



An  
Bord  
Pleanála

## Inspector's Report ABP-316053-23

### Development

Construction of a mixed use scheme comprising 21 residential units and a community workhub facility and all associated works.

### Location

Lands to the east of Hands Lane and south of Bollum Lane, Rush, Co. Dublin

### Planning Authority

Fingal County Council

### Planning Authority Reg. Ref.

F22A/0690

### Applicant(s)

Catherine Condrot and Samuel Condrot

### Type of Application

Permission

### Planning Authority Decision

Refuse Permission

### Type of Appeal

First Party

### Appellant(s)

Catherine Condrot and Samuel Condrot

### Observer(s)

Michael Gosson  
Eugene Leddy  
Brian Dennehy

**Date of Site Inspection**

1<sup>st</sup> May 2024

**Inspector**

Elaine Power

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## **1.0 Site Location and Description**

- 1.1. The appeal site is located c. 130m south of Upper Main Street, Rush. It is currently vacant and comprises 2 no. former agricultural fields. It is bound to the west by Hands Lane, to the south, east and north west the site by detached dwellings and their associated private open space and to the north east by Bollum Lane and a brownfield site which was granted permission under Reg. Ref. F21A/0455 for a supermarket and commercial units.
- 1.2. The site has a stated area of c. 0.6054 ha. It is irregular in shape and gently slopes in a north south direction. There is an existing agricultural entrance onto Hands Lane at the site's western boundary. The site boundaries generally comprise vegetation with a limited number of trees and a hedgerow along the site's north western boundary.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the construction of 21 no. residential units and a community work hub use. The residential units comprise 15 no. houses, 5 no. duplex units and 1 no. apartment. The works also include a new vehicular access onto Hands Lane, 46 no. car parking spaces, public open space, landscaping, signage, boundary treatments and all other associated works to facilitate the development.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission was refused for 3 no. reasons.

1. The layout and design of the proposed development which comprises two and three storey terraced dwellings, duplex and apartment units and a community work hub facility in a mixed-use layout would constitute a cramped form of development and an overdevelopment of the site and would be incongruous with the established pattern of development in the vicinity at this town centre location. The proposed development is considered to be inconsistent with the pertaining pattern of development and would be injurious to the amenities of the area and would be contrary to Objective PM44 and Objective RF07 of the

Fingal County Development Plan 2017-2023. The absence of suitable pedestrian connectivity to Rush Town Centre/Main Street would be contrary to the Rush Urban Framework Plan 2018 which seeks to increase the vitality and vibrancy of the South Core Opportunity Site. Having regard to the location of the proposed development in the town centre of Rush, and Regional Policy Objective 4.83 of the Regional Spatial Economic Strategy (RSES) for Eastern and Midlands Area 2019-2031, which seeks to 'support the consolidation of the town and village network to ensure that development proceeds sustainably and at an appropriate scale, level and pace in line with the core strategies of the county development plans' and Objective SS20 of Fingal County Development Plan 2017-2023 which seeks to 'Manage the development and growth of Rush in a planned manner linked to the capacity of local infrastructure to support new development', it is considered that the proposed development would be contrary to the settlement hierarchy set out in the RSES for the region, Section 28 guidelines and the Development Plan policies for the area and, as such, would be contrary to the proper planning and development of the area.

2. The subject site is located within a 'Highly Sensitive Landscape' in the Fingal Development Plan 2017-2023. The proposed development, by reason of its design, form, and siting, would be seriously injurious to the visual amenities of the area, would constitute an unduly obtrusive and visually prominent feature in the streetscape, would be out of character with the existing pattern of development and would materially contravene Objective NH36 of the Fingal County Development Plan 2017-2023 which seeks to 'Ensure that new development does not impinge in any significant way on the character, integrity and distinctiveness of highly sensitive areas and does not detract from the scenic value of the area'. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The proposed development would be injurious to the residential amenities of adjoining residences by reason of overlooking and overbearance and would also be injurious to the residential amenity of future residents by reason of inadequate open space provision and overlooking, and it is therefore considered that the proposed development would be contrary to The Sustainable Residential Development in Urban Areas Guidelines (DoEHLG

May 2009) issued to Planning Authorities under Section 28 of the Planning and Development Act 2000 (as amended) and, as such, would be contrary to the proper planning and development of the area.

### 3.2. **Planning Authority Reports**

#### 3.2.1. ***Planning Reports***

The planners report dated 15<sup>th</sup> February 2023 raised concerns regarding the proposed development and recommended that permission be refused for the 3 no. reasons outlined above.

#### 3.2.2. ***Other Technical Reports***

*Conservation Officer:* Report dated 22<sup>nd</sup> December 2022 notes that the design of the scheme needs to be reconsidered to provide a higher quality of design when viewed from the breaks in the streetscape of Main Street and in the context of the protected structure of the thatched collage at no. 14 Main Street Upper, should planning permission under Reg. Ref. 21A/0455 be enacted.

*Environment, Climate Action and Active travel Department:* Report dated 22<sup>nd</sup> December 2022 raised no objection subject to conditions.

*Environmental Health and Air:* Report dated 10<sup>th</sup> January 2023 raised no objection subject to conditions.

*Water Services:* Report dated 17<sup>th</sup> January 2023 raised no objection in principle.

*Parks and Green Infrastructure:* Report dated 10<sup>th</sup> February 2023 recommended that further information be sought regarding the design and layout of the public open space and the proposed swale and details of the hedgerow to be retained on site.

### 3.3. **Prescribed Bodies**

*Uisce Eireann:* Submission dated 17<sup>th</sup> December 2022 raised no objection subject to conditions.

***Department of Housing, Local Government and Heritage: Development Applications Unit:*** The submission dated 27<sup>th</sup> January 2023 is summarised below:

*Archaeology:* having regard to the sites size and location in an area of high archaeological potential it is recommended that archaeological monitoring conditions be attached to any grant of permission.

*Nature Conservation:* The removal of bramble scrub has the potential to disturb badger setts. A badger survey should be undertaken prior to removal of any bramble scrub. If any active badger setts are located mitigation measures must be put in place to protect these species.

### **3.4. Third Party Observations**

14 no. third party submissions were received. The concerns raised are similar to those outlined in the observations below. These generally relate to traffic consideration, lack of pedestrian / cycle connectivity, insufficient public open space, requirement for a workhub space, design is out of character with the area, piecemeal development, negative impact on residential amenity and flood risk.

## **4.0 Planning History**

### ***Appeal Site:***

None

### ***Surrounding Sites:***

There are a large number of applications within Rush. The most relevant planning history is outlined below.

Reg. Ref. 21A/0455: Permission was granted in 2022 for the demolition of no. 10 (rear part only), 12, 14a, and 16 Upper Main Street and the construction of a commercial development including a supermarket (2,808 sqm), modifications and change of use of 18 and 20 Upper Main Street to create 4 no. commercial units including post office, restaurant use, office use and retail use. The development included the change of use and repair of a thatched cottage at 14 Upper Main Street (protected structure) to a public exhibition hall. Vehicular and pedestrian access to the commercial development is off Upper Main Street with secondary pedestrian accesses off Bollum Lane and Cooper's Bank and all associated works. This site is located to the north-east of the appeal site.

Reg. Ref. 22A/0664: Permission was granted in 2021 for the demolition of an existing house and the construction of a mixed-use development comprised of 67 no. residential dwellings and 2 no. retail / commercial units and all associated site development works with access from Upper Main Street. This site is located c. 300m north west of the appeal site.

LH06F.316065 / LRD0005/S3: Permission was granted in 2023 for the demolition of an existing temporary wastewater pumping station and the construction of 159 no. residential units (114 no. houses and 45 no. apartments) and all associated site works on lands of Golden Ridge and east of Kenure Park, Skerries Road, c. 300m north of the appeal site.

## 5.0 Policy Context

### 5.1. Fingal County Development Plan 2023 – 2029

The appeal site is zoned TC Town and District Centre with the associated land use objective to *‘Protect and enhance the special physical and social character of town and district centres and provide and / or improve urban facilities’*. The vision for this land use objective is *to maintain and build on the accessibility, vitality and viability of the existing Urban Centres in the County. Develop and consolidate these centres with an appropriate mix of commercial, recreational, cultural, leisure and residential uses, and to enhance and develop the urban fabric of these centres in accordance with the principles of urban design, conservation and sustainable development. Retail provision will be in accordance with the County Retail Strategy, enhance and develop the existing urban fabric, emphasise urban conservation, and ensure priority for public transport, pedestrians and cyclists while minimising the impact of private car-based traffic. In order to deliver this vision and to provide a framework for sustainable development.*

The development site is located within the boundary of the Rush Urban Framework Plan. There is an objective to provide a cycle route along Hands Lane to the west of the appeal site.



Rush is identified in the Core Strategy as a Self-Sustaining Town. Table 2.14 notes that Rush had a population of 10,339 in 2016 with an estimated population of 11,802 by 2029 and a projected housing demand of 500 no. units. A total of 53ha of land are zoned in Rush for residential uses with a predicted yield of 1,600 no. units.

Table 2.20 states that Self Sustaining Towns are towns with high levels of population growth and a weak employment base which are reliant on other areas for employment and / or services and which require targeted 'catch up' investment to become more self-sustaining.

Chapter 2 notes that Rush is a linear town focused on its long Main Street. The development strategy is to expand the town centre as a commercial, retail, employment and services centre serving the expanding community in line with Rush's designation as a Self-Sustaining Town.

Chapter 14 Development Management Standards and the following policies and objectives are considered relevant:

- Policy CSP12 – NPF and RSES
- Policy CSP14 – Consolidation and Re-Intensification of Infill/Brownfield Sites
- Policy CSP15 – Compact Growth and Regeneration
- Policy CSP18 – Promotion of Residential Development
- Policy CSP19 – Compact, Sequential and Sustainable Urban Growth
- Policy CSP34 – Consolidate Growth of Self-Sustaining Towns
- Objective CSO21 – Promotion of Higher Densities
- Policy CSP38 – Malahide, Balbriggan, Lusk, Portmarnock, Rush and Skerries
- Objective CSO58 – Rush as a Vibrant Town
- Objective CSO62 – Maintenance of Distinct Physical Separation – Lusk, Rush and Malahide.
- Policy SPQHP35 – Quality of Residential Development
- Objective SPQHO31 – Variety of Housing Types
- Policy SPQHP36 – Private and Semi-Private Open Space

- Policy SPQHP38 – Compact Growth, Consolidation and Regeneration
- Objective SPQHO39 – New Infill Development
- Objective DMSO22 – Daylight and Sunlight Analysis
- Objective DMSO23 – Separation Distance
- Objective DMSO90 – Location of Remote Working Hubs Remote.

## 5.2. ***Rush Urban Framework Plan, 2018***

The appeal site is located within the study area of the Rush Urban Framework Plan. The plan notes that the lands within the study area are urban in nature and include a mixture of residential and commercial buildings and that heights are generally 2-storeys with some single storey and 3-storey buildings.

The Plan aims to create a structured development strategy for the town centre of Rush and seeks to identify actions required to encourage the rejuvenation and revitalisation of the town centre area. The objective of the plan is to improve the urban centre and public realm, increase permeability and to develop vacant / infill sites within the town core.

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

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

***Policy Objective 4.83:*** Support the consolidation of the town and village network to ensure that development proceeds sustainably and at an appropriate scale, level and pace in line with the core strategies of the county development plans.

## 5.4. ***National Planning Framework***

The National Planning Framework addresses the issue of 'making stronger urban places' and sets out a range of objectives which it considers would support the creation

of high-quality urban places and increased residential densities in appropriate locations while improving quality of life and place. Relevant Policy Objectives include:

- National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

#### **5.5. Section 28 Ministerial Guidelines**

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

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024
- Quality Housing for Sustainable Communities: Design Guidelines, 2007
- Urban Design Manual, A Best Practice, 2009
- Design Manual for Urban Roads and Streets, 2013
- The Planning System and Flood Risk Management Guidelines, 2008

## 5.6. Natural Heritage Designations

The following sites are within 15km of the appeal site.

- Rogerstown Estuary SPA (004015)
- North West Irish Sea c.SPA (004236)
- Lambay Island SPA (004069)
- Skerries Islands SPA (004122)
- Rockabill SPA (004014)
- Malahide Estuary SPA (004025)
- Baldoyle Bay SPA (004016)
- Irelands Eye SPA (004117)
- North Bull Island SPA (004006)
- Howth Head Coast SPA (004113)
- Rogerstown Estuary SAC (000208)
- Rockabill to Dalkey Island SAC (003000)
- Lambay Island SAC (000204)
- Malahide Estuary SAC (000205)
- Baldoyle Bay SAC (000199)
- Irelands Eye SAC (002193)
- North Dublin Bay SAC (000206)
- Howth Head SAC (000202)

## 5.7. EIA Screening

5.7.1. An Environmental Impact Assessment Screening Report was not submitted with the application.

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

- Construction of more than 500 dwelling units
- Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.
- Item 15: Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

5.7.3. The proposed development comprises the construction of 21 no. residential units and a community work hub facility with all associated infrastructure on a site with a stated area of 0.6 ha. The site is located in the urban area (other parts of a built-up area) and is, therefore, below the applicable thresholds. There are no excavation works proposed. Having regard to the relatively limited size and the urban location of the development, and by reference to any of the classes outlined above, a mandatory EIA is not required. I would note that the development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation. The proposed development would use the public water and drainage services of Uisce Eireann and Fingal County Council, upon which its effects would be marginal.

5.7.4. Given the information submitted by the applicant, having carried out a site visit on the 1<sup>st</sup> May 2024 and to the nature and limited scale of the proposed development, I am satisfied that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. The first party appeal addresses the reasons for refusal and notes that the theme of overdevelopment is referenced in all 3 no. reasons for refusal. To address concerns

raised the applicant has submitted revised development with the appeal, the submission includes revised drawings and a Design Statement. The revised proposal submitted with the appeal comprises 16 no. 2-storey houses, the remote work hub has been omitted. The main grounds of the appeal are summarised below.

*First Reason for Refusal – Overdevelopment*

- This is an under-utilised Town Centre site. The proposed scheme was designed with regard to the provisions of national policy and to provide a sustainable density.
- At this transitional location it is acknowledged that the scheme could be considered overdevelopment.
- The revised scheme comprises a low-density residential scheme and addresses the first reason for refusal.
- The revised scheme would not negatively impact on any existing residential amenities.
- In response to concerns raised by the planning authority the revised scheme removes the pedestrian access to Bollum Lane to the north of the site. The applicant has no ownership over this laneway. However, having regard to the provisions of the Rush Urban Framework Plan, 2018, regarding pedestrian connectivity, they are happy to accept a condition requiring a pedestrian link to Main Street via Bollum Lane.
- The appeal site is less than 200m from Main Street.
- The scheme is in accordance with the provisions of Regional Spatial and Economic Strategy and development plan to support the consolidation of the town. The scheme is of an appropriate height, scale with high quality finishes and consistent with the suburb of Rush.
- The scheme would have a minimal impact on the capacity of existing infrastructure.

### *Second Reason for Refusal – Visual Impact*

- The planner's report does not provide any assessment with regard to reason no. 2. It is unclear how the scheme is not compliance with Objective NH36 of the previous development plan.
- The site currently comprises a nondescript pair of agricultural fields. The scheme does not cause the disturbance or loss of any landscaping elements identified in the policy objective.
- The revised scheme submitted with the appeal provides an appropriate form of development which directly response to the receiving environment while maintaining a residential density which ensures the efficient use of zoned and serviced land. The revised layout significantly increases useable open space by over 11% of the total site area.

### *Third Reason for Refusal - Residential Amenity*

- Neither the original scheme or the revised scheme submitted with the appeal would negatively impact on existing or proposed residential amenities, in terms of overlooking or overbearing impact.
- The revised proposal, which reduces the number of units and omits the work hub results in a substantial reduction in the quantum of development and the associated visual impact.

### *Precedent*

- Details of 6 no. recent applications for residential developments in Rush are provided. These schemes range from 7 – 36 no. units with a density of between 20 – 30 units per ha.
- The scheme would be in accordance with the provisions of the Core Strategy of the development plan.

### *Conclusion*

- The proposed development is compliant with the quantitative and qualitative standards in the development plan.
- The scheme represents a high quality and modest edition to Rush and would provide a high-quality standard for future occupants.

- It is requested that the Board acknowledged the revised scheme to take account of the concerns raised.

## **6.2. Planning Authority Response**

The planning authority's submission was received on the 20<sup>th</sup> April 2023. It notes the amendments to the scheme and considers them to be significant. Despite the amendments it is considered that the scheme does not integrate with the town centre.

In the event that permission is granted it is recommended that a Section 48 development contribution condition, contribution in lieu of open space and a bond condition be attached.

## **6.3. Observations**

3 no. observations were received from Michael Gosson, Eugene Leddy and Brian Dennehy. The concerns raised are similar and are summarised below.

### *Transportation*

- A traffic survey is required for a full assessment of the impact of the scheme. This should assess the cumulative impact of recent grants of permission in Rush.
- The scheme should be connected to the town centre by a continuous footpath.
- Improvements to the junction of Hand's Lane and Main Street to ensure pedestrian safety, including a new pedestrian crossing.
- The proposed footpath on Hands Lane should be incorporated into the development site to ensure there is sufficient width on Hands Lane for 2 cars to pass.

### *Flood Risk*

- Sections of the existing site are prone to flooding. The development of the site could potentially increase the risk of flooding to surrounding sites.
- The proposed swale is dangerous to children. There should be sufficient drainage within the site to accommodate surface water run-off.



- Concern raised over maintenance and management of the location of the proposed swale. It would be better to incorporate it into the area of open space.

#### *Design Approach*

- There is no demand in Rush for a remote work hub facility.
- The proposed development represents piecemeal development which is contrary to the provisions of the Rush Urban Framework Plan.
- Higher density schemes should be located away from Main Street.
- The application does not include an assessment of daylight / sunlight as required in the development plan.
- The green spaces adjacent to the access are too small and would not be usable. This area could be used as a footpath.
- The red brick finish is not in keeping with the surrounding area. External materials should be similar to existing properties, generally limestone or render.
- If Hands Lane is being dug up to facilitate access to the existing wastewater network the entire lane should be resurfaced.
- Concerns regarding anti-social behaviour if Bollum Lane is used as a pedestrian link between the site and Main Street. Bollum Lane is also a very narrow lane with a number of vehicular access points.

#### **6.4. Further Responses**

None

### **7.0 Assessment**

- 7.1. Having examined the appeal details and all other documentation on file, including all of the submissions received in relation to the appeal, the report/s of the local authority and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development

- Design Approach
- Visual Amenity
- Residential Amenity
- Transportation
- Water Services and Flood Risk
- Archaeology
- Ecology
- Appropriate Assessment.

## 7.2. ***Principle of Development***

- 7.2.1. The proposed development comprises the construction of 21 no. residential units and a 142sqm community work hub facility, with an estimated 20 no. persons per day. The works also include a new vehicular access onto Hands Lane, 46 no. car parking spaces, public open space (517sqm), landscaping, signage, boundary treatments and all other associated works to facilitate the development.
- 7.2.2. To address the reasons for refusal issued by the planning authority the applicant submitted a revised scheme with the appeal. The revised scheme comprises the construction of 16 no. houses. The works also include a new vehicular access onto Hands Lane, 31 no. car parking spaces, public open space (678sqm), landscaping, signage, boundary treatments and all other associated works to facilitate the development. The proposed amendments are noted. However, I agree with the submission from the planning authority in response to the appeal that the proposed amendments are significant. In my view if the Board wish to consider the revised proposal submitted with the appeal, the scheme would need to be re-advertised. Therefore, my assessment is based on the scheme submitted to and assessed by the planning authority.
- 7.2.3. The planning authority's first reason for refusal raised concerns that the proposed development would be contrary to the settlement hierarchy set out in the RSES for the region, Section 28 guidelines and the Development Plan policies for the area, in particular Objective SS20 of Fingal County Development Plan 2017-2023.

- 7.2.4. The planning authority assessed the scheme against the provisions of the Fingal County Development Plan 2017 - 2023, which was the relevant statutory plan in place when the application was decided. The current development plan was adopted in April 2023 and my assessment is based on the policies and objectives of the current statutory plan, which is the Fingal County Development Plan 2023-2029. Objective SS20 of the previous development plan aimed to manage the development and growth of Rush in a planned manner linked to the capacity of local infrastructure to support new development. A similar policy has not been included in the current development plan. However, from the information available on the file, in the development plan and the submission from Uisce Eireann I am satisfied that there is sufficient capacity to accommodate the proposed development. It is also my view that the proposed scheme would be in accordance with Policy CSP38 of the current development plan to consolidate development and protect the unique identity of Rush.
- 7.2.5. The appeal site is zoned TC Town and District Centre with the associated land use objective to *'protect and enhance the special physical and social character of town and district centres and provide and / or improve urban facilities'*. The vision for this land use objective is *to maintain and build on the accessibility, vitality and viability of the existing Urban Centres in the County. Develop and consolidate these centres with an appropriate mix of commercial, recreational, cultural, leisure and residential uses, and to enhance and develop the urban fabric of these centres in accordance with the principles of urban design, conservation and sustainable development. Retail provision will be in accordance with the County Retail Strategy, enhance and develop the existing urban fabric, emphasise urban conservation, and ensure priority for public transport, pedestrians and cyclists while minimising the impact of private car-based traffic. In order to deliver this vision and to provide a framework for sustainable development.* Residential uses and work hubs are permitted in principle on lands zoned Town and District Centre.
- 7.2.6. The development plan notes that Rush is a linear town, with development focused primarily on its long Main Street. The development strategy for Rush as set out in Chapter 2 of the development plan is to expand the town centre as a commercial, retail, employment and services centre serving the expanding community in line with Rush's designation as a Self-Sustaining Town. The site is located c. 130m south of

Rush Main Street and is within the study area for the Rush Urban Framework Plan. The Urban Framework Plan aims to create a structured development strategy for the town centre of Rush and seeks to identify actions required to encourage the rejuvenation and revitalisation of the town centre area. The objective of the plan is to improve the urban centre and public realm, increase permeability and to develop vacant / infill sites within the town core. The South Core opportunity site has a total developable area of 2.2ha and incorporates the eastern portion of the appeal. I am satisfied that the proposed development is in accordance with the sites zoning objective and the provisions of the UFP.

- 7.2.7. Regional Policy Objective 4.83 of the Regional Spatial Economic Strategy (RSES) for Eastern and Midlands Area 2019-2031 *aims to support the consolidation of the town and village network to ensure that development proceeds sustainably and at an appropriate scale, level and pace in line with the core strategies of the county development plans.* Rush is identified in the Core Strategy of the development plan as a Self-Sustaining Town. Table 2.14 notes that Rush had a population of 10,339 in 2016 with an estimated population of 11,802 by 2029 and a projected housing demand of 500 no. units. A total of 53ha of land are zoned in Rush for residential uses with a predicted yield of 1,600 no. units. I am satisfied that the provision of 21 no. residential units on this zoned and serviced site would be in accordance with the provisions of the core strategy of the development plan and the provisions of Policy Objective 4.83 of the RSES.
- 7.2.8. In my view the relevant Section 28 Ministerial Guidelines are the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024, Quality Housing for Sustainable Communities: Design Guidelines, 2007, Apartment Guidelines, 2022, Urban Design Manual, A Best Practice, 2009, Design Manual for Urban Roads and Streets, 2013 and the Planning System and Flood Risk Management Guidelines, 2008. The relevant provisions of these guidelines and how they relate to the proposed development are addressed in my report below, however, I am satisfied that the proposed scheme is in accordance with the provisions of these Section 28 Guidelines.
- 7.2.9. Overall, I am satisfied that the proposed development on this serviced and zoned site is in accordance with the provisions of the development strategy for Rush as set out

in the Fingal County Development Plan 2023 - 2029 and the Rush Urban Framework Plan, 2018 and would support the consolidation of the town in accordance with the provisions of the Regional Policy Objective 4.83 of the RSES for Eastern and Midlands Area 2019-2031. Therefore, I do not agree with the planning authority that this should form the basis of a reason for refusal of permission.

### **7.3. Design Approach**

- 7.3.1. The planning authority's first reason for refusal also considered that the layout and design of the proposed development would constitute a cramped form of development and an overdevelopment of the site and would be incongruous with the established pattern of development in the vicinity at this town centre location. It also considered that the proposed development is inconsistent with the pertaining pattern of development and would be injurious to the amenities of the area and would be contrary to Objective PM44 and Objective RF07 of the Fingal County Development Plan 2017-2023.
- 7.3.2. As noted above my assessment is based on the policies and objectives of the current statutory plan, which is the Fingal County Development Plan 2023-2029. Objective SPQHO42 of the current plan has replaced Objective PM44. Both objectives aim to *encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected*. In my view the appeal site is not an infill, corner or backland site in an existing residential area. It is a greenfield site within the town centre, therefore, this policy is not considered relevant in this instance. Objective SPQHO59 of the current development plan has a similar wording to Objective RF07. It aims to preserve, protect and enhance the natural, built and cultural heritage features of Rural Villages. As noted above Rush is identified in the development plan as a Self-Sustaining Town with a population of 10,339 in 2016. It is my view that Rush is not a Rural Village and therefore, this policy is not considered relevant in this instance.
- 7.3.3. The appeal site formerly comprised 2 no. agricultural fields. It is currently vacant and overgrown. While the appeal site is within close proximity to the town centre it is suburban in character and is generally surrounded by a low-density linear form of residential development fronting onto Hands Lane. The proposed scheme comprises

21 no. residential units and a 142sqm community work hub facility, generally laid out in a linear pattern on either side of the proposed access road. An area of public open space is proposed on the northern side of the access road. Vehicular access to the site is proposed from a new entrance onto Hands Lane to the east of the site and an additional pedestrian access from Bollum Lane to the north of the site. To achieve a gravity flow drainage network within the site, it is proposed raise the site ground level by c. 700mm – 800mm.

- 7.3.4. There is a discrepancy in the documentation submitted, in some instances it states that the residential units comprise 15 no. houses, 5 no. duplex units and 1 no. apartment. However, in other instances the documentation, and the drawings submitted, clearly indicate that the scheme consists of 19 no. houses, 1 no. duplex unit and 1 no. apartment. The discrepancies appear to relate to House Type 4, which is referred to as Block A. These units are located on the northern portion of the site. The drawings indicate that they comprise a terrace of 4 no. 2-storey, 2-bed dwellings, however, the planning report refers to these units (House Type 4) as duplex units. The planning authority also referred to these as duplex units, however, it is my view that they are traditional style houses and that the applicable room sizes and open space requirement should be adhered to with regard to these units.
- 7.3.5. The overall unit mix comprises 5 no. (23.8%) 4-beds, 7 no. (33.3%) 3-beds, 9 no. (42.9%) 2-bed units. There are 5 no. different unit types, ranging in size from a 4-bed (140sqm) house to a 2-bed (83sqm) apartment. The units are predominantly 2-storeys in height with. House Type 1, which consist of 5 no. end of terrace houses, on the southern portion of the site, are 2-storeys with a dormer at attic level. The scheme also includes a 3-storey mixed use block (Block B), at the sites north-eastern corner. This block includes the work hub at ground floor level, an apartment at first floor level and a 2-storey apartment / duplex unit at first and second floor level.
- 7.3.6. The information submitted on the drawings indicate that all houses, including House Type 4, reach and exceed the minimum requirements for space provision and room sizes set out in the Quality Housing for Sustainable Communities Guidelines. The 2 no. apartments provided in Block B (mixed use block) reach and exceed the standards set out in the Apartment Guidelines. It is noted that all units are dual or triple aspect.

7.3.7. Objective DMSO27 requires a minimum of 60sqm of private open space, located behind the building line, for 3-bed houses and 75sqm for 4-bed houses and Objective DMSO28 requires a minimum of 48sqm of private open space for one and two bed townhouses. The private open space provision for 15 no. houses (House Types 1, 2, and 3) are all in excess of these standards. However, the private open space for the 4 no. House Type 4 (2-bed) units falls significantly below the 48sqm standard. The proposed private open space provision ranges from 22.1sqm to 40.4sqm. It is noted that the larger private open space area incorporates a narrow strip to the side of the dwelling and in accordance with Objective DMSO27 would not be considered usable open space. It is noted that the private open space provision for these units would be in excess of the requirements set out in the Apartment Guidelines, however, in my opinion these units are traditional houses. Therefore, having regard to the size and unrestricted nature of this site it is my view that there are no exceptional circumstances that would allow for the under provision of private open space and that the open space provision does not comply with Objective DMSO28. It is also noted that the proposed quantum of private open space for the 4 no. (House Type 4) dwellings also fall below the minimum private open space standard of 30sqm for a 2-bedroom house, as set out in SPPR 2 of the Compact Settlement Guidelines.

7.3.8. The rear building line of the 4 no. dwellings (House Type 4 / Block A) are located a maximum of c. 4m from the site northern boundary. The private open space provision could be increased by relocating these dwellings further south. However, this would reduce the quantum of public open space. It is my view that the applicant did not have adequate consideration to the design and layout of these dwellings, and it is my recommendation that these units be permanently omitted from the scheme and the public open space be extended into this area. It is noted that the revised layout submitted with the appeal also omitted these dwellings and extended the area of public open space, which increased the proposed area of public open space to c. 678sqm.

7.3.9. House no. 1 and 12 sit at the site's western boundary with Hands Lane. House no. 12 (Type 3a) has been designed with a large ground floor window on the western (side) elevation. The contextual elevation drawing (2115\_321) indicates that a low wall would be provided along the sites boundary for c. 28m with a higher (2m) wall provided for c. 15m along the site's boundary with the private amenity space associated with House

12. This is considered an appropriate design response. House no. 1 also sits at the site's boundary with Hands Lane. However, this house (House Type 1A) has been designed with a more traditional design approach and does not provide any frontage onto Hands Lane. The proposed layout results in the provision of a c. 2m high wall for c. 23m at the site's western boundary. To improve the relationship of the proposed scheme with the existing streetscape it is my recommendation that proposed House 1 be redesigned to provide direct frontage onto Hands Lane, which may also incorporate some of the linear green area / incidental open space that is immediately adjacent to the house. The revised design has the potential to reduce the length of the proposed 2m high gable wall by c. 10m. It is considered that this could be addressed by way of condition.

7.3.10. The drawings submitted indicate that the predominate external material would be render with elements of red brick at ground floor level of the houses and in Blocks A and B. It is noted that the observers raised concerns regarding the use of red brick and recommend that limestone or render would be a more suitable material having regard to the surrounding character of the area. While it is noted that the dwellings in the immediate vicinity of the site have render finish, I have no objection in principle to the proposed external materials and consider that they complement each other. Notwithstanding this it is my view render is not a durable material. To ensure a high-quality finish is achieved it is recommended that a brick / cladding finish also be provided on the upper (first and second) floor levels of Block B. If permission is being considered it is recommended that final details of all external finishes be agreed with the planning authority.

7.3.11. It is noted that the report of the planning authority's conservation officer states that the design of the scheme needs to be reconsidered to provide a higher quality of design when viewed from the breaks in the streetscape of Main Street and in the context of the protected structure of the thatched collage at no. 14 Main Street Upper, should planning permission under Reg. Ref. 21A/0455 be enacted. The rear elevation of the protected structure at No. 14 Main Street Upper is located c. 90m from the appeal site's northern boundary. It is also noted that boundary of the appeal site does not directly oppose the protected structure. It is noted that the redevelopment of the site to the north-east of the appeal site (approved under Reg. Ref. 21A/0455) would impact on



the character and setting of the protected structure. However, I am satisfied that due to the nature, scale and height of the proposed development, to the urban location and the separation distance between the proposed development and the protected structure that it would be no impact on the character or setting of the protected structure and that a re-design of the scheme is not necessary in this instance.

- 7.3.12. The third parties consider that the proposed site should be set back to ensure there is sufficient width on Hands Lane for 2 no. cars to pass. The carriageway along the sites western boundary is c. 5m in width. It is proposed to set the site back to provide a 1.8m wide footpath and a grass verge, of varying widths. I have no objection to the existing width of the carriageway and consider it sufficient to allow 2 no. vehicles to pass. However, it is my recommendation that the proposed footpath should be a minimum of 2m in width. I am satisfied that this could be addressed by way of condition.
- 7.3.13. The first reason for refusal also considered that the proposed development would result in overdevelopment of the site. The proposed scheme has a density of 35 units per ha. The omission of 4 no. houses as recommended above would result in a density of c. 28 units per ha. The development plan does not set out blanket density standards. However, Policy HO P5 aims to promote a high quality of design and layout in new residential developments at appropriate densities.
- 7.3.14. Rush is identified as a Self-Sustaining Town in the development plans Core Strategy. Table 3.5 of the Sustainable Residential Development and Compact Settlements Guidelines sets out density ranges of 40 – 100 units per ha for centre and urban neighbourhoods in a Key Town / Large Town. A Large Town is identified as a settlement with a population of over 5,000. The guidelines note that the centre comprises the town centre and the surrounding streets, while urban neighbourhoods consist of the early phases of residential development around the centre that have evolved over time to include a greater range of land uses. Having regard to the site's proximity to Main Street, its location within the Urban Framework Plan and its Town and District Centre Zoning objectives it is my view that the site is within the town centre and that a density of 40-100 units per ha would be acceptable in principle.

- 7.3.15. The proposed density falls below the recommended density target, and it is my view that this site is capable of accommodating an increased density, at the lower end the Compact Settlement Guidelines targets. However, having regard to the established pattern of development along Hands Lane and to the recent grant of permission for (LH06F.316065 / LRD0005/S3) for 159 no. residential units with a density of 35 units per ha on a site located c. 300m north of the appeal site. The proposed density is considered acceptable in this instance.
- 7.3.16. Plot ratio and site coverage are also relevant considerations to help control the bulk and mass of buildings and prevent the adverse effects of overdevelopment. The scheme has a plot ratio of 0.4 and a site coverage of 25%. The development plan does not set out standards for plot ratio or site coverage, however, having regard to the proposed density, plot ratio and site coverage, it is my view that the proposed scheme would not result in overdevelopment of the site.
- 7.3.17. In addition, the National Planning Framework, the Regional Spatial and Economic Strategy and the Apartments Guidelines, all support higher density developments in appropriate locations, to avoid the trend towards predominantly low-density commuter-driven developments.
- 7.3.18. The proposed scheme also includes a community work hub facility with capacity for c. 20 no. persons per day. Third parties raised concerns regarding the requirement for a work hub within Rush. Objective DMSO90 states that *remote working hubs should be located in major and local town centres and rural villages. The facility should include independent working spaces, meeting rooms and communal facilities for users. Bicycle and vehicular parking provision shall be in accordance with the standards required for office development.* The internal layout of the work hub provides for individual work spaces, a communal work space and a separate office, associated toilet and kitchen facilities are also proposed. The scheme includes 4 no. dedicated car parking spaces to serve the work hub with an additional 9 no. visitor spaces to serve the overall development. In addition, 20 no. communal bike parking spaces are provided to the north of Block B. It is proposed that these spaces would serve Blocks A and B. I have no objection to the provision of car or bicycle parking to serve the work hub facility. I am satisfied that the proposed work hub facility is in accordance with the provisions of Objective DMSO90 and the sites zoning objective.

7.3.19. In conclusion, I do not agree with the planning authority that the development would constitute a cramped form of development and an overdevelopment of the site and would be incongruous with the established pattern of development in the vicinity at this town centre location. I am satisfied that the proposed development represents a reasonable response to its context and would contribute to the consolidation of the urban environment. I am also satisfied that the proposed scheme is in accordance with the provisions of national, regional and local policy objectives and is, therefore, acceptable.

#### 7.4. **Visual Amenity**

7.4.1. The planning authority's second reason for refusal notes that the appeal site is located within a 'Highly Sensitive Landscape' and that the scheme would materially contravene Objective NH36 to '*Ensure that new development does not impinge in any significant way on the character, integrity and distinctiveness of highly sensitive areas and does not detract from the scenic value of the area*'. Objective GINHO59 – Objective NH36 to of the current development plan has a similar wording to Objective NH36 of the previous development plan.

7.4.2. The appeal site comprises 2 no. vacant fields within the urban area of Rush. The Green Infrastructure Maps which form part of the development plan indicate that the appeal site is not located within a highly sensitive landscape and is not subject to any designation. Therefore, I am satisfied that the proposed scheme would not materially contravene Objective GINHO59 of the current development plan.

7.4.3. The second reason for refusal also considered that the proposed development, by reason of its design, form, and siting, would be seriously injurious to the visual amenities of the area, would constitute an unduly obtrusive and visually prominent feature in the streetscape, would be out of character with the existing pattern of development. As noted above the proposed scheme which comprises 21 no. residential units and a work hub facility is laid out in a traditional linear pattern of development. It is primarily 2-storey in height with a 3-storey element at Block B at the rear (eastern) portion of the site. I am satisfied that the design and layout of the scheme is a reasonable response to its urban context and that it would not result in a

development that is visually obtrusive. Therefore, I disagree with the planning authority that this should form the basis of a reason for refusal.

## **7.5. Residential Amenity**

- 7.5.1. The planning authority's third reason for refusal considered that the proposed development would be injurious to the residential amenities of adjoining residences by reason of overlooking and overbearance and would also be injurious to the residential amenity of future residents by reason of inadequate open space provision and overlooking and would therefore be contrary to The Sustainable Residential Development in Urban Areas Guidelines.
- 7.5.2. The Sustainable Residential Development in Urban Areas Guidelines were superseded by the Sustainable Residential Development and Compact Settlement Guidelines in January 2024. SPPR 1 – Separation Distances of the Sustainable Residential Development and Compact Settlement Guidelines requires a minimum separation distance between opposing windows above ground floor level.
- 7.5.3. Objective DMSO23 of the development plan requires a *separation distance of a minimum of 22 metres between directly opposing rear first floor windows shall generally be observed unless alternative provision has been designed to ensure privacy. In residential developments over three-storeys in height, minimum separation distances shall be increased in instances where overlooking or overshadowing occurs.* In addition, Objective DMSO26 aims to ensure a separation distance of at least 2.3 metres is provided between the side walls of detached, semi-detached and end of terrace units.
- 7.5.4. To the north the site is bound by 2 no. existing dwellings and a development site approved under F21A/0455. The rear elevation of the 3 no. House Type 3 dwelling located on the north-western portion are located c. 12.5m from the side elevation of an existing dwelling fronting onto Hands Lane. The proposed House Type 3 dwellings and the existing house to the north of these proposed dwellings are single storey. Therefore, there are no directly opposing windows above ground floor level. The rear elevation of this existing dwelling is located c. 13m from the side elevation of house no. 16 (House Type 4 / Block A). There are no windows on the first-floor side elevation of House no. 16 and the existing dwelling is single storey. Therefore, there are directly

opposing windows. The rear elevation of the 4 no. dwellings that comprises Block A (House Type 4) are also located c. 24m from the front elevation of a dwelling located off Bollum Lane to the north of the appeal site. I am satisfied that the proposed development would not unduly overlook the existing dwellings to the north.

7.5.5. To the south the site is bound by the gable (side) elevation of 1 no. dwelling, the rear elevation of 2 no. houses and a vacant field. There is a distance of 17.5m between the rear elevation of the proposed houses (number 1 – 4) and the side elevation of the adjacent dwelling to the south. There is also a minimum separation distance of c. 30m between the rear elevation of the proposed dwellings (numbers 5-12) and the existing 2 no. dwellings to the south. I am satisfied that the proposed development would not unduly overlook the existing dwellings to the south.

7.5.6. There is 1 no. existing dwelling located to the east of the appeal site. Proposed House no. 12 is located minimum of c. 12m from the rear elevation of this dwelling. However, due to the design and layout of the scheme there are no directly opposing windows.

7.5.7. Block B which is the 3-storey block containing the work hub and 2 no. residential units is located a minimum of c. 1.5m from the sites north-eastern boundary with the development site approved under F21A/0455. There is a first-floor bedroom window in Block B that would directly oppose the adjacent site. However, as the proposed scheme is commercial, and Block B would be located adjacent to a surface car park I am satisfied that it would not impede the development of the adjacent site and would provide passive surveillance of the car park area.

7.5.8. I am satisfied that the proposed separation distances are in accordance with the provisions of SPPR 1 of the Sustainable Residential Development and Compact Settlement Guidelines and the provisions of the development plan.

7.5.9. While it is acknowledged that the proposed development would be visible from the surrounding existing properties, I am satisfied that due to the proposed separation distances and the orientation and limited height of the scheme that it would not have an overbearing impact.

7.5.10. Concerns are raised in the observations that the application does not include an assessment of daylight / sunlight as required in the development plan. Objective

DMSO22 requires that Daylight and Sunlight analysis for all proposed developments of 50+ units or as required by the Planning Authority, depending on the context of the site and neighbouring property as well as the design of the development. Having regard to the limited nature and scale of the proposed development I am satisfied that a daylight and sunlight assessment is not required in this instance.

7.5.11. In addition, Section 5.3.7 of the Sustainable and Compact Settlements Guidelines notes that the provision of acceptable levels of daylight in new residential developments is an important planning consideration. However, planning authorities do not need to undertake a detailed technical assessment in relation to daylight performance in all cases and that in the case of low-rise housing with good separation distances, it should be clear from the assessment of architectural drawings that undue impact would not arise. Given the characteristics of the proposed development I am satisfied that it would not result in overshadowing of any existing or proposed residential dwellings and a technical assessment of daylight, sunlight and overshadowing performance is not necessary in this instance.

7.5.12. The planning authority's third reason for refusal also considered that the proposed scheme would be injurious to the residential amenity of future residents by reason of inadequate open space provision. As noted above, I have concerns regarding inadequate provision of private open space for the 4 no. (House Type 4) dwellings in Block A. However, the planning authority's concerns appears to relate to public open space provision.

7.5.13. The proposed scheme incorporates a central area of 517sqm of public open space. It is noted that an additional 233sqm of open space is proposed along the site's western boundary with Hands Lane and there are incidental areas of open space surrounding Block B. The 233sqm area at the sites western boundary would be in use as a swale for the purpose of surface water drainage. I agree with the assessment of the planning authority's Parks and Green Infrastructure Division that the linear swale area and the incidental areas of open space do not meet development plan standards due to their function and use. Therefore, these areas are excluded from the overall quantum of public open space.

- 7.5.14. Table 14.12 of the development plan sets out an overall open space standard of 2.5ha per 1,000 population and 12% - 15% of the sites area as public open space for new residential developments on greenfield sites. Objective DMSO52 requires that public open space provision be provided in accordance with these standards. It is noted that Objective DMSO53 allows for a financial contribution in lieu of public open space. In the response to the appeal the planning authority also requested that a condition requiring a financial contribution in lieu of public open space be attached to any grant of permission.
- 7.5.15. Based on the unit mix it is my view that the proposed scheme could accommodate a maximum of 92 no. bedspaces. The open space requirement of 2.5ha per 1,000 persons equates to 25sqm per person. Therefore, the proposed scheme would require 2,300sqm of public open space. The proposed quantum falls significantly below this standard. Given the overall sites of the site (0.6ha) and its town centre zoning objective it is my view that this quantum of open space would be excessive in this instance and that the 12% -15% standard may be considered more appropriate.
- 7.5.16. The provision of 517sqm equates to 8% of the total site area. The quantum of public open space falls below both standards required under Objective DSMO52. However, as noted above, it is my recommendation that 4 no. (House Type 4) dwellings be omitted from the scheme and the resulting area be incorporated into the area of public open space. The drawings submitted with the appeal include a similar layout. With the omission of the 4 no. dwellings the public open space provision is increased to c. 678sqm, which equates to c. 11.2% of the total site area. It is noted that this still falls below the 12% - 15% required under Objective DMO52. However, having regard to the provisions of Objective DMSO53, which allows for a financial contribution in lieu of public open space it is my view that it is not a material contravention of the development plan and could be addressed by way of condition. Note 5 of the Fingal County Council Development Contribution Scheme 2021 - 2025 notes that the development plan provides the discretion to the Council to determine a financial contribution in lieu of all or part of the open space requirement for a particular development and that the contributions collected will be used for the provision of open space, recreational and community facilities and amenities and landscaping works.

7.5.17. In addition to the above, Policy and Objective 5.1 of the Compact Settlement Guidelines set out a requirement of not less than a minimum of 10% of net site area. Therefore, subject to the omission of the 4 no. dwellings and the resulting space being incorporated into the area of public open space. I am satisfied that the quantum of public open space would be in accordance with the provisions of the Compact Settlement Guidelines.

7.5.18. It is noted that no communal open space is proposed for the 2 no. residential units in Block B. The Apartment Guidelines set out a standard of 7sqm per 2-bed unit. Therefore, there is a requirement for 14sqm of communal open space to serve these units. It is noted that Objective DMSO24 requires apartment developments to comply with the provisions of the Apartment Guidelines. Section 4.11 of the Guidelines note that regard must be had to the maintenance of communal amenity areas in order to ensure that this is commensurate with the scale of the development and does not become a burden on residents. Having regard to the limited (2 no.) of apartments, the town centre location and the provision of private and public open space to serve the apartment units I am satisfied that in this instance communal open space is unnecessary.

## **7.6. *Transportation***

7.6.1. The third parties raised concerns that a traffic survey is required to allow for a full assessment of the impact of the scheme and the cumulative impact of recent grants of permission in Rush. In accordance with the thresholds set out in Traffic and Transport Assessment Guidelines published by TII, I am satisfied that due to the nature and scale of the proposed development there is no requirement to carry out a Traffic Assessment. The concerns of the third parties are noted, however, I am satisfied that the traffic potentially generated by the proposed scheme would not have a significant negative impact on the capacity of the surrounding network. It's noted that no concerns were raised by the planning authority in this regard.

7.6.2. The planning authority's first reason for refusal also considered that in the absence of suitable pedestrian connectivity to Rush Town Centre / Main Street the proposed scheme would be contrary to the Rush Urban Framework Plan 2018 which seeks to increase the vitality and vibrancy of the South Core Opportunity Site.



- 7.6.3. The proposed site is located c. 130m south of Main Street. On the eastern side of Hands Lane there are 5 no. dwellings and the rear yard of commercial units fronting onto Main Street. There is a footpath for c. 40m outside of 2 no. residential dwellings. There is also a footpath for c. 25m along the side of the commercial unit. There is a private grass verge / gravel area provided outside of the remaining 3 no. dwellings on the eastern side of the road. On the opposite (western) side of Hands Lane there is a footpath for c. 70m outside of the residential development of Beach Court, which comprises 8 no. dwellings. There is also a grass verge and paved area outside of 2 no. dwellings on Hands Lane.
- 7.6.4. It is acknowledged that the public footpath is narrow and disjointed. In addition, during my site visit on the 1<sup>st</sup> May 2024 vehicles were parked along the footpath, which further reduced its usability. However, having regard to the availability of a footpath, in conjunction with private strips of gravel / grassed areas outside of existing residential properties, the site's location within the urban area of Rush and the relatively limited number of pedestrian movements that would potentially be generated by the proposed development it is my view that the existing pedestrian infrastructure is sufficient and the proposed scheme is not reliant on upgrades to the public road. It is also noted that the proposed site would be set back to provide a new 1.8m footpath along its boundary with Hands Lane.
- 7.6.5. To improve permeability the applicant also proposed to provide a pedestrian link from the site's northern boundary to Main Street via Bollum Lane. Bollum Lane is a c. 3m wide public laneway which provides access to 4 no. residential dwellings and the rear of a commercial unit, which fronts onto Main Street. Concerns were raised by the planning authority regarding the use of Bollum Lane due to a potential negative impact on existing residential amenities for dwellings on the laneway and a potential for vehicular and pedestrian conflict. The narrow width of the laneway is noted. However, as this is a public laneway, with unrestricted access from Main Street, with existing vehicular and pedestrian movements. Due to the narrow width and relatively short length (80m) of the laneway between the appeal site's northern boundary and Main Street I am satisfied that vehicle speed on the laneway would be slow. It is also my view that the proposed development would not generate significant pedestrian movements onto the laneway and, therefore, would not seriously injure the existing residential amenities of properties on the laneway or endanger public safety.

Therefore, I have no objection to the use of this laneway as a pedestrian access route between the appeal site and the town centre.

7.6.6. As noted above the eastern portion of the site is located within the South Core Opportunity site. The vast majority of the south core opportunity site was approved planning permission in 2022 under Reg. Ref. 21A/0455. This permission approved the demolition of no. 10 (rear part only), 12, 14a, and 16 Upper Main Street and the construction of a commercial development including a supermarket (2,808 sqm), modifications and change of use of 18 and 20 Upper Main Street to create 4 no. commercial units including post office, restaurant use, office use and retail use. The development included the change of use and repair of a thatched cottage at 14 Upper Main Street (protected structure) to a public exhibition hall and all associated works. During my site visit on the 1<sup>st</sup> May 2024 there was no construction related activity noted on the site. It is my recommendation that the proposed internal footpath of the proposed scheme be constructed up to the boundary with this adjacent site to allow additional permeability. It is acknowledged that this link would require third party agreement. However, the proposed scheme should be designed to allow for full permeability to all future development sites. This link would also provide an alternative pedestrian link between the appeal site and the town centre.

7.6.7. The third parties also consider that to ensure pedestrian safety the scheme should include improvements to the junction of Hand's Lane and Main Street including a new pedestrian crossing. Having regard to the relatively limited number of additional pedestrian movements likely generated by the scheme, I am satisfied that it is not reliant on the upgrade of the existing junction with the town centre.

7.6.8. I am satisfied that the proposed scheme would not endanger public safety by reason of a traffic hazard, would improve permeability within the town and would be in accordance with the provisions of the Rush UFP to increase the vitality and vibrancy of the South Core Opportunity Site.

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

7.7.1. The proposed scheme would connect to the existing foul sewer located under Hands Lane to the west of the site. It is noted that to achieve a gravity flow system it is proposed raise the site ground level by c. 700mm – 800mm throughout the site. This

is considered acceptable. The site would also be connected to the existing water main under Hands Lane.

- 7.7.2. The applicants Engineering Report notes that there are no formal surface water sewers on Hands Lane, the closest sewer is located c. 225m south of the appeal site at the junction of Hands Lane and South Shore Road. Site investigations undertaken indicate the site has a relatively high-water table. Therefore, the design of the scheme should avoid deeper soakaway structures which may not function during periods when the water table is elevated. It is noted that the site levels would be raised as part of the development and further tests would need to be undertaken. The Engineering Report states that surface water would be infiltrated within the site through a range of SuDS measures and the final discharge from the site would be zero. An overflow swale is proposed at the site's eastern boundary. This swale would only become active in extreme storm events. It is noted that the planning authority raised no objection to the surface water proposals. The report states that the scheme has been designed in accordance with the Greater Dublin Drainage Strategy Study and best practice guidelines.
- 7.7.3. Concerns are raised by the third parties that the proposed swale is dangerous to children and that there should be sufficient drainage within the site to accommodate surface water run-off. From the information submitted I am satisfied that the applicant has given adequate consideration to the surface water drainage requirements of the site and run-off from the site would be contained within the site. As the swale would only become active during an extreme storm event, I am satisfied that it would not endanger public safety. It is noted that no concerns were raised by the planning authority in this regard.
- 7.7.4. Third parties also raised concerns regarding the maintenance and management of the location of the proposed swale and it is considered that it would be better to incorporate it into the area of open space. The Ground Investigation Report notes that the north-eastern portion, where the public open space is proposed is not suitable for surface water infiltration. Therefore, this is not considered an appropriate location for a swale.
- 7.7.5. The third parties state that sections of the existing site are prone to flooding and raise concerns that the development of the site could potentially increase the risk of flooding

to surrounding sites. The applicants Flood Risk Assessment and the Strategic Flood Risk Assessment carried out as part of the development plan indicate that the appeal site and the surrounding area is not at risk of flooding (Flood Zone C). Having regard to the information available I am satisfied that the appeal site is not at risk of flooding. It is also note that no concerns were raised by the planning authority regarding a potential flood risk.

## **7.8. *Archaeology***

- 7.8.1. The submission from the DAU recommended that due the sites size and location in an area of high archaeological potential archaeological monitoring conditions be attached to any grant of permission. The planning authority's report also recommends that if permission is being granted that an archaeological monitoring condition be attached to any grant of permission. Having regard to the zoning maps the appeal site is not located within a zone of archaeological notification. However, having regard to the size and greenfield nature of the site and to the submission from the DAU it is my recommendation that a archaeological monitoring condition be attached to any grant of permission.

## **7.9. *Ecology***

- 7.9.1. Details of ecological surveys and investigations is attached as Appendix 2 of the AA Screening Report. It notes that a site walkover survey was carried out on the 15<sup>th</sup> August 2022. The site comprises 2 no. former agricultural fields and includes grassland, scrub and hedgerows with some artificial surfaces. There are no watercourses on the site. The habitats are of low ecological value. There are no annexed habitats or species present within the boundary of the appeal site.
- 7.9.2. The applicants report notes that no evidence of any protected mammal species were recorded during the site walkover. The submission from the DAU notes that the removal of bramble scrub has the potential to disturb badger setts and recommend that a badger survey should be undertaken prior to removal of any bramble scrub and if any active badger setts are located mitigation measures must be put in place to protect these species. Badgers are not recorded within the 2km grid square on the National Biodiversity Data Centre (NBDC) maps. The habitat surveys indicated that there were no signs of recent activity, and no badger setts were observed on the site.

The concerns of the DAU are noted, however, having regard to the findings of the site survey it is my view that there is no requirement for a badger survey. However, it is recommended that a condition be attached to any grant of permission that the bramble scrub to be removed on site be felled in late summer or autumn, and that any disturbance to any badger sett be managed in agreement with the planning authority on the advice of a qualified ecologist.

7.9.3. The subject site does provide suitable habitat for common bird species. Table 8.2 of the applicant's report details the common bird species recorded during the site survey. There were no rare or Annex 1 bird species recorded on the site. There are no predicted direct effects on birds as a result of the proposed development.

7.9.4. Bats were recorded within the 2km grid square on the National Biodiversity Data Centre (NBDC) maps and a day time walkover survey was carried out. The report notes that the overall suitability of the area for bat activity is high and it can not be ruled out that bats may use the appeal site for foraging and / or commuting. It is acknowledged that some foraging area may be lost, however, as the proposed landscaping matures foraging activity would be expected to increase. Given the urban location of the site I am satisfied that the impact of the development would not be significant.

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

#### 7.10. ***Appropriate Assessment***

7.10.1. I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

7.10.2. A description of the project is summarised in Section 2 of my report. In summary, the proposed development comprises the construction of 21 no. residential units and a communal work hub. The surrounding area is urban in nature with a variety of uses, including residential, retail, commercial units, educational and community uses. The

site is serviced by public water supply and foul drainage networks. The development site is located in a heavily urbanised environment close to noise and artificial lighting. No flora or fauna species for which Natura 2000 sites have been designated were recorded on the application site.

7.10.3. As outlined in Section 5.5 above, the designated sites within 15km of the subject site are outlined below:

- Rogerstown Estuary SPA (004015)
- North West Irish Sea c.SPA (004236)
- Lambay Island SPA (004069)
- Skerries Islands SPA (004122)
- Rockabill SPA (004014)
- Malahide Estuary SPA (004025)
- Baldoyle Bay SPA (004016)
- Irelands Eye SPA (004117)
- North Bull Island SPA (004006)
- Howth Head Coast SPA (004113)
- Rogerstown Estuary SAC (000208)
- Rockabill to Dalkey Island SAC (003000)
- Lambay Island SAC (000204)
- Malahide Estuary SAC (000205)
- Baldoyle Bay SAC (000199)
- Irelands Eye SAC (002193)
- North Dublin Bay SAC (000206)
- Howth Head SAC (000202)

#### *Consideration of the Impacts*

7.10.4. It is considered that there is nothing unique or particularly challenging about the proposed development, either at construction or operational phase.

- 7.10.5. There are no watercourses within the site and there is no hydrological connection between the appeal site and any of the designated sites. The site is located within an urban area and there is extensive buffer between the appeal site and the designated sites. It is intended that surface water would be infiltrated within the site through a range of SuDS measures and the final discharge from the site would be zero.
- 7.10.6. During the construction phase, standard pollution control measures would be put in place. These measures are standard practices for urban sites and would be required for a development on any urban site. In the event that the pollution control and surface water treatment measures were not implemented or failed I am satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites in the zone of influence from surface water run-off can be excluded given the distant and lack of a hydrological connection and the nature and scale of the development.
- 7.10.7. The scheme includes attenuation measures which would have a positive impact on drainage from the subject site. SUDS are standard measures which are included in all projects and are not included to reduce or avoid any effect on a designated site. The inclusion of SUDS is considered to be in accordance with the Greater Dublin Strategic Drainage Study (GDSDS) and are not mitigation measures in the context of Appropriate Assessment. I also note that the proposal would not generate any demands on the existing municipal sewers for surface water.
- 7.10.8. The foul discharge from the proposed development would drain via the public sewer to the wastewater treatment plant at Portrane for treatment and ultimately discharge to the Irish Sea. There is potential for an interrupted and distant hydrological connection between the subject site and the designated sites in the Irish Sea due to the wastewater pathway. The subject site is identified for development through the land use policies of the Fingal County Development Plan 2023-2029. This statutory plan was adopted in 2023 and was subject to AA by the planning authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I also note the development would not generate significant demands on the existing municipal sewers for foul water. It is my view that the foul discharge from the site would be insignificant in the context of the overall licenced discharge at Portrane WWTP, and thus its impact on the overall discharge

would be negligible. It is also noted that the planning authority and Uisce Eireann raised no concerns in relation to the proposed development.

7.10.9. There are no excavation works proposed and no effects on groundwater are expected.

7.10.10. The site has not been identified as an ex-situ site for qualifying interests of a designated site and I am satisfied that the potential for impacts on wintering birds, due to increased human activity, can be excluded due to the separation distances between the European sites and the proposed development site, the absence of relevant qualifying interests in the vicinity of the works and the absence of ecological or hydrological pathway.

#### *European Sites*

7.10.11. A summary of European Sites that occur within a possible zone of influence of the proposed development is presented in the table below.

<b><i>European Site</i></b> <b><i>Site Code</i></b>	<b>List of Qualifying interest /Special conservation Interest</b>	<b>Distance from proposed development (Km)</b>	<b>Connections (source, pathway receptor)</b>	<b>Considered further in screening Y/N</b>
<b><i>Rogerstown Estuary SPA (004015)</i></b>	Greylag Goose (nsuer nsuer) [A043] Light-bellied Brent Goose (Branta bernicla hrota) [A046] Shelduck (Tadorna tadorna) [A048] Shoveler (Anas clypeata) [A056] Oystercatcher (Haematopus ostralegus) [A130] Ringed Plover (Charadrius hiaticula) [A137] Grey Plover (Pluvialis squatarola) [A141] Knot (Calidris canutus) [A143] Dunlin (Calidris alpina) [A149] Black-tailed Godwit (Limosa limosa) [A156]	c. 300m	No	No



	Redshank ( <i>Tringa totanus</i> ) [A162] Wetland and Waterbirds [A999]			
<b>North-West Irish Sea cSPA (004236)</b>	Red-throated Diver ( <i>Gavia stellata</i> ) [A001]  Great Northern Diver ( <i>Gavia immer</i> ) [A003]  Fulmar ( <i>Fulmarus glacialis</i> ) [A009]  Manx Shearwater ( <i>Puffinus puffinus</i> ) [A013]  Shag ( <i>Phalacrocorax aristotelis</i> ) [A018]  Cormorant ( <i>Phalacrocorax carbo</i> ) [A017]  Little Gull ( <i>Larus minutus</i> ) [A177]  Kittiwake ( <i>Rissa tridactyla</i> ) [A188]  Black-headed Gull ( <i>Chroicocephalus ridibundus</i> ) [A179]  Common Gull ( <i>Larus canus</i> ) [A182]  Lesser Black-backed Gull ( <i>Larus fuscus</i> ) [A183]  Herring Gull ( <i>Larus argentatus</i> ) [A184]  Great Black-backed Gull ( <i>Larus marinus</i> ) [A187]  Little Tern ( <i>Sterna albifrons</i> ) [A195]  Roseate Tern ( <i>Sterna dougallii</i> ) [A192]  Common Tern ( <i>Sterna hirundo</i> ) [A193]  Arctic Tern ( <i>Sterna paradisaea</i> ) [A194]	600m	No	No

	Puffin ( <i>Fratercula arctica</i> ) [A204] Razorbill ( <i>Alca torda</i> ) [A200] Guillemot ( <i>Uria aalge</i> ) [A199]			
<b>Lambay Island</b> <b>SPA</b> <b>(004069)</b>	Fulmar ( <i>Fulmarus glacialis</i> ) [A009] Cormorant ( <i>Phalacrocorax carbo</i> ) [A017] Shag ( <i>Phalacrocorax aristotelis</i> ) [A018] Greylag Goose (nswer nswer) [A043] Lesser Black-backed Gull ( <i>Larus fuscus</i> ) [A183] Herring Gull ( <i>Larus argentatus</i> ) [A184] Kittiwake ( <i>Rissa tridactyla</i> ) [A188] Guillemot ( <i>Uria aalge</i> ) [A199] Razorbill ( <i>Alca torda</i> ) [A200] Puffin ( <i>Fratercula arctica</i> ) [A204]	c. 5km	No	No
<b>Skerries Islands</b> <b>SPA (004122)</b>	Cormorant ( <i>Phalacrocorax carbo</i> ) [A017] Shag ( <i>Phalacrocorax aristotelis</i> ) [A018] Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) [A046] Purple Sandpiper ( <i>Calidris maritima</i> ) [A148] Turnstone ( <i>Arenaria interpres</i> ) [A169] Herring Gull ( <i>Larus argentatus</i> ) [A184]	5.5km	No	No
<b>Rockabill SPA</b> <b>(004014)</b>	Purple Sandpiper ( <i>Calidris maritima</i> ) [A148] Roseate Tern ( <i>Sterna dougallii</i> ) [A192]	5.6km	No	No

	Common Tern ( <i>Sterna hirundo</i> ) [A193]  Arctic Tern ( <i>Sterna paradisaea</i> ) [A194]			
<b><i>Malahide Estuary SPA (004025)</i></b>	Great Crested Grebe ( <i>Podiceps cristatus</i> ) [A005]  Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) [A046]  Shelduck ( <i>Tadorna tadorna</i> ) [A048]  Pintail ( <i>Anas acuta</i> ) [A054]  Goldeneye ( <i>Bucephala clangula</i> ) [A067]  Red-breasted Merganser ( <i>Mergus serrator</i> ) [A069]  Oystercatcher ( <i>Haematopus ostralegus</i> ) [A130]  Golden Plover ( <i>Pluvialis apricaria</i> ) [A140]  Grey Plover ( <i>Pluvialis squatarola</i> ) [A141]  Knot ( <i>Calidris canutus</i> ) [A143]  Dunlin ( <i>Calidris alpina</i> ) [A149]  Black-tailed Godwit ( <i>Limosa limosa</i> ) [A156]  Bar-tailed Godwit ( <i>Limosa lapponica</i> ) [A157]  Redshank ( <i>Tringa totanus</i> ) [A162]  Wetland and Waterbirds [A999]	c. 6.2km	No	No
<b><i>Baldoyle Bay SPA (004016)</i></b>	Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) [A046]  Shelduck ( <i>Tadorna tadorna</i> ) [A048]  Ringed Plover ( <i>Charadrius hiaticula</i> ) [A137]	11.5km	No	No

	<p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Wetland and Waterbirds [A999]</p>			
<b><i>Irelands Eye SPA</i></b> <b><i>(004117)</i></b>	<p>Cormorant (<i>Phalacrocorax carbo</i>) [A017]</p> <p>Herring Gull (<i>Larus argentatus</i>) [A184]</p> <p>Kittiwake (<i>Rissa tridactyla</i>) [A188]</p> <p>Guillemot (<i>Uria aalge</i>) [A199]</p> <p>Razorbill (<i>Alca torda</i>) [A200]</p>	c. 12.1km	No	No
<b><i>North Bull Island SPA</i></b> <b><i>(004006)</i></b>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p>	c. 14.9km	No	No

	<p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>			
<b>Howth Head Coast SPA (004113)</b>	Kittiwake ( <i>Rissa tridactyla</i> ) [A188]	c. 14.9km	No	No
<b>Rogerstown Estuary SAC (000208)</b>	<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p>	c. 300m	No	No
<b>Rockabill to Dalkey Island SAC (003000)</b>	<p>Reefs [1170]</p> <p>Phocoena phocoena (Harbour Porpoise) [1351]</p>	c.1.6km	No	No
<b>Lambay Island SAC (000204)</b>	<p>Reefs [1170]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p>	c. 5km	No	No

	<p>Halichoerus grypus (Grey Seal) [1364]</p> <p>Phoca vitulina (Harbour Seal) [1365]</p>			
<p><b><i>Malahide Estuary SAC</i></b> <b><i>(000205)</i></b></p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonizing mud and sand [1310]</p> <p>Atlantic salt meadows (Glaucopuccinellietalia maritima) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p>	c. 5km	No	No
<p><b><i>Baldoyle Bay SAC</i></b> <b><i>(000199)</i></b></p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glaucopuccinellietalia maritima) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p>	11.6km	No	No
<p><b><i>Irelands Eye SAC</i></b> <b><i>(002193)</i></b></p>	<p>Perennial vegetation of stony banks [1220]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p>	c.12.5km	No	No
<p><b><i>North Dublin Bay SAC</i></b> <b><i>(000206)</i></b></p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p>	c. 14.8km	No	No

	<p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glaucopuccinellietalia maritimae) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p>Petalophyllum ralfsii (Petalwort) [1395]</p>			
<p><b>Howth Head</b></p> <p><b>SAC</b></p> <p><b>(000202)</b></p>	<p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p>	c. 15km	No	No

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

7.10.13. I am satisfied that the potential for impacts on the designated sites outlined above can be excluded at the preliminary stage due to the separation distance between the European site and the proposed development site, the nature and scale of the proposed development, the absence of a hydrological link and an absence of relevant qualifying interests in the vicinity of the works and to the conservation objectives of the designated sites.

#### *Cumulative In-Combination Effects*

7.10.14. I am satisfied that the proposed development would have no likely significant effect in combination with other plans and projects on the qualifying features of any European sites. No further assessment is required for the project.

## *AA Screening Conclusion*

7.10.15. In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information. I conclude that that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (stage 2), under Section 177V of the Planning and Development Act 2000, is not required.

7.10.16. This conclusion is based on:

- Objective information presented in the Screening Report
- The limited zone of influence of potential impacts, restricted to the immediate vicinity of the proposed development.
- Standard pollution controls that would be employed regardless of proximity to a European site and effectiveness of same
- Distance from European Sites,
- The absence of meaningful pathway to any European site

7.10.17. No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

## **8.0 Recommendation**

8.1. It is recommended that permission be granted subject to conditions.

## **9.0 Reasons and Considerations**

9.1. Having regard to the sites Town and District Centre zoning objective, the provisions of the Fingal County Development Plan 2023-2029 and the Rush Urban Framework Plan 2018, to the sites location within an existing urban area, to the existing pattern of development in the area and to the nature and scale of the proposed development it is considered that subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be



acceptable in terms of flood risk and traffic safety and convenience. 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, 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 interest of clarity.

2. The proposed scheme shall be amended as follows:
  - a. The 4 no. House Type 4 dwellings located on the northern portion of the site shall be permanently omitted. The resulting space shall be incorporated into the area of public open space.
  - b. House 1 shall be redesigned to provide direct frontage onto Hands Lane.
  - c. The proposed footpath along the sites western boundary with Hands Lane shall be a minimum of 2m in width.

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 interest of residential amenity

3. The bramble scrub to be removed on site shall be felled in late summer or autumn only. Any disturbance to badger setts on site shall be in a manner agreed in writing with the planning authority on the advice of a qualified ecologist.

**Reason:** in the interest of nature conservation.

4. Details of signage relating to the community work hub facility shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

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

5. The render finish on the upper, first and second floor levels of Block B shall be replaced with a brick / cladding finish. Prior to commencement of development, a schedule of all materials to be used in the external treatment of the residential units shall be submitted to and agreed in writing with, the planning authority.

**Reason:** In the interest of visual amenity and to ensure an appropriate high standard of development.

6. Prior to commencement of development the applicant shall agree in writing with the planning authority the final details of furniture and equipment including seating areas and play spaces to be provided within the area of public open space.

**Reason:** In the interest of residential amenity and to ensure an appropriate high standard of development.

7. Prior to commencement of development a comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

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

8. 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) All ground reduction should be subject to a programme of archaeological monitoring, under licence, by a suitably qualified archaeologist.
- c) where archaeological material is shown to be present, avoidance, preservation in situ, or preservation by record (excavation) may be required. Works may be halted pending receipt of advice from the National Monuments Service, Department of Housing, Local Government and Heritage who will advise the applicant / developer with regard to these matters.
- d) on completion of monitoring of ground reduction and any archaeological excavations arising, the archaeologist shall submit a written report to the planning authority and to the Department of Housing, Local Government and Heritage for consideration.
- e) 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.

9. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Report, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.

**Reason:** In the interests of amenity and public safety.

10. Proposals for a naming / numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and unit numbers, shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the

name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

11. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/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.

**Reason:** To provide for and/or future proof the development such as would facilitate the use of electric vehicles

12. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall comply in all respects with the standards set out in the Design Manual for Urban Roads and Streets (DMURS).

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

13. 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 and residential amenity.

14. The developer shall enter into water and wastewater connection agreements with Uisce Eireann, prior to commencement of development.

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

15.(a) Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

(b) Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

(c) Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

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

16. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

17. 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 public safety and residential amenity.

18. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

19. a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each housing unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential units permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified residential units, in which case the planning authority shall confirm in writing to the developer or any person with an interest in the land, that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

**Reason:** To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

20. 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.

21. 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 and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public 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 or maintenance 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 and maintenance of the development until taken in charge

22. Prior to the commencement of development, the developer shall enter into an agreement with the Planning Authority to provide for the payment of a financial contribution to the Planning Authority in lieu of public open space as provided for

under Objective DMSO53 of the Fingal Development Plan 2023-2029 and in accordance with the terms of the Development Contribution Scheme made under Section 48 of the Planning and Development Act 2000, as amended. The manner of payment and amount of payment 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:** In the interest of the proper planning and sustainable development of the area.

23. 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.

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.



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Elaine Power

Senior Planning Inspector

8<sup>th</sup> May 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	<b>316053-23</b>		
<b>Proposed Development Summary</b>	Construction of 21 no. residential units and a community work hub facility.		
<b>Development Address</b>	Lands to the east of Hands Lane and south of Bollum Lane, Rush, Co. Dublin.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	
		<b>No</b>	No further action required
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>			Proceed to Q.3
<b>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]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
			<b>Conclusion</b>
<b>No</b>		N/A	No EIAR or Preliminary Examination required
<b>Yes</b>		10 (b)(i): Construction of more than 500 dwelling units	The proposed scheme falls below the
			Proceed to Q.4

		<p>10 (b)(iv): Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.</p> <p>15: Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development, but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.</p>	applicable thresholds.	
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4. Has Schedule 7A information been submitted?		
<b>No</b>		<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

## Appendix 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	316053-23		
<b>Development Summary</b>	Construction of 21 no. residential units and a community work hub facility.		
<b>Examination</b>			
		<b>Yes / No / Uncertain</b>	
1. Is the size or nature of the proposed development exceptional in the context of the existing environment?		No	
2. Will the development result in the production of any significant waste, or result in significant emissions or pollutants?		No	
3. Is the proposed development located on, in, adjoining or have the potential to impact on an ecologically sensitive site or location*?		No	
4. Does the proposed development have the potential to affect other significant environmental sensitivities in the area?		No	
<b>Comment (if relevant)</b>			
<b>Conclusion</b>			
<b>Based on a preliminary examination of the nature, size or location of the development, is there a real likelihood of significant effects on the environment **?</b>			
There is no real likelihood of significant effects on the environment	EIAR not required	X	
There is significant and realistic doubt in regard to the likelihood of significant effects on the environment	Screening Determination required	No	
	Sch 7A information submitted?	Yes	No
There is a real likelihood of significant effects on the environment	EIAR is required (Issue notification)		

**Inspector** \_\_\_\_\_ **Date:** \_\_\_\_\_

**DP/ADP** \_\_\_\_\_ **Date:** \_\_\_\_\_

(only where EIAR/ Schedule 7A information is being sought)

\* Sensitive locations or features include SAC/ SPA, NHA/ pNHA, Designated Nature Reserves, and any other ecological site which is the objective of a CDP/ LAP (including draft plans)

\*\* Having regard to likely direct, indirect and cumulative effects.