocks would significantly and adversely affect the character and visual amenity at this sensitive transitional area. I therefore conclude that protection of the character and visual amenity of the area outweighs the benefits of this particular proposal. I also note that the applicant has chosen not to address these refusal reasons in this regard.

Fallback Position

- 7.3.14. The applicant has however requested the Board to consider an alternative proposal, which would see a reduction in height to a 2-6 storey building comprising 79 no. apartments, as a fallback position. This, the applicant considers, is largely consistent with the scale of previously permitted development under PA ref. F08A/0884, noting that the permitted building was 20m high in a continuous 6-storey block, whereas the revised scheme is broken into two blocks and therefore not considered to be monolithic. The applicant also notes that this revised scheme has a density of 141dph.

- 7.3.15. Floor plans, sections and elevations of this revised scheme are included in the Design Report (January 2023) submitted with the appeal, albeit not to scale. I note that the revised Northern Block has a parapet level of 18.80m from the ground floor. The roof of the upper terrace is 20.70m from adjoining ground level. Similarly, the Southern Block is also reduced by 6m. It has a parapet level of 18.80m from the ground floor, partly recessed. The roof of the upper terrace is 19.30m from adjoining ground level. The Board may wish to request a scaled set of these drawings under Section 132 of the Planning Act, however I am satisfied that I have sufficient information before me to allow for a satisfactory interpretation and assessment of the revised development.
- 7.3.16. In support of this revised scheme the applicant has also submitted an updated TVIA (January 2023). In terms of Viewpoint 01 it suggests that the magnitude of change to the view reduces from high to medium with the reduction in height. It also notes that the height reduction significantly reduces the building's prominence and having regard to the verified photomontages, I fully agree. Similarly with Viewpoint 03 it suggests that the magnitude of change reduces, noting that the previous proposal caught the eye due to its height, and the juxtaposition in building typologies and scale was pronounced, whereas the revisions reduce the prominence and degree of contrast.
- 7.3.17. Critically in terms of Viewpoint 11, the updated TVIA notes that the reduced height causes a significant reduction in the extent of the exposed façade and overall prominence. It notes that the church spire projects well above the roofline thus retaining its prominence on the skyline and as the amended height is similar to the County Hall building, it suggests that the development reinforces the emerging character in terms of scale, rather than imposing an entirely new character. I fully agree. The revised scheme helps form an appropriately scaled edge with acceptable density on this eastern approach to Main Street whilst respecting the visual amenity of the area and particularly the setting of St. Colmcille's Church, a protected structure.

Conclusion on Character and Visual Amenity

- 7.3.18. On balance, I am satisfied that the proposed development would not adversely impact on the character or visual amenity of the area subject to the removal of the sixth and seventh floors. I recommend that these floors be conditioned out if the Board are minded to allow the appeal and grant planning permission. In this context, I am satisfied that the amended proposal would not lack visual interest or negatively affect

views from the church, Chapel Lane or Main Street, impacting on its role and hierarchy, and would fully accord with objective CSO41 of the Development Plan 2023-2026.

7.4. Residential Amenity

- 7.4.1. As noted, the planning authority's first and third refusal reasons raise specific concerns regarding impacts on the residential amenity of the adjoining houses in the Oaklands estate, in terms of encroachment, overlooking and overshadowing, in addition to that of the future residents of the proposal by reason of an inadequate level of daylight and sunlight to all units, together with a deficiency in private amenity provision for all units. I also note that the second refusal reason raises some residential amenity concerns in terms of undesirable precedent and cumulative impacts of such development. This reason relates primarily to visual impacts however, and has been addressed above.

Proposed Development

- 7.4.2. As noted, there would be a significant height difference between the houses to the east, Nos. 5-10 Oaklands Park and 74-80 Oaklands Avenue, and the proposed development, some 14m from eaves to parapet level, and notwithstanding the c. 5m difference in ground levels. Whilst it is not overly clear from the submitted drawings, the separation distances vary between c. 14m and 24m for Nos. 6-10 Oaklands Park and between c. 27m and 35m for Nos. 74-80 Oaklands Avenue. I also note that there is a c. 22m separation distance to No. 5 Oaklands Park, albeit to the gable end.
- 7.4.3. These separation distances are generally reasonable having regard to section 14.6.6.3 of the Development Plan with the exception of Nos. 6 and 7 Oaklands Park. Direct overlooking from Unit 3-07 and Unit 3-08 and perceived overlooking from the 8 no. units above, would be most pronounced on these properties notwithstanding the recessed balconies in the corner apartments and the slight offset in building lines. The use of clerestory bedroom windows may have been an appropriate design solution.
- 7.4.4. Encroachment, or overbearance, would also be profoundly felt by the occupants of Nos. 6 and 7 Oaklands Park and perhaps to a lesser extent by the occupants of Nos. 8-10 Oaklands Park given the location of the landscaped terrace at first floor level. I accept that it does provide some mitigation to ameliorate the impact of overbearance and indeed overlooking on these houses. However, with a separation distance of 14m and a parapet the same distance above the eaves level, the proposed development would adversely impact on the residential amenity of Nos. 6 and 7 Oaklands Park.

- 7.4.5. In terms of overshadowing, I note that section 3.2 of the Building Height Guidelines provides that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE's *Site Layout Planning for Daylight and Sunlight* (2nd ed.) or *Lighting for Buildings – Part 2: Code of Practice for Daylighting* (BS 8206-2: 2008). This guidance was updated as noted in section 6.6 of the New Apartments Guidelines (2023). Relevant guidance is therefore contained in European Standard EN17037 or UK National Annex BS EN17037 and BR 209 2022, *Site Layout Planning for Daylight and Sunlight* (3rd ed.).
- 7.4.6. However, section 5.3.7 of the recently published Compact Settlements Guidelines sets out a different approach to the consideration of daylight and sunlight issues than the one set out in the Building Heights and New Apartments guidelines. The new guidance notes that planning authorities must weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision, against the location of the site and the general presumption in favour of increase scales of urban development. This approach would supersede the previous approach, including that in the Building Height guidelines, which requires alternative compensatory design solutions to be set out when daylight provisions are not met.
- 7.4.7. As noted, the planning application was accompanied by a Daylight and Sunlight Report (October 2022) which references the updated guidance documents in Section 3 (Assessment Methodology). It provides an assessment of daylight and sunlight penetration to the proposed apartments and of the impact the proposed development would have on daylight, sunlight and open spaces and gardens of adjacent dwellings. I note that a total of 19 no. existing dwellings and 77 no. windows were assessed.
- 7.4.8. In terms of daylight, Table 8 of the report indicates that 78% of the assessed windows are in line with the BRE guidance however I note that 15 of the 22 assessed windows in Nos. 6-10 Oaklands Park will have a reduction in VSC levels below 27% and 80% of the existing VSC levels i.e. only c. 32% meet the recommended standard. In this regard, I note section 2.2.7 of BR 209 2022 states that if the VSC, with the new development in place, is both less than 27% and less than 0.80 times its former value, occupants of the existing building will notice the reduction in the amount of skylight. Figure 20 of BR 209 2022 suggests that daylight is likely to be significantly affected in this case, notwithstanding the stated overall impact as 'minor/moderate adverse'.

- 7.4.9. In terms of sunlight to existing houses, Table 10 of the report indicates that 100% of the assessed windows are in line with recommended 25% APSH and 5% winter sunlight hours although I note that only one window from Nos. 6-10 Oaklands Park was assessed and 14 no. windows overall. Whilst this is generally in line with section 3.2 of BR 209 2022, as the rear wall of this terrace is just beyond 90° of due south, the referenced window (no. 27) for APSH would receive 70.29% of its former annual value. This alone does not signify an adverse effect, but it does suggest a noticeable loss of APSH in this dwelling. Significantly, Table 12 of the report indicates that only one, or 7.7%, of the 14 no. assessed windows has a reduction in sunlight received over the whole year of less 4% and this does represent an adverse effect on sun lighting.
- 7.4.10. In terms of sunlight to existing gardens and open spaces, Table 13 of the report indicates that at least 50% of open space for all assessed properties in Oaklands Park and Oaklands Avenue will receive at least 2 hours sunlight on 21st March, with the exception of No. 76 Oaklands Avenue and Nos. 7-9 Oaklands Park. In this regard, I note that there will be an annual loss of sunlight between 14 and 47% for Nos. 7-9 respectively and this will be noticeable as per section 3.3.17 of BR 209 2022.
- 7.4.11. The report also addresses the degree to which daylight and sunlight will penetrate the proposed development including the open spaces. This is particularly important in the context of the planning authority's third refusal reason. The report notes that a total of 320 no. rooms were assessed and states that 310 no., or 96.25%, meet the target daylight levels outlined in BR 209 2022. This equates to 51 of the 54 no. kitchen/living/dining rooms and all 102 no. bedrooms in the Northern Block and 60 of the 67 no. kitchen/living/dining rooms and all 97 no. bedrooms in the Southern Block.
- 7.4.12. Whilst I acknowledge that 7 no. apartments at 2nd floor level in the Southern Block do not meet the recommended standard, I note that these units are all 10% larger than the minimum apartment size standards and have extensive balconies, one of which is dual aspect. Similarly, 3 no. apartments at 2nd floor level in the Northern Block are also below the recommended standard, although each unit is 10% larger than the minimum standard as per the HQA. I also note that two of these units are duplex.
- 7.4.13. In terms of sunlight, the report notes that a total of 320 no. rooms were assessed and states that 302 no., or 94.4%, meet the target sunlight levels outlined in BR 209 2022. This equates to all of the kitchen/living/dining rooms and 92 of the 102 no. bedrooms

in the Northern Block and all of the kitchen/living/dining rooms and 89 of the 97 no. bedrooms in the Southern Block. A specific breakdown per unit/room has not been provided but Figures 6-10 indicate that the rooms receiving the most sunlight hours on 21st March are along the southeastern elevation of the Northern and Southern blocks with more restricted sunlight to the northwestern elevations, as would be expected.

7.4.14. In terms of sunlight to communal open spaces, Section 5.3 of the report suggests that at least c. 1,697sq.m of the stated 1,779sq.m, or 95.4%, will receive at least 2 hours sunlight on 21st March and therefore meet the BR 209 2022 sun lighting target.

7.4.15. Therefore, in terms of the adequacy of the levels of daylight and sunlight, I do not necessarily agree with the planning authority that the proposal would result in an unacceptably low level of residential amenity for future residents having regard to section 5.3.7 of the Compact Settlements Guidelines, as incorporated into the Development Plan by virtue of objective SPQHO1, which refers to updated guidance.

7.4.16. On balance however, I agree with the planning authority that two 8-storey blocks would significantly and adversely impact on the residential amenity at this sensitive transitional area, particularly with regards to the adjoining houses in terms of overbearance, overshadowing and overlooking, and notwithstanding the presumption in favour of increased building height in urban areas with good public transport. I therefore conclude that protection of the amenity of existing properties, Nos. 6-10 Oaklands Park in particular, outweighs the benefits of this particular proposal. As noted, the applicant has chosen not to address the refusal reasons in this regard but has requested the Board to consider an alternative proposal as detailed heretofore.

Fallback Position

7.4.17. In terms of residential amenity impacts, the applicant has submitted an updated Daylight and Sunlight Report (January 2022) specific to a 2-6 storey development. Regarding daylight to the proposed apartments, the report notes that a total of 210 no. rooms were assessed and states that 203 no., or 96.6%, meet the target daylight levels outlined in BR 209 2022. This equates to all of the 36 no. kitchen/living/dining rooms and 67 no. bedrooms in the Northern Block and 36 of the 43 no. kitchen/living/dining rooms and all of the 64 no. bedrooms in the Southern Block. Whilst the reduction in height has no impact on the 7 no. apartments at 2nd floor level in the Southern Block, it has reduced the overall number of apartments outside the recommended standard.

- 7.4.18. In terms of sunlight, the report notes that a total of 210 no. rooms were assessed and states that 200 no., or 95.23%, meet the target sunlight levels outlined in BR 209 2022. This equates to all of the kitchen/living/dining rooms and 61 of the 67 no. bedrooms in the Northern Block and 39 of the 43 no. kitchen/living/dining rooms and all of the bedrooms in the Southern Block. A specific breakdown per unit/room has not been provided but Figures 6-10 indicate that the rooms receiving the most sunlight hours on 21st March are along the southeastern elevation of the Northern and Southern blocks with more restricted sunlight to the northwestern elevations, as would be expected.
- 7.4.19. In terms of sunlight to communal open spaces, Section 5.3 of the report suggests that at least c. 1,277sq.m of the stated 1,332sq.m, or 95.8%, will receive at least 2 hours sunlight on 21st March and therefore meet the BR 209 2022 sun lighting target.
- 7.4.20. Therefore, in terms of the adequacy of the levels of daylight and sunlight, I am satisfied that the revised proposal would not result in an unacceptably low level of residential amenity for future residents having regard to section 5.3.7 of the Compact Settlements Guidelines as incorporated into the Development Plan by virtue of objective SPQHO1.
- 7.4.21. In similar regard, the 4 no. west-facing 1-bed apartments in the Northern Block without balconies have sufficient floor area to accommodate recessed balconies. I recommend that the Board address this by condition in the event of a grant of permission. However, I am satisfied that where minor deficiencies in balconies/rooms have been identified in the HQA, the respective units are generally 10% larger than the standard.
- 7.4.22. In terms of impact on existing dwellings, the updated report has assessed the same 19 no. houses and 77 no. windows. Regarding daylight, Table 8 of the report indicates that 94.81% of the assessed windows are in line with the BRE guidance which is a significant improvement on the 8-storey scheme. I note that only 4 of the 22 assessed windows in Nos. 6-10 Oaklands Park will have a reduction in VSC levels below 27% and 80% of the existing VSC levels i.e. c. 82% meet the recommended standard. In this regard, I agree that there will be a 'minor adverse' impact on light from the sky.
- 7.4.23. In terms of sunlight to existing houses, Table 11 of the report indicates that 100% of the assessed windows are in line with recommended 25% APSH and 5% winter sunlight hours. Again, only one window from Nos. 6-10 Oaklands Park was assessed but this is generally in line with section 3.2 of BR 209 2022, notwithstanding the concerns of the planning authority. Table 13 of the report indicates that only one, or

7.7%, of the 14 no. assessed windows has a reduction in sunlight received over the whole year of less 4% and this does represent an adverse effect on sun lighting but having regard to Appendix D, the overall impact is now minor as opposed to moderate.

- 7.4.24. In terms of sunlight to existing gardens and open spaces, Table 14 of the report indicates that at least 50% of open space for all assessed properties in Oaklands Park and Oaklands Avenue will receive at least 2 hours sunlight on 21st March, with the exception of No. 76 Oaklands Avenue and Nos. 7-9 Oaklands Park. In this regard, I note that there will be an annual loss of sunlight of c. 19% for No. 7 Oaklands Park which is unlikely to be noticeable having regard to section 3.3.17 of BR 209 2022.

Conclusion on Residential Amenity

- 7.4.25. On balance, I am satisfied that the proposed development would not adversely impact on the residential amenity of the area subject to the removal of the sixth and seventh floors. I recommend that these floors be conditioned out if the Board are minded to allow the appeal and grant planning permission. In this context, I am satisfied that the impacts on residential amenity would be significantly mitigated by the reduction in overall height. The benefits of the proposal, including the regeneration of an underutilised brownfield town centre site which is well served by public transport corridors, both existing and planned, with high capacity and frequency as sufficiently illustrated in Section 8 of the Mobility Management Plan, outweigh residual impacts.

7.5. Material Contravention

- 7.5.1. The planning authority have stated that the development would materially contravene the provisions of the previous Development Plan 2017-2023. In such circumstances, they were precluded from granting permission other than under the provisions of Section 34(6) of the Planning and Development Act 2000, as amended. Oddly, the first refusal reason does not state that there is a material contravention of the zoning objective or indeed any other policy or objective of the Development Plan 2017-2023.
- 7.5.2. This rather vague approach to the issue of material contravention is unhelpful, particularly so given the new Development Plan 2023-2029 under which the appeal falls to be determined. I have already concluded that the proposal is consistent with the zoning objective and subject to the reduction in height, I am satisfied that the proposed development would not contravene the provisions of the Development Plan.

Conclusion on Material Contravention

- 7.5.3. The proposal does not materially contravene the Fingal Development Plan 2023-2029.

7.6. Depreciation of Property Value

- 7.6.1. I also note that the planning authority's first refusal reason raises specific concerns regarding the depreciation of property value. However, having regard to the planning assessment and conclusions set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity of the appeal site.

7.7. Traffic and Transport – *New Issue*

- 7.7.1. Whilst not raised by the planning authority as a refusal reason, I note the Roads Section's concerns in relation to access and car parking including the proposed layout of Forster Way. Clarification was also sought in respect of the traffic assessment, and I note the comments in respect of mobility management, road safety audit, construction traffic management, EV charging and Taking in Charge. Road safety concerns have also been raised by the observers, particularly in relation to congestion and parking. The applicant has provided an Engineering Note to address the concerns.

Access and Road Layout

- 7.7.2. In relation to works outside the red line boundary at the junction of Forster Way and Chapel Lane, the applicant suggests that this can be designed in partnership with the local authority as part of wider public realm improvements by way of a planning condition. However, the area in question appears to relate specifically to proposed pavement improvements and a set down area along Chapel Lane outside the control of the applicant. I therefore share the planning authority's concerns regarding the execution of these works, and I recommend that no development commences until such time as the junction works are submitted and agreed with the planning authority, in addition to the details of the one-way/two-way interface at the southern boundary.
- 7.7.3. In relation to car park access for the proposed senior citizens centre and the concerns around aisle widths, the applicant states that this is a result of the building dimensions but can be addressed without any substantial change to the scheme. The layout drawing illustrates 11 no. car parking space, 2.4m by 4.8m, bar one space which is 2.2m wide. The aisle width is 4.8m wide and there appears to be 2 no. structural

support columns located within the aisle, one of which appears to block access to at least 1 no. parking space. The Roads Section have stated that a minimum 6m aisle width is required to provide adequate space for safe parking manoeuvres, unless the bays are widened. In the absence of auto tracking to demonstrate otherwise, I agree and recommend that this is addressed by planning condition in the event of a grant of permission. In this regard, Table 14.19 of the Development Plan indicates a maximum of 8 no. spaces for the proposed senior citizens centre i.e. 1 space per 100sq.m.

Cycle Lane and Traffic Calming

- 7.7.4. In relation to a contraflow segregated cycle lane along Forster Way, the applicant suggests that it could be accommodated with some minor reconfiguration of the street furniture and public realm. They also suggest that concerns regarding a lack of detail in relation to traffic calming measures could be addressed in a similar way and by planning condition. In this regard, I note that Project 6 of the Sustainable Swords Strategy relates to the proposed Swords Cycle Network with Chapel Lane and the Malahide Road identified as two of the six radial routes linking outer residential areas to the town centre. I therefore consider that there is merit in providing a segregated southbound cycle lane along the reconfigured Forster Way and linking these key radial routes. This would be consistent with the guidance set out in section 3.4.1 of DMURS and objective CSO39 of the Development Plan which supports such projects.
- 7.7.5. The drawings illustrate a one-way shared surface width of c. 2.90m and c. 2.40m wide pedestrian refuge areas to the east and c. 4m wide to the west. The short section of two-way access is more restricted however with a shared surface width of 5.40m and limited pedestrian refuge of c. 1.40m to the east and a pinch point of c. 1m to the west. Having regard to the cycle track widths set out in section 2.6 of the Cycle Design Manual and the lane width range for *Local* streets and the shared surface width outlined in section 4.4.1 of DMURS, I am satisfied that a segregated cycle lane can be incorporated. I recommend that this is conditioned in the event of a grant of permission, and I am also satisfied that this will, in conjunction with the shared surface, have direct placemaking benefits in addition to providing localised traffic management.

Car Parking

- 7.7.6. In relation to car parking and the concerns around overall provision, the applicant notes that the proposal was close to the Draft Development Plan requirements and

suggests that the car club spaces will limit the reliance on car ownership and further reduce space requirements. The 2-6 storey scheme would have 79 no. apartments consisting of 34 no. one-bed, 38 no. two-bed and 7 no. three-bed units. Table 14.19 of the Development Plan indicates that this would require 43 no. parking spaces. The appeal submission indicates that 154 no. public car parking spaces are proposed at basement and ground floor level with 51 no. residential spaces at first floor level. This equates to a ratio of 0.65 spaces per residential unit but marginally exceeds the maximum spaces allowed as per section 14.17.7 of the Development Plan. Within this surplus of spaces there is scope however to accommodate conveniently located motorcycle parking spaces, as per section 14.17.9 of the Development Plan, and I recommend that this is addressed by condition in the event of a grant of permission.

Bicycle Parking

- 7.7.7. In relation to bicycle parking and the concerns around overall provision and general arrangement, the applicant considers the Apartment Guidelines outline the applicable standard. This equates to a minimum of 1 no. space per bedroom and 1 no. visitor space per 2 no. residential units whereas Table 14.17 of the Development Plan indicates that 207 no. long-stay and 76 no. short-stay spaces are required. The appeal submission does not clarify the number of bicycle parking spaces, but I note that 197 no. residential, or long-stay, and 41 no. visitor, or short-stay, were originally proposed along with 15 no. bike stands providing an additional 30 no. spaces. In this regard, I am satisfied that the marginal shortfall in spaces could be provided within the surplus of car parking spaces and addressed by condition in the event of a grant of permission.

Traffic Assessment

- 7.7.8. I note that the Roads Section raised concerns regarding the impact of the proposed public parking and whether it would represent an increase on the existing surface car parking provision. In addition, they note that an assessment of the impact of the proposed reconfiguration of Forster Way on the wider network was not undertaken. The observations raise a specific concern in relation to the timing of the traffic survey in addition to general concerns regarding traffic congestion and parking constraints.
- 7.7.9. The applicant has stated that the proposal would have no bearing on the wider network. It is stated that the impact of the re-direction becomes less and less, as overall flows have not changed, and the junctions considered represent a robust and

defendable scope for the analysis. It is further stated that the existing parking spaces are being replaced, with minor alteration, thus overall increases remain insignificant.

- 7.7.10. I have reviewed the submitted Traffic and Transport Assessment (TTA) and I am satisfied that the assessed junctions, namely Malahide Road (R106) / Forster Way priority junction; Main Street / Malahide Road (R106) signalised junction; Main Street / Chapel Lane priority junction; and Chapel Lane / Forster Way priority junction, are the critical junctions in relation to the proposal and there is no requirement to assess the impact on the wider network having regard to the TTA guidance (TII). Indeed, the Roads Section have not specified the location of their concerns in this regard. I am also satisfied that the timing of the traffic survey on 31st March 2022 is acceptable.
- 7.7.11. Looking at development flows from the 121 no. apartments and prior to the reconfiguration of Forster Way, the TTA notes that the 5% threshold is not exceeded on three of the four assessed junctions with the main impact on the Chapel Lane / Forster Way priority junction, as would be expected. It also notes that the increase at the critical Main Street / Malahide Road (R106) signalised junction would be significantly less than 5% with the majority of morning and evening peak flows being in an easterly direction towards the Malahide Road roundabout. This is reasonable.
- 7.7.12. The TTA also assesses the proposal in the context of the reconfigured Forster Way, with one-way traffic in a northerly direction. Whilst I note an error regarding the stated directional flow in section 1.1 of the report, I do not consider this fatal to the overall modelling as it only results in a moderate reversal of loading on the respective junctions with Forster Way, with the resultant impacts on the Main Street junctions being generally evenly split. In this regard, I note that the Roads Section have stated that the proposed reconfiguration would be complementary to the Sustainable Swords Strategy, one of the primary objectives being to address the Main Street in Swords.
- 7.7.13. In terms of the car parking, the TTA notes that 162 no. public spaces represent an increase in quantum, but it does not specify the existing capacity, nor is it detailed elsewhere in the application or appeal documentation. One of the observers has stated that there are currently 146 no. spaces inclusive of 4 no. loading bays, 4 no. disabled spaces and 11 no. spaces for the senior citizens centre. Excluding the loading bays and senior citizen spaces, there would be c. 131 no. spaces for public use. The appeal submission does however indicate that 154 no. public parking spaces are proposed at

basement and ground floor level with 51 no. residential spaces at first floor level. The proposal therefore represents an increase of c. 23 no. public spaces or c. 15% overall.

7.7.14. The TTA states that this increase will not necessarily result in any increase in trip volumes, as trip generation is based on trip purposes and no significant additional non-residential development is proposed for the site. This is a reasonable proposition.

7.7.15. Moreover, it is stated that any increase in parking resulting from increased availability of spaces will be offset by the decrease in traffic movements locally as motorists find parking spaces more easily. I agree to an extent in that drivers will now exit the carriageway completely in order to locate a space at ground or basement levels as opposed to slowing down to identify vacant spaces in the case of surface level parking.

Other

7.7.16. Regarding other Roads Section concerns and comments in relation to electric vehicle (EV) charging, Taking in Charge and construction traffic management, I am satisfied that they can be addressed by planning condition in the event of a grant of permission.

7.7.17. Whilst I also note that the Roads Section stated that a Stage 1/2 Road Safety Audit (RSA) is required, I don't deem this appropriate having regard to the TII guidance.

Conclusion on Traffic and Transport

7.7.18. The appeal site is in a central and accessible urban location within reasonable walking distance to/from urban bus services with high frequency and capacity as demonstrated in Section 8 of the Mobility Management Plan. On balance, I do not consider that 79 no. apartments and a senior citizens centre, both with dedicated parking, 4 no. retail units and a marginal net increase in public parking spaces would significantly increase traffic volumes in the area or endanger public safety by reason of a traffic hazard.

7.7.19. The Board may wish to request a revised TTA and RSA under Section 132 of the Act to reflect the reduced scheme however I am satisfied that I have sufficient information before me to allow for satisfactory interpretation and assessment of the traffic impacts.

7.7.20. In this regard, I recommend that an updated Mobility Management Plan be conditioned in the event of a grant of permission to reflect the reduced car parking and additional cycle parking spaces in accordance with the Fingal Development Plan 2023-2029.

7.8. Appropriate Assessment – Screening

Introduction

- 7.8.1. An AA screening report prepared by Enviroguide and dated 20th October 2022 was submitted with the application. It considered the nature, size and location of the proposed development and the possible impacts arising from the construction works; the qualifying interests and conservation objectives of the European sites; and the potential for in-combination effects arising from other plans and projects. It concludes, on the basis of the objective information, that the possibility may be excluded that the proposed development will have any significant effects on these identified sites.

Compliance with Article 6(3) of the Habitats Directive

- 7.8.2. The requirements of Article 6(3) of the Habitats Directive as related to screening the need for AA of a project under Section 177U of the Act are considered fully hereunder.
- 7.8.3. Having examined the application details and all other documentation on the appeal file, I am satisfied that I have sufficient information before me to allow for a complete examination and identification of any potential significant effects of the proposed development alone, or in combination with other plans and projects, on Natura sites.

Test of likely significant effects

- 7.8.4. 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 proposed development is likely to have significant effects on European sites.
- 7.8.5. The proposed development is examined in relation to any possible interaction with European sites designated as SACs and SPAs to assess whether it may give rise to significant effects on any European sites in view of their conservation objectives.

Submissions and Observations

- 7.8.6. Uisce Éireann, then Irish Water, requested further information in the form of a Confirmation of Feasibility (COF) response, albeit noting that the applicant had engaged with Irish Water through the Pre-Connection Enquiry (PCE) process. I have reviewed Uisce Éireann's water supply and wastewater Capacity Registers. I note that there is capacity in water supply to meet the 2032 population targets with a level of service improvement. I also note there is capacity available at Swords WWTP. I have reviewed the foul drainage and water supply proposals as set out in sections 4.0

and 5.0 of the Engineering Infrastructure Report (Barrett Mahony, September 2022), and I am fully satisfied that these issues can be addressed by planning condition. Although, I do note that any connection agreement will require network extensions along Chapel Lane, either by self-lay or by Uisce Éireann/agent acting on their behalf.

- 7.8.7. The Water Services Section requested further information in the form of an amended drainage design, expanding on the use of green/blue roofs, in addition to information regarding the impermeable roof and road surfaces. Having regard to the surface water drainage proposals outlined in section 2.0 of the Infrastructure Report, I am satisfied that attenuation and disposal of surface water can be addressed by planning condition. This will also involve a network extension and should be agreed pre-commencement.

European Sites

- 7.8.8. The appeal site is not located in a European site. Section 3.4 / Table 1 of the AA Screening Report identifies eighteen European Sites within a theoretical 15km zone of influence (Zol), nine SACs and nine SPAs. Potential pathways for significant effects between the appeal site and two sites within the Zol were identified. In my opinion, the applicant has included an excessive number of sites within the Screening Report.
- 7.8.9. Having regard to the source-pathway-receptor (S-P-R) model, a summary of nine European sites that occur within a possible Zol of the appeal site are outlined in Appendix 2, six of which have been excluded at preliminary screening. The excluded sites either have no pathway or hydrologically, the combination of distance, dilution and dispersal would have no significant impact on these sites. There is, however, a pathway to the Malahide Estuary SAC and SPA via the Ward River, following confluence with the Broadmeadow River, which enters Malahide Estuary at Seatown West/Estuary Bridge. These sites require further consideration in addition to the North-West Irish Sea SPA which adjoins these sites and partly overlaps with the SAC.

Malahide Estuary SAC (000205)

- 7.8.10. According to the Site Synopsis, Malahide Estuary, the estuary of the Broadmeadow River, is a fine example of an estuarine system with all the main habitats represented. It is also a wintering bird site which holds an internationally important population of Brent Goose and nationally important populations of a further 15 species. It notes that the outer part of the estuary is mostly cut off from the sea by a large sand spit, known

as 'the island' and drains almost completely at low tide, exposing sand and mud flats whilst the inner estuary does not drain at low tide apart from the extreme inner part.

7.8.11. Map 3 of the Conservation Objectives Series illustrates the distribution of mudflats and sandflats not covered by sea water and Map 4 shows their marine community including 'estuarine sandy mud etc.' just east of the Estuary Bridge/M1 and 'sand to muddy sand etc.' east of the railway viaduct. Map 5 illustrates the distribution of saltmarsh habitats, the qualifying interests (QI's) of which include *Salicornia* and other annuals colonising mud and sand, Atlantic salt meadows and Mediterranean salt meadows. These QI's are focussed at the mouth of the river, south and west of the large sand spit, currently occupied by The Island Golf Club, and to the south at the mouth of the Gaybrook Stream. Map 6 shows the distribution of sand dune habitats, the QI's of which include shifting dunes along the shoreline with *Ammophila arenaria* ('white dunes') and fixed coastal dunes with herbaceous vegetation ('grey dunes'). These QI's are focussed to the south of The Island Golf Club. Other than the tidal mudflats and sandflats, the appeal site is remote to the majority of QI's for which this SAC has been selected.

7.8.12. In this regard, I note that the Conservation Objectives for the Malahide Estuary SAC includes the requirement to maintain the favourable conservation condition of mudflats and sandflats not covered by seawater at low tide.

Malahide Estuary SPA (004025)

7.8.13. The Malahide Estuary SPA shares a similar geographical region to the SAC. According to the Site Synopsis, it encompasses the estuary, saltmarsh habitats and shallow subtidal areas at the mouth of the estuary. A railway viaduct, built in the 1800s, crosses the site and has led to the inner estuary becoming lagoonal in character and only partly tidal. It notes that this lagoonal nature is particularly valuable as it increases the diversity of birds which occur at the site. It also notes that two of the species which occur regularly, Golden Plover and Bar-tailed Godwit, are listed on Annex I of the EU Birds Directive. The estuary is also a Ramsar Convention site.

7.8.14. The Conservation Objectives for the Malahide Estuary SPA seek to maintain the favourable conservation condition for each of the bird species for which the SPA has been selected. In this regard, I note that Table 4.3 of the Supporting Document (NPWS, August 2013) indicates that site population trends are generally increasing, and the site conservation condition is favourable for the majority of species with a

significant increase in Bar-tailed Godwit, above the national trend. Although, I also note a significant decline in Golden Plover, which is above the recent national trend.

North-West Irish Sea SPA (004236)

- 7.8.15. The North-West Irish Sea SPA was designated in July 2023 and after the appeal was lodged. It does not therefore appear in the AA Screening Report that was submitted with the planning application. According to the Site Synopsis, the North-West Irish Sea SPA extends offshore along the coasts of counties Louth, Meath and Dublin, and is approximately 2,333sq.km in area. This SPA is ecologically connected to several existing SPAs in this area. It notes that the estuaries and bays that open into it along with connecting coastal stretches of intertidal and shallow subtidal habitats, provide safe feeding and roosting habitats for waterbirds throughout the winter and migration periods. These areas, along with more pelagic marine waters further offshore, provide additional supporting habitats, for foraging and other maintenance behaviours, for those seabirds that breed at colonies on the north-west Irish Sea's islands and coastal headlands, and are also important areas for seabirds outside the breeding period.
- 7.8.16. The Conservation Objectives for the North-West Irish Sea SPA seek to maintain/restore the favourable conservation condition for each of the bird species for which the SPA has been selected. In this regard, I note that a supporting document of population trends and conservation condition has yet to be published by the NPWS.

Identification of Likely Effects

- 7.8.17. The appeal site is hydrologically connected to the Malahide Estuary SAC and SPA and North-West Irish Sea SPA. On this basis, I consider that potential impacts associated with the construction and operational phase of the proposed development primarily relate to potential impacts on water quality including:
1. Deterioration of water quality as a result of sediment and pollution loads arising during the construction phase; and
 2. Deterioration in water quality as a result of sediment, pollution loads, hard surface flood/water runoff etc. during the operational phase.

Construction Phase

- 7.8.18. A stormwater drainage network currently serves the existing buildings and car park within the site boundary. Runoff from the appeal site in its current state is untreated

and unattenuated. It is proposed to demolish the existing buildings in addition to the stormwater network serving these buildings and car park as part of the enabling works.

- 7.8.19. During the construction phase, which is estimated to last 24 months, there is potential for surface water runoff from site works to temporarily discharge to the Ward River, c. 160m to the west, which discharges to the Malahide Estuary SAC and SPA via the Broadmeadow River, with further, albeit tenuous, connection to the North Irish Sea SPA. However, in the absence of rivers, streams or drainage ditches on, or bounding, the appeal site, the uncontrolled hydrological connection is indirect and extremely weak. Intervening land uses and the separation distance means that water quality in this European site will not be negatively affected by any contaminants, such as sediment from site clearance and other construction activities, if such an event were to occur, due to dilution and settling out over such a distance. Moreover, a CEMP condition, requiring typical standard construction methods for managing construction surface water runoff will ensure that any such events are contained on the appeal site.
- 7.8.20. The ground waterbody WFD Status for 2016-2021 for the appeal site is 'good'. In terms of controlled groundwater management during the construction phase, Section 3.2.3 of the AA Screening Report notes that any groundwater in the basement, foundation and service trenches will be pumped out and disposed of to the combined sewer, subject to groundwater discharge agreement with Uisce Éireann. It states that groundwater sampling and monitoring will be required to ensure that the groundwater quality and peak discharge rate meet the requirements of the temporary discharge licence agreement. It further states that a temporary water treatment facility, including holding tanks, will be constructed on site, as required, to ensure the conditions of the temporary discharge consent are met, and following extensive groundwater quality monitoring. I consider that the construction phase will not therefore result in significant environmental impacts that could affect European sites within the wider catchment.

Operational Phase

- 7.8.21. Blue/green roof SuDS measures are proposed, covering the majority of the roofed area to capture rainwater. Section 3.2.4 of the AA Screening Report states that flows will be directed from the roof to an underslung surface water network in the basement which will carry flows towards a surface water manhole at the site boundary. It also states that a new Ø150mm surface water drain will be provided along Chapel Lane

which will connect to the existing stormwater sewer at the Chapel Lane/St. Colmcille's Drive junction. In this regard, I am satisfied that the runoff from the site will be less than the predeveloped site and this will positively impact on infrastructure capacity through reduced quantity and improved quality over that of the existing car park area.

- 7.8.22. A new foul system is proposed with a single connection at the lowest point. All of the foul water will then gravitate towards the public network. Section 3.2.4 of the AA Screening Report states that a new Ø150mm sewer to service the proposed building will be provided along Chapel Lane and connect to the existing Ø150mm UPVC foul sewer in Chapel Lane to the north of the site. Wastewater will then discharge to Swords WWTP, which also discharges, under licence, to the Broadmeadow River.
- 7.8.23. Uisce Éireann Annual Environmental Reports (AERs) for 2020 and 2021 note that the treatment plant was compliant with the Emission Limit Values (ELV) in the Wastewater Discharge Licence. However, the latest report for 2022 indicates that Swords WWTP is now non-compliant in respect of Total Ammonia (as N), Suspended Solids, Total Nitrogen and Total Oxidised Nitrogen (as N). This AER does however confirm that the facility has a surplus organic capacity of 10,899 PE and will not be exceeded within 3 years. A 121-unit development was anticipated to generate 529 PE. A reduced 79-unit scheme would generate c. 415 PE. Both are well within the surplus capacity.
- 7.8.24. The river waterbody WFD Status for 2016-2021 for the Ward and Broadmeadow rivers is 'moderate', up from 'poor' for 2013-2018. The transitional waterbody WFD status for 2016-2012 for Broadmeadow Water, the lagoon area between the railway viaduct and the Estuary Bridge/M1 is 'moderate', up from 'poor' for 2013-2018. The coastal waterbody WFD status for Malahide Bay, the area between the railway viaduct and coastline is 'moderate', which is the same status for the 2013-2018 monitoring period.
- 7.8.25. Whilst the 2022 AER notes that an upgrade is required to meet the ELV, notwithstanding an upgrade to 90,000 PE in 2016, this is within Uisce Éireann's control, as is a connection agreement. In such circumstances, I am satisfied that the impact on overall discharge would be negligible in the context of the WWTP and having regard to the units and quantum of development previously committed on the site.

Consideration of residual impacts

- 7.8.26. Airborne pollution during construction, namely dust, is unlikely to affect the Malahide Estuary SAC, which consists of mudflats etc. As noted, the more sensitive receptors

of this SAC are primarily east of the railway viaduct, c. 4-5km away, and dust would have settled out before this point. It is also unlikely to be a factor during operation.

7.8.27. Noise disturbance on bird species that occur in the SPA's as a result of the proposed construction phase can also be ruled out due to distance from their favoured habitat and such noise is highly likely to be absorbed within the urban/M1 noise environment.

7.8.28. I also note that the site generally offers no supporting habitat, *ex situ* or otherwise, for such species, including those whose populations are in decline. Whilst I accept that a number of species, including Golden Plover and Black-tailed Godwit, do forage within the wider landscape in arable fields and grasslands, it is highly unlikely at the appeal site due to the limited suitability and urban setting. In this regard, I note that the area of hardstanding is relatively remote within the overall SPA context and noise from urban traffic is likely to deter bird activity. Moreover, none of the SCI species for which the Malahide Estuary SPA or North-West Irish Sea SPA are designate, appear in the National Biodiversity Data Centre 1km grid around the site (NBDC ref. O1846). This is consistent with the stated findings in the Ecological Impact Assessment (EclA).

Consideration of in-combination effects

7.8.29. Other extant development is similarly served by urban drainage systems and the WWTP. A NIR was prepared for the Development Plan which included the MC zoning for the appeal site. No likely significant effects on the water quality of any European sites were identified. No likely significant in-combination effects are identified here.

7.8.30. The appeal site is not immediately adjacent to, or within, a European site, therefore there is no risk of habitat loss or fragmentation or any effects on QI species directly or *ex-situ*. The existing environment includes a WWTP and urban drainage systems. The acceptable distance between the proposed development and any European sites, and the weak and indirect stormwater pathway is such that the proposal will not result in any likely changes to the European sites that comprise part of the Natura network.

Mitigation measures

7.8.31. In terms of operation, I note that the proposal connects to a drainage system which incorporates SuDS measures including pollutant removal as detailed in section 2.6.5 of the Infrastructure Report. I accept that this is designed to remove contaminants and may therefore have the effect of reducing the harmful effects of the project on

SAC and SPA, or other European sites. However, having regard to the recent *Eco Advocacy CLG* judgement (C-721/21), I am satisfied that these and other measures are features that are incorporated as standard features inherent in the construction of such schemes, irrespective of any effect on such sites, and are not therefore relied upon to reach a conclusion of no likely significant effects on any European site.

Screening Determination

- 7.8.32. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. Having carried out screening for appropriate assessment of the project, it has been concluded that the project individually, or in combination with other plans and projects, would not be likely to give rise to significant effects on the Malahide Estuary SAC or SPA, or the North-West Irish Sea SPA or any other European site, in view of the site's Conservation Objectives, and appropriate assessment (and submission of a NIS) is not required.

7.9. Other Matters

Social Infrastructure

- 7.9.1. In terms of social infrastructure, the observers raise concerns regarding the lack of school and GP places. Development Plan objective DMSO78 requires a Community and Social Infrastructure Audit for planning applications for large scale residential and mixed-use developments, of 50 or more residential units. There was no similar provision under the 2017-2023 Plan and therefore the application was not accompanied by a such an audit. Having regard to the replacement senior citizens centre and additional retail units, I am satisfied that the proposed development is adequately balanced in terms of residential, commercial and community facilities. Moreover, it is beyond the gift of the applicant to provide additional school or GP places, although such services tend to grow organically in line with population growth.

Public Open Space

- 7.9.2. The observers have also raised concerns in relation to a lack of public open space. Development Plan objective DMSO52 requires public open space provision in accordance with Table 14.12. This sets a minimum open space standard of 12% of the site area for new residential development on infill/brownfield sites, or 0.067ha (672sq.m) of the appeal site. The proposal does not include any open space provision

and the Planning Officer's Report notes that a special contribution would be required in lieu, and applied to the continued upgrade of the Ward River Regional Park facilities.

- 7.9.3. As noted above, the applicant has presented a revised scheme including 205sq.m of open space at ground floor level fronting onto Forster Way in response to these concerns. This has reduced the communal open space to 1,332sq.m overall but this significantly exceeds the Development Plan requirements. Whilst the proposed open space is acceptable and significantly adds to the public realm, it is notably below the minimum requirements set out in Table 14.12. I therefore consider that a special financial contribution is also required, as per Development Plan objective DMSO53.

Public Health

- 7.9.4. In terms of public health, the observers raise concerns regarding dust and subsidence during the construction phase. Having regard to the Outline Construction Management Plan (OCMP) (Barrett Mahony, September 2022), I am satisfied that the proposal will not adversely impact on public health by reason of dust or subsidence.
- 7.9.5. With particular regard to subsidence, I note that contiguous piled walls are proposed along site boundaries and other areas where there is a significant level change in order to protect adjacent buildings. In terms of dust, the OCMP also outlines a number of control measures, all of which can be conditioned in the event of a grant of permission.
- 7.9.6. As noted above, I am satisfied that the issues raised by Irish Water, now Uisce Éireann, and the Water Services Section can be addressed by planning conditions and there would be no impacts on public health arising from the drainage proposals.

Broadband

- 7.9.7. The submitted Telecoms Report (ISM, October 2022) concludes that the proposed development will not impact on telecoms channels. Any perceived impacts on broadband infrastructure will be further mitigated by the reduced 6-storey scheme.

Legal and Procedural

- 7.9.8. In terms of procedural matters and the alleged irregularities regarding the location and visibility of the site notices and validation, I note that both matters were considered acceptable by the planning authority. I am satisfied that this did not prevent the concerned parties from making representations. The above assessment represents my *de novo* consideration of all planning issues material to the proposed development.

8.0 Recommendation

- 8.1. I recommend that permission be **granted** for the reasons and considerations below.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Fingal Development Plan 2023-2029, as varied, and the location of the proposed development on zoned and serviced lands within Swords town centre, it is considered that, subject to compliance with the conditions set out below, the proposed development would make efficient use of an underutilised brownfield site and positively contribute to compact growth in a built-up, mixed-use urban area, would positively contribute to an increase in housing stock in this town centre location with a range of social, commercial, retail, and public transport infrastructure, would be acceptable in terms of urban design and building height, would be acceptable in terms of pedestrian and traffic safety, and would provide an acceptable form of residential amenity for future occupants. The proposed development would not seriously injure residential or visual amenities, or significantly increase traffic volumes in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 19th day of January, 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interests of clarity.

2. The proposed development shall be amended as follows:
 - (a) The sixth and seventh floor levels of the Northern and Southern blocks shall be removed.

(b) The 2 no. one-bed apartments at second floor level and the 2 no. one-bed apartments at fourth floor level in the Northern Block shall be served by recessed balconies.

(c) An area of landscaped public open space shall be provided at ground floor level and fronting on to Forster Way.

For clarity, the residential element of this permission shall relate to 79 apartment units only.

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

Reason: In the interests of visual and residential amenity.

3. No development shall commence until details relating to the proposed works at the Chapel Lane junction, including the reconfiguration of existing car parking spaces and drainage connections, in addition to the details of the one-way/two-way interface at the southern boundary are submitted to, and agreed in writing with, the planning authority.

Reason: In the interests of clarity.

4. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development. The proposed senior citizens centre shall be in the first phase of development unless otherwise agreed in writing with the planning authority.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed apartments and users of existing amenities.

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

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

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

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

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

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

6. Details of the materials, colours, and textures of all the external finishes to the proposed development shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

7. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

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

8. Details of all external shopfronts and signage shall be submitted to, and agreed in writing with, the planning authority prior to occupation of each relevant unit.

Reason: In the interest of visual amenity.

9. Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

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

Reason: In the interests of visual amenity.

11. The internal road network serving the proposed development, including loading bays, junctions, parking areas, footpaths and kerbs, and access road to the underground car park shall be in accordance with the requirements of the Design Manual for Urban Roads and Streets (DMURS) and the detailed construction standards of the planning authority for such works.

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

12. Provision shall be made for a contraflow cycle lane along the extent of the one-way section of Forster Way in accordance with the requirements of DMURS and the Cycle Design Manual. Details of such provision, including construction and demarcation, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

13. (a) The maximum number of car parking spaces serving the proposed residential development shall be 43 in number, exclusive of car club spaces. The maximum number of car parking spaces serving the proposed senior citizens centre shall be 8 in number. The minimum number of motorcycle spaces serving the proposed residential development shall be 4 in number. The location and layout of these spaces shall be agreed in writing with the planning authority prior to the commencement of development.

(b) Residential car and motorcycle parking spaces shall be permanently allocated to residential use and shall not be sold, rented, or otherwise sub-let or leased to other parties.

(c) A minimum of 20% of all residential car parking spaces shall be provided with functioning electric vehicle charging stations or points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points or stations at a later date. Where proposals

relating to the installation of electric vehicle ducting and charging stations or points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

(d) The bicycle parking quantity shall be provided as per the bicycle parking standards of the Fingal Development Plan 2023-2029. Resident cycle parking spaces shall be secure, conveniently located, sheltered, and well lit. Key/fob access shall be required to resident bicycle compounds. All cycle parking design including visitor parking shall allow both wheel and frame to be locked. Electric bike charging facilities within the resident cycle parking areas shall be provided. All cycle parking shall be *in situ* prior to the occupation of the development.

(e) Prior to the occupation of the development a Parking Management Plan shall be prepared for the development and submitted to and agreed in writing with the planning authority. The plan shall include measures to ensure that the public parking spaces shall not be sold, rented, or otherwise sub-let or leased to other parties.

Reason: In the interest of sustainable transportation.

14. The development shall be carried out and operated in accordance with the provisions of a revised Mobility Management Plan (MMP) which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The MMP shall include specific objectives and measures to achieve modal split targets for the development which shall be implemented in full upon first occupation. The developer shall undertake an annual monitoring exercise to the satisfaction of the planning authority for the first 5 years following first occupation and shall submit the results to the planning authority for consideration and placement on the public file.

Reason: To achieve a reasonable modal split in transport and travel patterns in the interest of sustainable development.

15. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a Traffic Management Plan (TMP) for the construction phase of the development for the written agreement of the planning authority. The TMP shall incorporate details of the road network to be

used by construction traffic including oversized loads, detailed proposals for the protection of bridges, culverts and other structures to be traversed, as may be required. The agreed TMP shall be implemented in full during the course of construction of the development.

Reason: In the interest of sustainable transport and safety.

16. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any dwelling.

Reason: In the interests of amenity and public safety.

17. The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the attenuation and disposal of surface water from the site for the written agreement of the planning authority.

Reason: To prevent flooding and in the interests of sustainable urban drainage.

18. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann.

Reason: In the interest of public health.

19. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:
 - (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
 - (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
 - (c) details of proposed street furniture, including bollards, lighting fixtures and seating;

(d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

20. (a) The open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.

(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

21. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

(b) This plan shall provide for screened communal bin stores, the locations, and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity and to ensure the provision of adequate refuse storage.

22. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols.

The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

23. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan (CEMP), which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall incorporate the mitigation measures outlined in the submitted Ecological Impact Assessment and provide details of intended construction practice for the development, including:
- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
 - (b) Location of areas for construction site offices and staff facilities;
 - (c) Details of site security fencing and hoardings;
 - (d) Details of on-site car parking facilities for site workers during the course of construction;
 - (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
 - (f) Measures to obviate queuing of construction traffic on the adjoining road network;
 - (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;

(i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

(j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;

(k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;

(l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains in accordance with the requirements of CIRIA C532, *Control of water pollution from construction sites* and CIRIA C649, *Control of water pollution from linear construction projects*.

A record of daily checks that the works are being undertaken in accordance with the CEMP shall be kept for inspection by the planning authority.

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

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

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

25. Building noise insulation shall be provided to an appropriate standard having regard to the location of the site within Dublin Airport Noise Zone D.

Reason: In the interest of residential amenity and to ensure compliance with objective DMSO105 of the Fingal Development Plan 2023-2029.

26. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority the details of any crane operations and ensure they do not impact on flight procedures and air safety. The developer shall also notify the Irish Aviation Authority and DAA of the intention to commence crane operations with a minimum of 30 days notice of their erection.

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

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

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

28. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

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

agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

30. The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of the continued upgrade of local Class 1 open space facilities in the Ward River Regional Park as set out in the Fingal Development Contribution Scheme 2021-2025, or any subsequent scheme, which benefits the proposed development, in lieu of a shortfall in public open space and play facilities. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development, and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

Reason: To ensure compliance with objective DMSO53 of the Fingal Development Plan 2023-2029 and to contribute towards specific exceptional costs incurred by the planning authority which is reasonable in this regard.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Philip Maguire
Planning Inspector
15th March 2024

Appendix 1

Form 1 – EIA Pre-Screening

Case Reference	ABP-315602-23		
Proposed Development Summary	A mixed-use development consisting of 121 apartments, 4 retail units, a Senior Citizens Centre, with demolition of Swords Day Centre for Senior Citizens		
Development Address	Forster Way, Swords, Co. Dublin		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	No EIAR or Prelim. Exam. Required
Yes	X	Class 10(b)(i) Class 10(b)(iv)	Proceed to Q.4
4. Has Schedule 7A information been submitted?			
No		Preliminary Examination required (Form 2)	
Yes	X	Screening Determination required (Form 3)	

Inspector: _____

Date: _____

Form 3 – EIA Screening Determination

A. CASE DETAILS		
Case Reference	ABP-315602-23	
Development Summary	A mixed-use development consisting of 121 apartments, 4 retail units, a Senior Citizens Centre, with demolition of Swords Day Centre for Senior Citizens	
	Yes / No / N/A	Comment (if relevant)
1. Was a Screening Determination carried out by the PA?	No	The Planning Officer's Report, which forms the basis of the planning authority's decision, screens out the proposal for EIA at preliminary examination stage.
2. Has Schedule 7A information been submitted?	Yes	Contained with the EIA Screening Report (Enviroguide, January 2023) submitted with the appeal documentation.
3. Has an AA screening report or NIS been submitted?	Yes	AA Screening Report (Enviroguide, October 2022) submitted with the planning application.
4. 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.
5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out	Yes	Appeal site is zoned 'MC' Major Town Centre. SEA undertaken as part of the Fingal Development Plan 2023-2029 (Accompanying Environmental Reports).

pursuant to other relevant Directives – for example SEA		
B. EXAMINATION	<p>Where relevant, briefly describe the characteristics of impacts (i.e. the nature and extent) and any Mitigation Measures proposed to avoid or prevent a significant effect</p> <p>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)</p>	<p>Is this likely to result in significant effects on the environment?</p> <p>Yes/ No/ Uncertain</p>
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)		
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	No. The project comprises the construction of a mixed-use residential development on lands zoned 'MC' Major Town Centre and is in keeping with the transitional commercial/residential development in the area.	No.
1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	<p>Yes. There will be moderate physical changes to the locality in terms of land use where a surface car park, community building and ESB substation will be replaced with a multi-storey over basement residential mixed-use building. There will be no significant changes to the topography of the locality with a moderate lowering of ground level to facilitate basement parking.</p> <p>Nor will there be significant impacts on ground or surface waterbodies with excavations limited to c. 3m below ground level and discharges controlled through a CEMP.</p>	No.

<p>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</p>	<p>Yes. Project enabling works comprise the demolition of the existing community building and ESB substation and the removal of the surface car park and site services, the loss of which will be permanent, albeit each replaced in the new mixed-use development.</p> <p>New construction comprises the removal of any remaining foundations and bulk dig, including the excavation of topsoil, and the construction of a multi-storey over basement residential mixed-use building.</p> <p>Construction materials will be typical of such urban development. The loss of natural resources or local biodiversity as a result of the development of the site are not regarded as significant in nature.</p>	<p>No.</p>
<p>1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</p>	<p>Yes. Project construction activities will require the use of potentially harmful materials, such as fuels, concrete and other such substances. Such use will be typical of construction sites. Any impacts would be localised and temporary in nature (c. 24 months) and implementation of a CEMP will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	<p>No.</p>
<p>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Yes. The project will involve demolition wastes in the form of tarmac, brick, blocks and concrete in addition to excavated soils, boulder clay and rock.</p> <p>Construction activities will require the use of potentially harmful materials, such as fuels, concrete and other such substances and give rise to waste for disposal. Such wastes will be typical of construction sites.</p> <p>Noise and dust emissions during construction are likely. Such construction impacts would be localised and temporary in nature and implementation of a CEMP will satisfactorily mitigate potential impacts.</p>	<p>No.</p>

	<p>An Outline Construction and Demolition Waste Management Plan (DCWMP) has been prepared and estimates that the majority of waste will be reused/recovered or recycled with only 11.8% of demolition waste and 9.4% of construction waste being disposed of.</p> <p>An Outline Waste Management Plan has been prepared which sets out the waste management procedures to be implemented.</p> <p>Operational waste will be managed accordingly to obviate potential environmental impacts. Other significant operational impacts are not anticipated.</p>	
<p>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>No. No significant risks identified. Operation of a CEMP will satisfactorily mitigate emissions from spillages during construction. Any groundwater in the basement, foundation and service trenches will be pumped out and disposed of to the combined sewer, subject to groundwater discharge agreement with Uisce Éireann and further monitoring.</p> <p>The operational development will connect to mains services. Surface water drainage will be separate to foul services.</p>	No.
<p>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</p>	<p>Yes. Limited and temporary noise and vibration impacts are anticipated during the demolition and construction phase through the presence of dumper trucks, excavators etc.</p> <p>An Outline Construction Management Plan (CMP) has been prepared which states that noise will be minimized as far as possible with attention being paid to BS 5225 'Noise Control on Construction and Open Sites' and BS 6187 'Code of Practice for Demolition'.</p> <p>Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a CEMP.</p> <p>Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.</p>	No.

<p>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p>Yes. Construction impacts including noise, dust, construction and haulage traffic have the potential to affect human health. However due to the scale and nature of the proposed works and having regard to CEMP/industry standards and best practice measures in respect of construction noise, dust and sediment, it is not anticipated that significant impacts on human health will arise from air, water or other media e.g. CIRIA C532 and CIRIA C649.</p> <p>No significant operational impacts are anticipated.</p>	<p>No.</p>
<p>1.9 Will there be any risk of major accidents that could affect human health or the environment?</p>	<p>No. No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding.</p> <p>No Seveso/COMAH sites in the immediate vicinity of the appeal site. Swords Laboratories, an Upper Tier Seveso site, is located along Watery Lane and c. 500m northwest of the appeal site. CLH Aviation, an Upper Tier Seveso site is located along Corballis Road, within Dublin Airport campus, is c. 3.9km south, southwest of the appeal site. Both sites are sufficiently removed from the appeal site.</p>	<p>No.</p>
<p>1.10 Will the project affect the social environment (population, employment)</p>	<p>No. Redevelopment of the site, as initially proposed, will result in 121 no. residential units which is considered commensurate with the development of a site within the Dublin Metropolitan Area.</p> <p>It is not anticipated that the project will result in significant long-term employment outside perhaps the proposed retail units, once occupied. The construction period will, however, provide significant short-medium term employment.</p>	<p>No.</p>
<p>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p>No. Stand-alone development, with other residential and commercial developments in the immediately surrounding area on zoned lands.</p>	<p>No.</p>

	Having regard to its scale, I do not consider the project would result in significant cumulative effects on the environment, either during the construction or operational phases.	
2. Location of proposed development		
<p>2.3 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ul style="list-style-type: none"> a) European site (SAC/ SPA/ pSAC/ pSPA) b) NHA/ pNHA c) Designated Nature Reserve d) Designated refuge for flora or fauna e) Place, site or feature of ecological interest, the preservation / conservation / protection of which is an objective of a development plan / LAP / draft plan or variation of a plan 	<p>No. The site is located c. 1.2 - 1.3km southwest of the Malahide Estuary SAC (site code 000205) and SPA (site code 004025), and 6km west of the North-West Irish Sea SPA (site code 004236). The Conservation Objectives for these areas relate to wintering wetland birds and coastal habitats. An AA Screening Report (Enviroguide, October 2022) has been prepared. It concludes that the proposed development will not adversely affect the integrity of these or any other European sites.</p> <p>Malahide Estuary is also a proposed Natural Heritage Area and along with Feltrim Hill, c. 2.4km southeast, they are the closest pNHA's. Broadmeadow Estuary is also a Ramsar site (site code 833). An EcIA Report (Enviroguide, October 2022) has been prepared. It concludes that there will be no significant negative impact to any valued habitats, designated site or individual or groups of species as a result of the proposed development, subject to the mitigation measures outlined therein.</p> <p>I am satisfied that the proposal is unlikely to significantly impact on any of these designations/sites during the construction or operational phases.</p>	No.
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	<p>No. No such species use the site and no impacts on such species are anticipated.</p> <p>None of the SCI species for which the Malahide Estuary SPA or the North-West Irish Sea SPA are designate, appear in the National</p>	No.

migration, be significantly affected by the project?	Biodiversity Data Centre 1km grid around the appeal site (ref. O1846).	
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	<p>Yes. The appeal site is c. 100m west of St. Colmcille's Church which is listed in the record of protected structures (RPS ref. 0356), National Inventory of Architectural Heritage (NIAH ref. 11343010) and is a recorded monument (SMR ref. DU011-070----). The appeal site also lies within Swords 'historic town' (SMR ref. DU011-035----) zone of notification (ref. R185081).</p> <p>The height of the development, as initially proposed, has the potential to negatively impact on the setting of this protected structure. Sections 7.3.11 and 7.3.17 of the Inspector's Report (IR) refers.</p> <p>An archaeological desk top study and results of 11 no. trench tests were submitted with the planning application, albeit dated October 2008. It notes that there was no evidence of archaeological features on c. 50% of the appeal site but recommends archaeological monitoring during the initial ground works.</p>	No.
2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?	<p>No. The surrounding area is characterised by a mix of commercial, residential, civic and cultural uses.</p> <p>There are no areas in the immediate vicinity which contain important resources.</p> <p>Impacts on high quality or scarce resources are not anticipated during the construction or operational phases.</p>	No.
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected	No. Given the lack of rivers, streams or open ditches on, or bounding, the appeal site, it is highly unlikely that the project will impact on any water resources, surface or ground, during the construction phase in terms of volume or flood risk.	No.

by the project, particularly in terms of their volume and flood risk?	<p>The development will implement SuDS measures to control surface water run-off. The appeal site is not at risk of flooding. Potential indirect impacts are considered with regard to surface water and groundwater, however, no likely significant effects are anticipated.</p> <p>Potential impacts on water resources during the operational phase in terms of volume and flood risk are similarly negligible.</p>	
2.6 Is the location susceptible to subsidence, landslides or erosion?	<p>No. The appeal site is generally flat around the 22mAOD contour. Whilst the adjoining ground to the east is c. 3 - 4m higher, around the 25 - 26mAOD contour, there is no evidence that it would be susceptible to subsidence, landslides or erosion during construction or operation.</p> <p>In this regard, the Outline CMP states that contiguous piled walls are proposed along site boundaries and other areas where there is a significant level change in order to protect adjacent buildings.</p>	No.
2.7 Are there any key transport routes(e.g. National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	<p>No. The appeal site is served by a local urban road network. Any congestion will be localised, short term in nature and suitably mitigated by the operation of a CEMP and Construction Traffic Management Plan.</p>	No.
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?	<p>Yes. The project will result in the demolition of a day centre for senior citizens which is currently operational. However, in order to limit the disruption to users of the centre, a phased construction is proposed in order to avoid the need to relocate the occupants. The replacement senior citizens centre is a positive impact.</p> <p>There are no other existing sensitive land uses or substantial community uses which could be affected by the project during the construction or operational phases.</p>	No.

3. Any other factors that should be considered which could lead to environmental impacts		
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	<p>No. A comprehensive Planning History is set out in Section 4.0 of the IR.</p> <p>Permitted and under construction residential developments in the wider area have been considered. No developments have been identified in the vicinity which would give rise to significant cumulative environmental effects.</p>	No.
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No. The appeal site is remote from any transboundary location (c. 68km from the border with N. Ireland) and the nature of the project is such that any impact would not affect a large geographical area.	No.
3.3 Are there any other relevant considerations?	<p>Yes. The appeal site is zoned for major town centre development including residential, community, retail and car parking uses. This was subject to SEA. No likely significant effects on the environment arising from this zoning were identified during that process.</p> <p>The appeal site was not identified as Flood Zone A or B in the SFRA.</p>	No.
C. CONCLUSION		
No real likelihood of significant effects on the environment.	X	ElAR Not Required
Real likelihood of significant effects on the environment.		ElAR Required

D. MAIN REASONS AND CONSIDERATIONS

Having regard to:

- (a) the nature and scale of the proposed development, which is significantly below the threshold in respect of Class 10(b)(i) (Infrastructure – ‘dwelling units’) and Class 10(b)(iv) (Infrastructure – ‘urban development’) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) the location of the appeal site on lands that are zoned for major town centre use under the provisions of the Fingal Development Plan 2023-2029 and the results of the strategic environmental assessment of this Plan undertaken in accordance with the SEA Directive (2001/42/EC),
- (c) the location of the appeal site in an established mixed-use area of Swords town centre, served by public infrastructure, the existing uses on site and pattern of development in the vicinity,
- (d) the planning history relating to the appeal site,
- (e) the separation distance between the appeal site and the archaeological notification zone to the east and the results of the archaeological desk top study and investigations,
- (f) the location of the appeal site outside of any sensitive location specified in Article 109(4)(a) of the Planning and Development Regulations 2001, as amended, and the absence of any direct relevant connectivity to any sensitive location,
- (g) 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),
- (h) the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, and
- (i) 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 proposed Outline Construction and Demolition Waste Management

Plan (CDWMP), Outline Construction Management Plan (CMP), Operational Waste Management Plan (WMP) and the Ecological Impact Assessment Report (EcIA),

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 is not therefore required.

Inspector: _____

Date: _____

Approved (DP/ADP): _____

Date: _____

Appendix 2 – European Sites within Zone of Influence

European Site (Code)	Qualifying Interests <i>*indicates a priority habitat under the Habitats Directive</i>	Distance/ Direction	Connections	Considered further in Screening
Special Areas of Conservation (SAC)				
Malahide Estuary SAC (000205)	[1140] Mudflats and sandflats not covered by seawater at low tide [1310] <i>Salicornia</i> and other annuals colonising mud and sand [1320] <i>Spartina</i> swards (<i>Spartinion maritimae</i>) [1330] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1410] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [2120] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2130] Fixed coastal dunes with herbaceous vegetation (grey dunes)*	1.2km N-NE	Yes. Hydrological connections via (i) surface water run-off to the Ward River via the receiving drainage network during the construction phase and (ii) wastewater from the appeal site which passes through Swords WWTP and discharges via an outfall system at the confluence of the Broadmeadow River and the Estuary, slightly upstream (west) of the Estuary Bridge/M1.	Yes

<p>Rogerstown Estuary SAC (000208)</p>	<p>[1130] Estuaries</p> <p>[1140] Mudflats and sandflats not covered by seawater at low tide</p> <p>[1310] <i>Salicornia</i> and other annuals colonizing mud and sand</p> <p>[1330] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>)</p> <p>[1410] Mediterranean salt meadows (<i>Juncetalia maritimi</i>)</p> <p>[2120] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes)</p> <p>[2130] Fixed coastal dunes with herbaceous vegetation (grey dunes)*</p>	<p>4.8km</p> <p>N-NE</p>	<p>No.</p> <p>There is no direct connection between the appeal site and this SAC.</p> <p>Surface waters from the appeal site flows to Malahide Estuary and there is no indirect connection between it and the SAC via watercourses, drains, ditches etc.</p> <p>The location, scale and duration of the project is such that it will not contribute to direct, indirect or in-combination impacts for which the SAC is designated.</p>	<p>No</p>
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<p>Baldoyle Bay SAC (000199)</p>	<p>[1140] Mudflats and sandflats not covered by seawater at low tide</p> <p>[1310] <i>Salicornia</i> and other annuals colonizing mud and sand</p> <p>[1330] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>)</p> <p>[1410] Mediterranean salt meadows (<i>Juncetalia maritimi</i>)</p>	<p>7.5km</p> <p>SE</p>	<p>No.</p> <p>There is no direct connection between the appeal site and this SAC.</p> <p>Surface waters from the appeal site flows to Malahide Estuary and there is no indirect connection between it and the SAC via watercourses, drains, ditches etc.</p> <p>The location, scale and duration of the project is such that it will not contribute to direct, indirect or in-combination impacts for which the SAC is designated.</p>	<p>No</p>
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<p>North Dublin Bay SAC (000206)</p>	<p>[1140] Mudflats and sandflats not covered by seawater at low tide</p> <p>[1210] Annual vegetation of drift lines</p> <p>[1310] <i>Salicornia</i> and other annuals colonizing mud and sand</p> <p>[1330] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>)</p> <p>[1395] Petalwort <i>Petalophyllum ralfsii</i></p> <p>[1410] Mediterranean salt meadows (<i>Juncetalia maritimi</i>)</p> <p>[2110] Embryonic shifting dunes</p> <p>[2120] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes)</p> <p>[2130] Fixed coastal dunes with herbaceous vegetation (grey dunes)*</p> <p>[2190] Humid dune slacks</p>	<p>9.5km</p> <p>S-SE</p>	<p>No.</p> <p>There is no direct connection between the appeal site and this SAC.</p> <p>Surface waters from the appeal site flows to Malahide Estuary and there is no indirect connection between it and the SAC via watercourses, drains, ditches etc.</p> <p>The location, scale and duration of the project is such that it will not contribute to direct, indirect or in-combination impacts for which the SAC is designated.</p>	<p>No</p>
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Special Protection Areas (SPA)				
Malahide Estuary SPA (004025)	[A005] Great Crested Grebe <i>Podiceps cristatus</i>	1.3km	Yes.	Yes
	[A046] Brent Goose <i>Branta bernicla hrota</i>	N-NE	Hydrological connections via (i) surface water run-off to the Ward River via the receiving drainage network during the construction phase and (ii) wastewater from the appeal site which passes through Swords WWTP and discharges via an outfall system at the confluence of the Broadmeadow River and the Estuary, slightly upstream (west) of the Estuary Bridge/M1.	
	[A048] Shelduck <i>Tadorna tadorna</i>			
	[A054] Pintail <i>Anas acuta</i>			
	[A067] Goldeneye <i>Bucephala clangula</i>			
	[A069] Red-breasted Merganser <i>Mergus serrator</i>			
	[A130] Oystercatcher <i>Haematopus ostralegus</i>			
	[A140] Golden Plover <i>Pluvialis apricaria</i>			
	[A141] Grey Plover <i>Pluvialis squatarola</i>			
	[A143] Knot <i>Calidris canutus</i>			
	[A149] Dunlin <i>Calidris alpina alpina</i>			
	[A156] Black-tailed Godwit <i>Limosa limosa</i>			
	[A157] Bar-tailed Godwit <i>Limosa lapponica</i>			
	[A162] Redshank <i>Tringa totanus</i>			
	[A999] Wetlands			

<p>Rogerstown Estuary SPA (004015)</p>	<p>[A005] Great Crested Grebe <i>Podiceps cristatus</i></p> <p>[A046] Brent Goose <i>Branta bernicla hrota</i></p> <p>[A048] Shelduck <i>Tadorna tadorna</i></p> <p>[A054] Pintail <i>Anas acuta</i></p> <p>[A067] Goldeneye <i>Bucephala clangula</i></p> <p>[A069] Red-breasted Merganser <i>Mergus serrator</i></p> <p>[A130] Oystercatcher <i>Haematopus ostralegus</i></p> <p>[A140] Golden Plover <i>Pluvialis apricaria</i></p> <p>[A141] Grey Plover <i>Pluvialis squatarola</i></p> <p>[A143] Knot <i>Calidris canutus</i></p> <p>[A149] Dunlin <i>Calidris alpina alpina</i></p> <p>[A156] Black-tailed Godwit <i>Limosa limosa</i></p> <p>[A157] Bar-tailed Godwit <i>Limosa lapponica</i></p> <p>[A162] Redshank <i>Tringa totanus</i></p> <p>[A999] Wetlands</p>	<p>5.2km</p> <p>N-NE</p>	<p>No.</p> <p>There is no direct connection between the appeal site and this SPA.</p> <p>There is no indirect connectivity between the project and this SPA via watercourse, drains or ditches etc.</p> <p>The project is sufficiently remote that there is no risk of disturbance to waders and wildfowl using the SPA.</p> <p>Whilst a number of QI species do feed in fields in the wider area, given the nature of the appeal site, the impacts on such species, such as displacement or disturbance from foraging or roosting is highly unlikely.</p> <p>The location, scale and operation of the project is such that it will not contribute to direct, indirect or in-combination impacts on bird species for which the SPA is designated.</p>	<p>No</p>
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North-West Irish Sea SPA (004236)	[A001] Red-throated Diver <i>Gavia stellata</i>	6km	Yes.	Yes
	[A003] Great Northern Diver <i>Gavia immer</i>	East	Hydrological connections via (i)	
	[A009] Fulmar <i>Fulmarus glacialis</i>		surface water run-off to the Ward	
	[A013] Manx Shearwater <i>Puffinus puffinus</i>		River via the receiving drainage	
	[A017] Cormorant <i>Phalacrocorax carbo</i>		network during the construction	
	[A018] Shag <i>Phalacrocorax aristotelis</i>		phase and (ii) wastewater from the	
	[A065] Common Scoter <i>Melanitta nigra</i>		appeal site which passes through	
	[A179] Black-headed Gull <i>Chroicocephalus ridibundus</i>		Swords WWTP and discharges via	
	[A182] Common Gull <i>Larus canus</i>		an outfall system at the confluence	
	[A183] Lesser Black-backed Gull <i>Larus fuscus</i>		of the Broadmeadow River and the	
	[A184] Herring Gull <i>Larus argentatus</i>		Estuary, slightly upstream (west) of	
	[A187] Great Black-backed Gull <i>Larus marinus</i>		the Estuary Bridge/M1.	
	[A188] Kittiwake <i>Rissa tridactyla</i>			
	[A192] Roseate Tern <i>Sterna dougallii</i>			
	[A193] Common Tern <i>Sterna hirundo</i>			
	[A194] Arctic Tern <i>Sterna paradisaea</i>			
	[A195] Little Tern <i>Sterna albifrons</i>			
	[A199] Guillemot <i>Uria aalge</i>			
	[A200] Razorbill <i>Alca torda</i>			
	[A204] Puffin <i>Fratercula arctica</i>			
	[A862] Little Gull <i>Hydrocoloeus minutus</i>			

<p>Baldoyle Bay SPA (004016)</p>	<p>[A046] Brent Goose <i>Branta bernicla hrota</i> [A048] Shelduck <i>Tadorna tadorna</i> [A137] Ringed Plover <i>Charadrius hiaticula</i> [A140] Golden Plover <i>Pluvialis apricaria</i> [A141] Grey Plover <i>Pluvialis squatarola</i> [A157] Bar-tailed Godwit <i>Limosa lapponica</i> [A999] Wetlands</p>	<p>6.8km SE</p>	<p>No.</p> <p>There is no direct connection between the appeal site and this SPA.</p> <p>There is no indirect connectivity between the project and this SPA via watercourse, drains or ditches etc.</p> <p>The project is sufficiently remote that there is no risk of disturbance to waders and wildfowl using the SPA.</p> <p>Whilst a number of QI species do feed in fields in the wider area, given the nature of the appeal site, the impacts on such species, such as displacement or disturbance from foraging or roosting is highly unlikely.</p> <p>The location, scale and operation of the project is such that it will not contribute to direct, indirect or in-combination impacts on bird species for which the SPA is designated.</p>	<p>No</p>
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<p>North Bull Island SPA (004006)</p>	<p>[A046] Brent Goose <i>Branta bernicla hrota</i></p> <p>[A048] Shelduck <i>Tadorna tadorna</i></p> <p>[A052] Teal <i>Anas crecca</i></p> <p>[A054] Pintail <i>Anas acuta</i></p> <p>[A056] Shoveler <i>Anas clypeata</i></p> <p>[A130] Oystercatcher <i>Haematopus ostralegus</i></p> <p>[A140] Golden Plover <i>Pluvialis apricaria</i></p> <p>[A141] Grey Plover <i>Pluvialis squatarola</i></p> <p>[A143] Knot <i>Calidris canutus</i></p> <p>[A144] Sanderling <i>Calidris alba</i></p> <p>[A149] Dunlin <i>Calidris alpina alpina</i></p> <p>[A156] Black-tailed Godwit <i>Limosa limosa</i></p> <p>[A157] Bar-tailed Godwit <i>Limosa lapponica</i></p> <p>[A160] Curlew <i>Numenius arquata</i></p> <p>[A162] Redshank <i>Tringa totanus</i></p> <p>[A169] Turnstone <i>Arenaria interpres</i></p> <p>[A179] Black-headed Gull <i>Chroicocephalus ridibundus</i></p> <p>[A999] Wetlands</p>	<p>9.5km</p> <p>S-SE</p>	<p>No.</p> <p>There is no direct connection between the appeal site and this SPA.</p> <p>There is no indirect connectivity between the project and this SPA via watercourse, drains or ditches etc.</p> <p>The project is sufficiently remote that there is no risk of disturbance to waders and wildfowl using the SPA.</p> <p>Whilst a number of QI species do feed in fields in the wider area, given the nature of the appeal site, the impacts on such species, such as displacement or disturbance from foraging or roosting is highly unlikely.</p> <p>The location, scale and operation of the project is such that it will not contribute to direct, indirect or in-combination impacts on bird species for which the SPA is designated.</p>	<p>No</p>
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