



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316444-23

#### Development

Preservation of Auburn House (protected structure) and the stables as a single residential dwelling and conversion of the stables for ancillary storage space. Preservation and amendments to the walled garden. Demolition of the detached stable/shed building off Carey's Lane and stable block at Little Auburn. Construction of 69 residential units (35 houses and 34 apartments (Apartment Block 1)) with associated car parking, bicycle stores, refuse stores and plant; landscaped public and communal open spaces; boundary treatments; public lighting; an ESB unit substation; an upgraded vehicular and pedestrian/cycle access from Carey's Lane; and all associated site infrastructure and engineering works necessary to facilitate the development including an on-site foul sewer pumping station and foul sewer works in public roads. An EIAR and NIS were submitted with this application.

<b>Location</b>	Lands at Auburn House and Little Auburn, off the R107 Malahide Road and Carey's Lane, Malahide, Co. Dublin
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	F22A/0579
<b>Applicant(s)</b>	Kinwest Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission with Conditions
<b>Type of Appeal</b>	Third Party vs Decision
<b>Appellant(s)</b>	<ol style="list-style-type: none"> <li>1. Clairville Lodge Residents' Group</li> <li>2. Savaron Limited</li> </ol>
<b>Observer(s)</b>	<ol style="list-style-type: none"> <li>1. Paul G. Evans</li> <li>2. Streamstown Wood Owners' Management Company</li> </ol>
<b>Date of Site Inspection</b>	21 <sup>st</sup> February 2024
<b>Inspector</b>	Phillippa Joyce

## Contents

1.0 Site Location and Description .....	4
2.0 Proposed Development .....	5
3.0 Planning Authority Decision .....	8
4.0 Planning History.....	14
5.0 Policy Context.....	17
6.0 The Appeal .....	25
7.0 Planning Assessment .....	42
8.0 Appropriate Assessment.....	63
9.0 Environmental Impact Assessment.....	84
10.0 Recommendation .....	114
11.0 Reasons and Considerations.....	114
12.0 Conditions .....	115

## 1.0 Site Location and Description

- 1.1. The appeal site is located in the townlands of Auburn and Streamstown, c.2.2km southwest of Malahide town centre. The site has an irregular rectangular configuration, indicated as measuring c.6.65ha, which is part of a wider landholding, indicated as measuring c.13.28ha. The site also includes a c.2.3km route along parts of Malahide Road, Back Road and Kinsealy Lane.
- 1.2. The main component of the site is the protected structure, Auburn House, and its attendant grounds. These include the stable buildings, courtyard, walled garden, and the main avenue with front boundary wall, piers, and entrance gate along Malahide Road. The site has a distinctive sylvan character due to numerous individual trees, treelines, and woodlands many contemporaneous with the house.
- 1.3. In addition to Auburn House and its stables, the site accommodates a shed structure adjacent to Carey's Lane (southwestern corner), and a stables structure mid-way along the main avenue (eastern side) associated with the Little Auburn residence (a modern dwelling). Save for these structures, the site is greenfield in nature, largely comprising agricultural fields, woodlands, and field boundaries with a series of drainage ditches. Access to the site is via existing entrances from R107/ Malahide Road (southeast of the site), and Carey's Lane (southwest).
- 1.4. The area surrounding the site is comprised of low density, detached residences on single sites and in residential estates. The western boundary is formed by properties in Abington, while the southern, southeastern, and eastern boundaries are formed by a mix of detached residences accessing onto Carey's Lane, dwellings in Clairville Lodge, structures originally associated with the Auburn House estate under separate ownership including the majority of the walled garden, and detached residences accessing onto Malahide Road.
- 1.5. The topography of the site is relatively flat with a small number of localised high points, such as that on which Auburn House is positioned, and the southern part of the field at Carey's Lane. Ground levels indicated for the site generally range from 9mOD to 11mOD with high points including up to c.13.5mOD. The site drains via a series of ditches inclusive of a local stream which merges with Hazelbrook Stream located to the southeast of the site, and in turn Baldoyle Bay.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the preservation of Auburn House and its stables as a single dwelling unit, with the conversion of the stables to ancillary storage to serve the main dwelling, and the construction of 69 residential units comprising 35 houses (detached, semi-detached, terrace dwellings of 1-2 storeys in height) and 34 apartments (within a single 4-storey block). The proposal includes for all associated car parking, bicycle parking/ stores, refuse stores, plant, and public lighting.
- 2.2. The proposal also includes the preservation of existing follies and walls of the walled garden, amendments to the walled garden, demolition of the shed building proximate to Carey's Lane and the stable block at Little Auburn, the development of landscaped public and communal open spaces, boundary treatments, a new vehicular and pedestrian/ cycle access from Carey's Lane (upgraded from an existing vehicular entrance), connection to/ shared use of the existing Auburn House entrance and access road by pedestrians, cyclists, and vehicles (vehicular use restricted to named properties within the grounds, i.e., Auburn House, Bellmont, The Lodge, Bellview, and Elgin), and all associated site infrastructure and engineering works to facilitate the scheme, including a new on-site foul pumping station and laying foul sewer drains along Back Road and Kinsealy Lane.
- 2.3. The following table presents a summary of the principal characteristics, features, and floor areas of the proposed scheme:

**Table 1: Key Statistics**

<b>Site Area</b>	6.65ha (gross area) 1.97ha (net area)
<b>Floor Areas (gross floor spaces)</b>	New Residential: 7,214sqm Retained: 1,578sqm (Auburn House and stables) Demolition: 195sqm (shed and stable buildings)
<b>Residential component</b>	69 new residential units: 35 houses (c.51% of the scheme) 34 apartments (c.49% of the scheme)

<b>Net Density</b>	c.35dph
<b>Building Height</b>	House Types B-G (14 designs): 1-2 storeys (principal heights, 5.7m (Type G) to 10.02m (Type C4 and E1)  Apartment Block 1: 4 storeys (principal height, 14.75m)
<b>Aspect</b> <b>(Apartment Block 1)</b>	Single Aspect: 16 units (c.47%)  Dual Aspect: 18 units (c.53%)
<b>Open Space</b>	Total Public Open Space: c.0.6ha (6,031sqm, pocket park and walled garden)  Public: c.0.56ha (5,595sqm, excluding attenuation area in pocket park)  Communal: c.0.02ha (226sqm)  Private: gardens, balconies, and terraces (various sqm)
<b>Part V provision</b>	Total: 7 units
<b>Car Parking</b>	Total: 110 spaces  Houses: 69 spaces (1 space for House G, 2 spaces for each house)  Apartments: 38 spaces (Apartment Block 1: 1 space per 1 and 2 bedroom apartments, 2 spaces per 3 bedroom apartments)  Visitors: 3 spaces
<b>Bicycle Parking</b>	(Bicycle spaces within curtilages of houses, including anchor bolts for terrace houses)  Total: 105 spaces  Residents: 85 spaces in a secure store in Apartment Block 1 (ground floor)  Visitors: 20 spaces in Sheffield stands externally within the scheme

2.4. The proposed residential mix is as follows:

**Table 2: Summary of Residential Unit Mix**

<b>Houses (35 units, c.51% of the scheme)</b>					
<b>Unit Type</b>	<b>1 bed</b>	<b>2 bed</b>	<b>3 bed</b>	<b>4 bed</b>	<b>Total</b>
<b>Total</b>	0	1	8	26	<b>35</b>
<b>% of Total</b>	-	3%	23%	74%	<b>100%</b>
<b>Apartments (34 units, c.49% of the scheme)</b>					

Unit Type	1 bed	2 bed	3 bed	4 bed	Total
<b>Total</b>	10	20	4	0	<b>34</b>
<b>% of Total</b>	29%	59%	12%	-	<b>100%</b>
<b>Combined Houses and Apartments (69 units)</b>					
Unit Type	1 bed	2 bed	3 bed	4 bed	Total
<b>Total</b>	10	21	12	26	<b>69</b>
<b>Overall %</b>	14.5%	30.5%	17%	38%	<b>100%</b>

- 2.5. During the assessment of the application, the proposed development was revised through a Further Information (FI) request from the planning authority. Amendments made to the key statistics and unit mix outlined above are a change of house types (five 4 bedroom houses changed to 3 bedroom types), and an increased and revised car parking provision (a total of 114 spaces comprising 63 spaces for houses, 44 for apartments, and 7 for visitor car parking).
- 2.6. The proposed development is one of three concurrent applications made on lands under the applicant's control at this location (blue line boundary is indicated on Dwg No. 1902PS035). The applications have each been appealed and the appeals are being assessed concurrently (see section 4.0 Planning History below of this report). In the case documentation, the applicant has referenced the lands subject of the three applications according to character areas. This proposed development is referred to as 'Streamstown', while the other two applications are referred to as 'Little Auburn' (PA Ref. F22A/0580, ABP 316498-23, 98 residential units, central area), and 'Auburn Park' (PA Ref. F22A/0581, ABP 316504-23, 92 residential units, northernmost area). For the Board's clarity, I use the same references as appropriate.
- 2.7. For clarity on the areas subject to the appeals, I refer the Board to Dwg No. 1902PS024 'Explanatory Drawing indicating redlines of contemporaneous planning applications'. Included within the development boundaries of the three appeals are the works at Auburn House and stables, the demolition of the stable block at Little Auburn, the connecting pedestrian/ cyclist path north of the walled garden, the shared use of the existing entrance and access road to Auburn House by pedestrians, cyclists and vehicles (with vehicular use restricted to named existing

properties within the grounds, i.e., Auburn House, Bellmont, The Lodge, Bellview, and Elgin), and the wastewater drainage works (new on-site pumping station and foul sewer drains in public roads).

- 2.8. The proposed development includes a Phasing Plan (Architectural Design Report, pg. 62) for the planned implementation of the three concurrent applications. These include Phase 1: Auburn House, wastewater infrastructure and Streamstown (i.e., the proposed development), Phase 2: Auburn Park and road infrastructure, and Phase 3: Little Auburn.

### **3.0 Planning Authority Decision**

#### **3.1. Summary of Decision**

- 3.1.1. On 29<sup>th</sup> March 2023, the planning authority issued a Notification of Decision to Grant Permission subject to 45 conditions. The majority of the conditions are standard in nature (construction, operation, procedural, and financial).

- 3.1.2. The conditions of note and/ or specific to the proposal include the following:

Condition 3 (several parts): Prior to commencement phasing plan is to be agreed inclusive of:

(a) Phase 1 is to comprise the combined developments of PA Ref. F22A/0580 and PA Ref. F22A/0581 inclusive of the public open space and childcare facility.

(b) No residential development to commence for Phase 2 (i.e. the proposed development, PA Ref. F22A/0579) until completion of the associated public open space.

(c)/ (d) Phase 1 to include implementation and completion of the Protection Plan for Auburn House and associated works (conversion of stables, new boundary treatment, repair of walled garden) prior to occupation of any dwelling unit in the scheme.

(e)/ (f) Completion and operation of the bioretention/ flood storage area and childcare facility required prior to, respectively, the occupation of any and more than 75 dwelling units.

Condition 7: No advertising signage along the tree lined boundary of Malahide Road.



Condition 9: Provision of appropriate standard of noise insulation for Noise Zone C associated with Dublin Airport.

Condition 10: Amendment of bedroom windows in northern elevation of Apartment Block 1, units 18, 28, 34, to a high-level design, and House No.06 be provided with bicycle parking as provided for other mid-terrace dwelling units.

Condition 11: Compliance with Architectural Heritage Report and Maintenance Strategy for works to/ in the vicinity of Auburn House, stables, and walled garden, such works are to be supervised and certified by appropriate professional.

Condition 12(d): ditch network on site to be subject to regular maintenance and prior to commencement agreement required for the culvert section east of the walled garden.

Condition 14 (several parts): no obstructions in visibility triangle at main entrances and junctions, EV charging points required for 10% of spaces, management of apartment parking spaces, a construction traffic management plan, and construction and maintenance requirements of roads, footpaths, verges, lighting, and other infrastructure.

Condition 15 (several parts): Compliance with Arborist Report, no development in tree protection root areas, employment of an arboricultural consultant for duration of works, annual review of Woodland Management Plan, lodgement of a €250,000 tree bond.

Condition 17 (several parts): Prior to commencement agreement on play equipment and surfaces, landscape specifications and management details, street tree planting, boundary treatments, tree root protection areas, and provision of a pedestrian link on the site's western boundary.

Condition 18 (several parts): Appointment of an Ecological Clerk of Works to monitor works and prepare an annual Ecological Survey Report, creation of 10m watercourse exclusion zone(s), vegetation removal and structural demolition overseen by same.

Conditions 20 and 36: Prior to commencement agreement on a final taking in charge drawing (showing areas of Council and private management company responsibility)

and the establishment of an Owners' Management Company responsible for the development except for taken in charge areas respectively.

Condition 21: Cycle routes to be provided along the main access roads where appropriate in accordance with the National Cycle Manual.

Condition 22: Prior to commencement agreement of a CEMP incorporating all applicable mitigation measures in the EIAR and NIS.

Condition 23: Prior to commencement agreement of a Travel Plan.

Condition 27: Prior to commencement agreement on a Bat Conservation Plan for Auburn House and site (trees).

Condition 34: Prior to commencement agreement on the provision of a piece of public art.

Condition 35: Requirements for archaeological monitoring and excavations as necessary.

Condition 37 and 38: Implementation of mitigation measures in the EIAR and NIS respectively.

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

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

The key items of note from the planner's assessment of the proposed development can be summarised as follows:

##### Planner's Report (Initial)

- Key designations and objectives applicable from the Fingal Development Plan 2017-2023 identified as follows:
  - Subject to zoning objective RA 'Residential Area'.
  - Contains Protected Structure Ref. 448 Auburn House and a 'Protect and Preserve Trees, Woodlands and Hedgerows' specific objective.
  - Located within Masterplan MP 9A and Noise Zone C associated with Dublin Airport.
- Principle of development and residential density are considered acceptable.

- Refers to the concurrent applications (259 dwelling units proposed in total) and the proposed phasing plan (not concurred with).
- Conversion of stables, erection of boundary fence, enclosure of private open space for Auburn House are considered acceptable as much of the historic planting is being retained.
- Proposed houses and apartment block are at an appropriate distance from Auburn House and its woodlands setting.
- Concern regarding the visual impact of Apartment Block 1 on the walled garden setting (the overhanging balconies on the eastern elevation), recommends recessed balconies.
- Overall design of scheme is considered acceptable, involving the creation of attractive streetscapes including corner sites with dual frontage house types.
- Residential amenity of future residents is considered satisfactory (required standards achieved).
- Concerns regarding residential amenity of existing properties relate to improving separation distances to existing boundaries (northwest boundary) and preventing potential overlooking from apartment windows. Overshadowing and overbearance are stated as not being of concern.
- Surface water drainage proposals considered acceptable, with the inclusion of several nature-based SuDS measures positively noted.
- Accepts the site-specific Flood Risk Assessment (author WM) which concludes the proposed development is in a Flood Zone C.
- Transportation related items of car parking, bicycle parking, internal road and footpath layout are considered acceptable, as is shared road space for cyclists due to low-speed conditions, and safe sightlines achieved at junctions.
- Landscaping plan is considered acceptable, more long-term focussed tree protection strategy required.
- Refers to a technical review of the AA screening report and NIS undertaken by environmental consultants on behalf of the planning authority, with clarity sought on data used and findings.

- Requests Further Information (FI) on 12<sup>th</sup> December 2022 seeking:
  - revised house types, and apartment fenestration and balcony design,
  - transportation related issues of public lighting, visitor car parking for the apartments, bicycle parking for mid-terrace houses, swept path analysis, revised road layout, updated DMURS Statement and Engineering Assessment Report,
  - parks related issues of quantum of open space, omit/ relocate features e.g., orchard in the walled garden,
  - a strategy for the retention of Tree No. 712 (located on route of pedestrian and cycle path connecting to access road) due to its being identified as a bat roost, and
  - revised and updated AA screening report and NIS for the three concurrent applications.

#### Planner's Report (FI response)

- Assesses the applicant's response to the FI request, submitted on 3<sup>rd</sup> February 2023, and finds:
  - revised house types (in five plots along the northwest boundary, 4 bedroom dwellings revised to 3 bedroom units with no first floor windows), amendments to apartment fenestration (recommends further amendments should be conditioned in respect of Units 18, 28, and 34) and balconies (revised as semi-recessed through the overall scheme) are considered acceptable.
  - details on public lighting, visitor car parking, bicycle parking, road layout, footpath connectivity, pedestrian crossings, road widths are considered acceptable. Discrepancies in the revised DMURS Statement and Engineering Assessment Report are noted but clarified as having not impeded the assessment.
  - details on public open space provision, omission of boules court, revised gate to walled garden, relocation of orchard are considered acceptable.
  - strategy for the short-term retention of Tree No. 712 during the construction period is considered acceptable.

- revised AA screening report and NIS have addressed previous issues and are considered to be acceptable.
- In respect of the concurrent applications, recommends these be linked as part of the phased development of the overall land holding.
- Development within PA Ref. F22A/0580 and PA Ref. F22A/0581 be carried out in tandem and prior to the proposed development (which shall be the final phase).
- Such an approach would ensure the restoration of the Auburn House, and the delivery of public open space, the childcare facility, and physical (foul drainage), infrastructure.
- Appropriate assessment of the proposed development concludes that subject to mitigation there is no potential for an adverse effect on European sites.
- Refers to a technical assessment of the EIAR by environmental consultants on behalf of the planning authority.
- Reasoned conclusion on EIA finds that the proposed development is not likely to have significant effects on population and human health, biodiversity, land, soil, geology, water, air quality, noise and vibration, climate, landscape and visual impact assessment, and material assets.
- Proposed development accords with the policies and objectives of the Fingal Development Plan 2017-2023, and granting of permission is recommended.

### 3.2.2. Other Internal Technical Reports

Transportation: AI requested. AI report, no objection subject to condition.

Parks: AI requested. AI report, no objection subject to condition

Water Services: No objection subject to condition.

Environment: No objection subject to condition.

Heritage Officer/ Archaeology: No objection subject to conditions.

Conservation Officer: No objection subject to condition.

Arts and Culture: No objection subject to condition.

### 3.3. Prescribed Bodies

Irish Aviation Authority: No observation to make.

Dublin Airport Authority: No objection subject to condition.

Department of Housing, Development Applications Unit: No objection subject to condition.

Uisce Eireann: No objection subject to condition.

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

- 3.4.1. Submissions were received by the planning authority from third party observers at the initial assessment of the application and at the FI response stage. Issues raised in the submissions continue to form the basis of the appeal (adverse impact on Auburn House and setting, proposed development should accord with the requirements of the Streamstown Masterplan in the 2017 CDP, planning application and assessment process are invalid, objection to the use of Streamstown Lane and Carey's Lane, construction related impacts), which are outlined in detail in Section 6.0 of this report below.

## **4.0 Planning History**

Appeal Site/ Lands under Applicant's Control

Residential Zoned Land Tax (RZLT)

*ABP 316658-23*

Confirmation on the 9<sup>th</sup> September 2023 of the determination by Fingal County Council (Reg. Ref. RZLT 136/22) to include lands (c.2.1ha) under the applicant's control on the RZLT map.

*ABP 316662-23*

Confirmation on the 9<sup>th</sup> September 2023 of the determination by Fingal County Council (Reg. Ref. RZLT 136/22) to include lands (c.9.6ha) under the applicant's control on the RZLT map.

*ABP 316666-23*

Confirmation on the 9<sup>th</sup> September 2023 of the determination by Fingal County Council (Reg. Ref. RZLT 136/22) to include lands (c.1.7ha) under the applicant's control on the RZLT map.

### Concurrent Planning Appeals

*PA Ref. F22A/0580, ABP 316498-23 ('Little Auburn')*

Permission granted to the applicant on 29<sup>th</sup> March 2023 for the preservation and protection of the existing Protected Structure of Auburn House and its stables as 1 no. residential dwelling, conversion of the existing stables of Auburn House to provide for storage space for the main Auburn House, construction of 98 no. residential units (53 no. houses, 37 no. apartments and 8 no. duplex apartments), and all associated site works.

The decision to grant permission is subject of a separate appeal, ABP 316498-23 which is being assessed concurrently.

*PA Ref. F22A/0581, ABP 316504-23 ('Auburn Park')*

Permission granted to the applicant on 29<sup>th</sup> March 2023 for the preservation and protection of the existing Protected Structure of Auburn House and its stables as 1 no. residential dwelling, conversion of the existing stables of Auburn House to provide for storage space for the main Auburn House, construction of 92 no. residential units (45 no. houses, 34 no. apartments and 13 no. duplex apartments), and all associated site works.

The decision to grant permission is subject of a separate appeal, ABP 316504-23 which is being assessed concurrently.

### SHD Applications

*ABP 313360-22*

Applicant applied for permission on 19<sup>th</sup> April 2022 for the preservation of Auburn House (a Protected Structure) and stables as 1 no. residential dwelling, conversion of stables to provide storage space for Auburn House, construction of 368 no. residential units (87 no. houses, 281 no. apartments), creche and associated site works.

At the time of this assessment, a decision had not been made by An Bord Pleanála on the application.

*ABP 309907-21*

Permission refused to the applicant on 14th July 2021 for the demolition of 'Little Auburn' and associated outbuildings, construction of 411 no. residential units (102 no. houses including preservation of Auburn House and 309 no. apartments), childcare facilities and all other associated site works.

Permission was refused on the basis of three reasons relating to the adverse impact on the protected structure and its attendant grounds, the loss of trees, and insufficient information on daylight and sunlight.

#### Lands Adjacent to South

*PA Ref. F18A/0445*

Permission granted on 25<sup>th</sup> January 2019 for the conversion of the service entrance off main driveway to serve as new eastern entrance to dwelling house, erection of new gate posts and automated gates, entrance forecourt, new entrance canopy to east elevation, alteration to existing entrance doorway on west elevation and associated external works at "Belmont" part of courtyard housing (formerly outhouses) in the grounds of Auburn House (a protected structure), Malahide, Co Dublin.

#### Lands Further to the South (Streamstown Lane area)

*PA Ref. F19A/0446, ABP 306844-20*

Permission granted on 28<sup>th</sup> August 2020 for the upgrade of the existing road (Streamstown Lane) over c.120m (increase road width, provide 2m wide footpath, boundary wall with kerb and drainage) between the junction of Park Avenue to the west and Malahide Road to the east.

This permission was being implemented at the time of site inspection.

*PA Ref. F21A/0547 (F22A/0380 amended an occupation condition)*



Permission granted on 13<sup>th</sup> January 2022 for 50 residential units with access to the estate provided from Park Avenue and Streamstown Wood. The proposed development includes a raised table at the junction of Streamstown Lane and Park Avenue, and also at the junctions of Streamstown Lane and Carey's Lane, at Park Avenue and Streamstown Wood, and on the road into Streamstown Wood.

This permission was being implemented at the time of site inspection.

*PA Ref. F19A/0452, ABP 307020-20*

Permission refused on 16<sup>th</sup> December 2020 for the construction of 52 no. residential units of detached, semi-detached, and terraced housing.

#### Further to the East/ Southeast (Back Road)

*ABP 313265-22, SHD application*

Permission refused on 28<sup>th</sup> March 2023 for 100 no. residential units (34 no. houses, 66 no. apartments), creche and associated site works.

*ABP 313361-22, SHD application*

Permission for the demolition of buildings, construction of 415 no. residential units (252 no houses, 163 no. apartments) creche and associated site works.

At the time of this assessment, a decision had not been made by An Bord Pleanála on the application.

## **5.0 Policy Context**

5.1. Having regard to the nature of the proposed development, the receiving environment, the range of information on the case file, including submissions received from the third parties, prescribed bodies, and planning authority, I consider the policy and guidance relevant to the determination of the appeal to be as follows:

### **5.2. National Planning Context**

#### National Planning Framework, Project Ireland 2040 (NPF)

5.2.1. A number of overarching national policy objectives (NPOs) are applicable to the proposed development from the NPF, including:

- NPO 3a: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.
- NPO 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.
- NPO 11: In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.
- NPO 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- NPO 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

### Section 28 Ministerial Planning Guidelines

5.2.2. Several national planning guidelines are applicable to the proposed development (increased residential densities at certain types of locations, achievement of certain standards for residential development). The relevant guidelines include the following (my abbreviation in brackets):

- Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024, (Sustainable Residential Development Guidelines). Applicable policy includes:
  - Section 3.3: contains Table 3.3 which requires net residential densities in the range 35-50 dph to be generally applied at suburban and edge locations of Metropolitan Towns.
  - Section 3.4: guides that while densities within the applicable range are acceptable, densities closer to the mid-range should be encouraged at intermediate locations.

- Section 4.4: contains Policy and Objective 4.1 which requires the implementation of principles, approaches and standards in the Design Manual for Urban Roads and Streets, 2013, including updates (DMURS).
- Section 5.3: includes achievement of housing standards as follows:
  - **SPPR 1 – Separation Distances** which requires a minimum of 16m between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level.
  - **SPPR 2 – Minimum Private Open Space for Houses** which requires a minimum of between 20sqm (1 bed) to 50sqm (4+ bed) dependant on number of bedrooms in a house (private open space for duplexes and apartments as per the Apartment Guidelines).
  - **Policy and Objective 5.1** which requires a public open space provision of between 10%-15% of net site area. A higher range may be applicable in sites that contain significant heritage, landscape or recreational features and sites that have specific nature conservation requirements.
  - **SPPR 3 – Car Parking** which restricts the maximum rate of car parking provision for residential development in intermediate locations to 2 no. spaces per dwelling (exclusive of visitor spaces).
  - **SPPR 4 – Cycle Parking and Storage** which requires a general minimum standard of 1 no. cycle storage space per bedroom (plus visitor spaces), a mix of cycle parking types, and cycle storage facilities in a dedicated facility of permanent construction (within or adjoining the residences).
- Urban Development and Building Heights, Guidelines for Planning Authorities, December 2018 (Building Height Guidelines). Applicable policy includes:
  - Section 1.9 requires building heights of at least 3 to 4 storeys, coupled with appropriate density, in locations outside city and town centre areas to be supported in principle at development management level.
  - SPPR 4 requires:

*It is a specific planning policy requirement that in planning the future development of greenfield or edge of city/ town locations for housing purposes, planning authorities must secure:*

- 1. the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled “Sustainable Residential Development in Urban Areas (2007)” or any amending or replacement Guidelines;*
- 2. a greater mix of building heights and typologies in planning for the future development of suburban locations; and*
- 3. avoid mono-type building typologies (e.g. two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more.*

- Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, July 2023 (Apartment Guidelines).  
Applicable policy includes:
  - Section 2.4 identifies intermediate urban locations as being suitable for medium-high density residential development of any scale that includes apartments to some extent (minimum density is indicated as 45dph).
- Architectural Heritage Protection, Guidelines for Planning Authorities, 2011 (Architectural Heritage Guidelines).
- Childcare Facilities, Guidelines for Planning Authorities, 2001 (Childcare Guidelines).
- The Planning System and Flood Risk Management, Guidelines for Planning Authorities, 2009 (Flood Risk Guidelines).
- Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities, 2021, updated 2023 (Commercial Institutional Investment Guidelines).

### 5.3. Regional Context

Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES)

- 5.3.1. The RSES provides a development framework for the region, including a Metropolitan Area Strategic Plan (MASP) for Dublin City and suburbs, within which the appeal site is located. Accordingly, settlement strategy policy and a number of regional objectives are applicable to the proposed development, including:
- Table 4.2 Settlement Strategy defines categories of urban centres including that of 'Self-Sustaining Town', with which Malahide aligns.
  - Table 4.3 Settlement Typologies and Policy Responses states the policy response for Self-Sustaining Towns is for consolidation coupled with targeted investment where required to improve local employment, services and sustainable transport options and to become more self-sustaining settlements.
  - In respect of density, the RSES guides that higher densities should be applied to higher order settlements and that a graded reduction in residential densities should be applied for Self-Sustaining Towns that are commensurate to the existing built environment.
  - RPO 5.3: Future development in the Dublin Metropolitan Area shall be planned and designed in a manner that facilitates sustainable travel patterns, increasing walking, cycling and public transport use, and creating safe environments for pedestrians and cyclists.
  - RPO 5.4: Future development of strategic residential development areas within the MASP shall provide for higher densities and qualitative standards as set out in the Sustainable Residential Development Guidelines, the Apartments Guidelines, and the Building Heights Guidelines.
  - RPO 5.5: Future residential development supporting the right housing and tenure mix within the MASP shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs and the development of Key Metropolitan Towns.

#### 5.4. Local Context

##### Change between Fingal Development Plans

- 5.4.1. The Fingal Development Plan 2017-2023 (2017 CDP) was in effect at the time the planning application was lodged (21<sup>st</sup> October 2022) and when the planning authority made its decision to grant permission (29<sup>th</sup> March 2023). The Fingal Development

Plan 2023-2029 (2023 CDP) had come into effect (5<sup>th</sup> April 2023) at the time the appeals were lodged with the Board (25<sup>th</sup> April 2023).

- 5.4.2. While the application and appeal documentation understandably refer to policy and objectives in the 2017 CDP, I confirm to the Board that the 2023 CDP is now the applicable development plan for the area and this appeal is assessed with regard to the provisions of the 2023 CDP.

Fingal Development Plan 2023-2029

- 5.4.3. The relevant 2023 CDP map based (Sheet 9) designations include:

- The site is located within the development boundary of Malahide (a Self-Sustaining Town, the third highest tier in the county's urban hierarchy).
- The site is zoned as 'RA' Residential Area, with the stated objective to 'Provide for new residential communities subject to the provision of the necessary social and physical infrastructure'. Permitted uses include residential, and childcare facilities.
- The site contains Auburn House, a protected structure, RPS Ref. 448 described as a 'late 18th or early 19th century house, outbuildings & walled garden'.
- The site contains three specific objectives to 'Protect and preserve trees, woodlands, and hedgerows' aligning with the woodlands adjacent to Auburn House, tree stands/ treelines along the access avenue and along the R107 roadside boundary.
- Map based Local Objective 47 applies to the southeastern boundary of the site along the Malahide Road R107 'New or widened entrances onto the Dublin Road between Streamstown Lane and the Swords Junction will be restricted, to ensure the protection of the mature tree-lined approach along the Dublin Road to Malahide'.
- The site is located within Noise Zone C associated with Dublin Airport.

- 5.4.4. With regard to relevant 2023 CDP policy and objectives, I direct the Board to Appendix 1 in the applicant's first party appeal response. This includes a table listing applicable policy and outlining the manner in/ extent to which the proposal complies

with same. I have reviewed same and concur about the relevancy of same for the proposal.

- 5.4.5. Specifically, I have identified the key 2023 CDP policy, objectives, requirements, and/ or standards that are relevant to the proposal as follows:

Chapter 3: Sustainable Placemaking and Quality Homes

**Policy SPQHP36 – Private and Semi-Private Open Space**

Ensure that all residential development within Fingal is provided with and has access to high quality private open space and semi-private open space (relative to the composition of the residential scheme) which is of a high-quality design and finish and integrated into the design of the residential development.

Chapter 8: Dublin Airport

**Objective DAO11 – Requirement for Noise Insulation**

Strictly control inappropriate development and require noise insulation where appropriate in accordance with Table 8.1 ... within Noise Zone B and Noise Zone C ... as shown on the Development Plan maps...

Chapter 10: Heritage, Culture and Arts

**Objective HCAO24 – Alteration and Development of Protected Structures...**

Require that proposals for any development, modification, alteration, extension or energy retrofitting affecting a Protected Structure and/ or its setting ... are sensitively sited and designed, are compatible with the special character, and are appropriate in terms of the proposed scale, mass, height, density, architectural treatment, layout, materials, impact on architectural or historic features.

**Objective HCAO27 – Protected Structures within Larger Developments**

Where permission is being sought for a development in which works to the Protected Structure are one element of a larger proposal, the Council will seek for the repair and refurbishment of the Protected Structure to be contained and completed within the first phase.

Chapter 14: Development Management Standards

**Objective DMSO27 – Minimum Private Open Space Provision**

Ensure a minimum open space provision for dwelling houses (exclusive of car parking area) as follows:

... 3 bedroom houses or less to have a minimum of 60sqm ...and 4 or more bedroom houses to have a minimum of 75sqm of private open space located behind the front building line of the house.

### **Section 14.8.2 Separation Distances**

A minimum standard of 22 metres separation between directly opposing rear first floor windows shall be observed, normally resulting in a minimum rear garden depth of 11 metres...

### **Objective DMS072 – Boundary Treatment to Private Open Space**

Ensure boundary treatment associated with private open spaces for all residential unit types is designed to protect residential amenity and visual amenity.

### **Section 14.4.1 Healthy Placemaking: Design Criteria**

New residential development to incorporate high-quality sustainable and inclusive design characteristics that promote healthy placemaking and wellbeing (increase active travel and sustainable travel modes, access to community infrastructure including recreational facilities, considered, design-led public realms).

### **Section 14.6.5 Open Space serving Residential Development**

All multi-unit residential schemes are required to indicate all private, communal, and public open space which will serve the scheme (definitions of open space types provided). Target minimum amount of 15% of new developments for public open space, with a potential range of 12% to 15% in certain circumstances.

### **Section 14.17.2 Bicycle Parking (Table 14.17)**

Residential (Long Stay): 1 space per 1-2 bedroom units, plus 1 per bedroom, and 2 spaces per 3+ bedroom units, plus 1 per bedroom.

Residential (Short Stay/ Visitor): 0.5 space per unit (apartment blocks only).

### **Section 14.17.7 Car Parking (Table 14.19 Car Parking Standards for Zone 2).**

Residential: 1 space per 1-2 bedroom units, and 2 spaces per 3+ bedroom units.

Residential (Visitor): 1 space per 5 units.



## **Objective DMSO194 – Provision of Public Art**

Require new residential developments in excess of 100 units ... to provide for a piece of public art to be agreed with the Council.

### **5.5. Natural Heritage Designations**

- 5.5.1. The appeal site is not located in or immediately adjacent to a European site, a Natural Heritage Area (NHA) or a proposed NHA (pNHA).
- 5.5.2. The European site designations in proximity to the appeal site include (as measured approximately from Auburn House):
- Malahide Estuary SPA (site code 004025) and Malahide Estuary SAC (site code 000205) are c.1.2km to the north.
  - Baldoyle Bay SPA (site code 004016) and Baldoyle Bay SAC (site code 000199) are c.3.8km to the southeast.
  - North-West Irish Sea SPA (site code 004236) is c.3.9km to the east.
  - North Bull Island SPA (site code 004006) and North Dublin Bay SAC (site code 000206) are c.7.1km to the southeast.
  - South Dublin Bay and River Tolka Estuary SPA (site code 004024) is c.9.2km to the south.
  - South Dublin Bay SAC (site code 000210) is c.11.3m to the south.
- 5.5.3. There are no NHA designations in proximity to the appeal site. The pNHA designations include:
- Feltrim Hill pNHA (site code 001208) is c.0.75km to the southwest.
  - Malahide Estuary pNHA (site code 000205) is c.1.2km to the north.
  - Sluice River Marsh pNHA (site code 001763) is c.2.7km to the southeast.
  - Baldoyle Bay pNHA (site code 000199) is c.3.8km to the southeast.
  - North Dublin Bay pNHA (site code 000206) is c.7.1km to the southeast.

## **6.0 The Appeal**

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

6.1.1. Two third party appeals have been made on the proposed development, one on behalf of Clairville Lodge Residents Group and the other on behalf of Savaron Ltd (management entity for common areas in Abington residential development). The main issues raised in the grounds of the appeals can be summarised under the following headings:

6.1.2. Fingal Development Plan 2023-2029

- Application was assessed under the previous Fingal Development Plan 2017-2023 and as the Fingal Development Plan 2023-2029 has since come into force the processing of the application cannot proceed any further.
- Proposed development is premature pending the preparation of a new or revised Streamstown Local Area Plan (2009-2019) and/ or Masterplan (as included within the 2017 CDP) for the area by the planning authority.
- In the interim, the objectives of the previous Streamstown Local Area Plan and Masterplan remain credible and should be considered as being included within the 2023 CDP.
- Proposed development is a material contravention of the current development plan due to over provision of car parking, under provision of cycle parking, design of open space, adverse impact on Auburn House, demolition of wall of walled garden, and being contrary to Objective HCA027.

6.1.3. Impacts on the Receiving Area

*Auburn House:*

- The architectural and heritage importance of Auburn House and its grounds are confirmed by several sources. The structure and its setting merit the highest degree of protection from inappropriate development which would undermine the quality of the interdependent relationship.
- The development of the lands in any intensity is wholly unsuitable to the proper protection of the Auburn House and its setting, and directly conflicts with the Architectural Heritage Guidelines (e.g., section 3.4.2 on the importance of setting).
- Setting and curtilage of the protected structure is assimilated into public open space of the overall scheme leading to the decay of the structure as a family home.

- A section of the wall of the walled garden, which is to be demolished, forms part of the protected structure, requires demonstration of exceptional circumstances to be demolished (as per section 57(10)(b) of the Planning and Development Act 2000 as amended (2000 Act)), which has not been provided, and constitutes a material contravention of the development plan.

*Residential Amenity:*

- Site boundary encroaches the rear of properties in Clairville Lodge by c.1m-2m, resulting in a number of the proposed opposing houses being significantly deficient in terms of the CDP standards for private open space and rear garden depths.
- Public open space is very small in quantum, and unusable and isolated in quality being poorly related to the proposed houses, with the communal open space for the apartments being in shadow.

*Traffic:*

- Access to the site (construction and operational traffic) via Streamstown Lane and Carey's Lane is not viable or sustainable and will lead to serious traffic safety issues.
- Streamstown Lane and Carey's Lane lack the capacity, features (width, alignment), facilities (footpaths, cycle lanes) to safely serve the proposed additional traffic (including 110 extra cars).
- Lanes are particularly unsuitable for construction traffic, both HGV vehicles and workers' vehicles, which will be a nightmare for residents of Clairville Lodge.
- Construction traffic should access the site via the main Auburn House entrance to/ from the Malahide Road only, as a minimum, the use of Carey's Lane for construction traffic should be excluded by condition.
- Poor public transport provision (bus services infrequent, rail services at a distance).
- Results of the transport modelling are not credible (four junctions in the TIA do not have a degree of saturation greater than 99% by 2038).
- TIA omits certain details and cannot be relied upon (e.g., the distance of Streamstown Lane/ R107 junction (J3) to the main signalised junction of just 150m,

inclusion of and reliance on current residential applications in the immediate area, restrictive/ small study area).

- Traffic conditions are already congested, proposal is premature pending the upgrade of road infrastructure in the area, possibly requiring a relief road of some sort.
- A traffic assessment undertaken by an appellant for the previous SHD application (ABP 309907-21), is included in the appeal due to its having continued relevance to the current application.

*Servicing:*

- Inappropriate wastewater treatment proposals with foul sewer pipes being laid in public roads over an extensive distance.

#### 6.1.4. Validity of Application Details

- Incorrect answers/ responses given in the planning authority application form on the following questions:
  - Work to a protected structure, work close to a European site, development requiring preparation of an EIAR, demolition works of a structure, legal interest in land.
- Numbers, locations, and background colours of site notices as erected are respectively insufficient, unrepresentative, and invalid.
- No detailed drawings are provided of Auburn House or a section of the wall of the walled garden proposed to be demolished.

#### 6.1.5. Validity of Three Consecutive Applications

- Two consecutive applications were submitted with the subject application, which constitutes project splitting.
- Planning and environmental impacts of each application cannot be assessed as information provided is not based on each application being individually implemented.

- Absence of necessary information of the potential impacts across the full range of potential outcomes from making three consecutive applications (i.e. there are eight different permutations).
- Fundamental failure of this approach is evident in respect of the development of Auburn House and lands, the impact on which would be entirely different depending on which application(s) are permitted and/ or refused.
- Motivation of applicant's approach is to avoid the LRD procedure, which is mandatory for developments in excess of 100 residential units (sections 32A to 32G of the 2000 Act apply), therefore the applications are invalid, the planning authority should have refused permission and the Board lacks the jurisdiction to determine the appeal.

6.1.6. Validity of the Environmental Impact Assessment Report and Natura Impact Statement

- The EIAR accompanying the application has been prepared for 259 residential dwellings, which is incorrect as no such application exists.
- EIAR is based on the unreasonable assumption that each application will be granted permission and implemented, a fundamental error, which makes the EIAR null and void in any other scenario.
- Refers to examples in the EIAR that cannot be relied upon on an individual application basis, e.g., extent of human health impact, biodiversity mitigation measures, open space provision, the noise impact assessment.
- Applications include a series of duplicate reports and assessments, including the EIARs (all chapters 1-16) such that the individual topic assessments are flawed, and considerations of cumulative impacts and interactions are impossible.
- Confusion is caused from the inclusion of an 'Archaeology and Cultural Heritage Assessment' as a standalone report and as a chapter in the EIAR, and which recommendations are applicable.
- EIAR is incorrectly an assessment of cumulative effects of the three applications, as opposed to being an assessment of cumulation with other existing and/ or approved projects.

- It is impermissible to have an EIAR for three separate applications as section 172 of the 2000 Act contemplates a single application for development consent subject to EIA.
- EIAR fails to adequately consider impacts relating to bats (absence of scientific literature on the efficacy of the mitigation measures for bat roost destruction and disturbance) and to comply with the Water Framework Directive (identification and assessment of main impacts on nearby waterbodies).
- AA screening report and NIS have inadequately considered wintering birds (survey dates and methodology), made unsubstantiated claims in respect of habitat and treeline at the site/ receiving area, wrongly screened out ex-situ effects on nearby SPAs, referenced out of date conservation objectives, and not considered the foul sewer construction.

#### 6.1.7. Validity of Further Information

- Planning authority's FI request is benign (save for Item 5 relating to appropriate assessment) given the complexities of the planning application as it should have included requests for:
  - Rationale for three consecutive applications.
  - Individual assessments for all potential outcomes of decisions.
- Applicant's FI response includes incorrect information, omissions, and/ or discrepancies:
  - Revised AA Screening Report and NIS continue to refer to F22A/0579 and 69 units (instead of cumulative examination with two other consecutive applications).
  - Revised AA Screening Report and NIS have not included the wastewater drainage works on Back Road and Kinsealy Lane crossing Hazelbrook Stream and therefore not considered or mitigated potential impacts.
  - FI Engineering Report and Planning Statement address the query on Streamstown Lane upgrade by referring to and relying on two planning applications (F19A/0446, F21A/0547) in which upgrade roadworks are to be undertaken (inappropriately as outside applicant's control).

- Section of Streamstown Lane to Feltrim Road (narrow width, no footpaths, no public lighting, junction has poor visibility) is unsuited to carry the additional traffic from the proposed development.
- CGIs are brochure images not verified photomontages and are flawed as they indicate the three applications as opposed to all potential outcomes.
- Notification procedure used by the planning authority of the applicant's FI response is procedurally flawed:
  - As a third party, appellant was invited to make a submission on the FI response within a four-week period.
  - Several errors referred to including timelines and dates.
  - Should have found the FI request to be significant FI (SFI) and followed the appropriate legislative procedures (readvertising, longer response period).

#### 6.1.8. Validity of Planning Authority Decision

- Condition 3 inappropriately links the implementation of the current application with the two consecutive applications (extent of open space, when childcare facility to be provided, restriction on occupation of dwelling units).
- Refers to renovation and restoration works to Auburn House which are not part of this application.
- Condition 3 is confusing, contradictory, and unenforceable.
- Evident the planning authority believes the three applications to be completely intertwined and cannot be implemented separately.
- This highlights the unacceptability of the applicant's approach to the proposal which has been endorsed by the planning authority.
- Conditions pertaining to Auburn House are inadequate (as the information provided with the application is insufficient, lacking in detailed plans and particulars, contradictory as it appears that there are no renovation and restoration works proposed) and as such with no specific condition requiring any details to be agreed with the planning authority.

- Conditions 22 and 38 are contradictory as the former requires agreement on a final CEMP, while the latter requires all mitigation measures in the EIAR and NIS to be implemented (the former includes more items/ unknown items to be included in the project which have not undergone environmental assessment).
- Enforcement issues may arise over which application is being implemented and which conditions apply (e.g., undertaking of the wastewater drainage works).
- Planning officer's recommendation to consider three applications as one/ in tandem indicates the current application as a standalone application is contrary to proper planning and sustainable development, and a convention of the development plan.
- Discrepancies, inadequacies, and illogical assessment of issues referred to in other planning authority internal reports (Parks, Transportation, Environmental Consultant, Conservation Officer).
- Approach taken by planning authority is not allowed for under section 34(4)(a) of the 2000 Act (provisions do not extend to permitting development on abutting lands) and is not in accordance with the Development Management Guidelines (nature of conditions).

## 6.2. Applicant Response

6.2.1. A response to the third party grounds of appeal has been received from the applicant, and the main issues raised can be summarised as follows:

### 6.2.2. Fingal Development Plan 2023-2029

- Streamstown LAP and Streamstown Masterplan no longer have any legal standing (expired or superseded). The current CDP is in effect, with which the proposal complies (refers to Appendix 1). Key issue is the land use zoning remains the same as the previous 2017 CDP.
- Proposal complies with Objective HCA027 as Auburn House is included in the current application, in the two concurrent applications, and supported by a full Conservation Report and Protection Plan.



- Proposal complies with the 2023 CDP standards for an increased requirement of 12%-15% public open space (indeed exceeds that requirement), and car and bicycle parking standards (invites a condition for additional space for mid-terrace houses).

#### 6.2.3. Impacts on the Receiving Area

##### *Auburn House:*

- New boundary fencing proposed around Auburn House defining the private open space for the house and differentiating it from the public open space.

##### *Residential Amenity:*

- The redline boundary is for site identification purposes (thicker in certain plans), does not purport to include any lands within Clairville Lodge, and matches the topographical survey information (refers to Appendix 4).

##### *Traffic:*

- Requests the appended Traffic Wise report be disregarded as this relates to a previous SHD application (ABP 309907-21).
- The current application is materially different due to the proposed reduction in dwelling units, omission of the through-road from the Auburn lands, and restriction of the Carey's lane access to residents in the Streamstown area of the scheme (refers to Appendix 3).
- A pedestrian link is provided through the Auburn lands to the Malahide Road which is the shortest available route for pedestrians to access bus stops and Malahide village as opposed to using Streamstown Lane.

##### *Servicing:*

- Rationale for the foul sewer drainage design is linked to capacity issues in the network (refers to Appendix 3).

#### 6.2.4. Validity of Application Details

- Appropriate number of site notices erected at the site and public roads (including Back Road and Kinsealy Lane), public informed evidenced by submissions and appeals, planning authority deemed the notices to be correct and validated application.

- Errors in the application form are de minimis in nature (given the volume of application documentation), do not mislead the public or competent authorities, answered in respect of the subject development (e.g. the question regarding EIA requirement), are confirmed as correct (landowner details).
- Refutes appellant's claim of ambiguity in the description of development and/ or deficiencies in drawings submitted for Auburn House and garden (full survey drawings in engineer's report, architectural drawing of wall, architectural conservation report).

#### 6.2.5. Validity of Three Consecutive Applications

- Rejects appellant's claim that the manner of applying for permission at the site through three applications is invalid as the LRD process was not used, as there is no preclusion in the applicable LRD legislation (2021 Act) from making a number of applications (in excess of 100 dwelling units).
- States that section 32A of the 2000 Act, as inserted by section 3 of the 2021 Act, only applies if an applicant intends to apply for LRD permission on lands.
- States that section 32A does not mandate that an LRD opinion must be obtained in instances where an applicant may wish to apply for smaller schemes within a site and implement same as standalone developments.
- Refutes appellant's claim of 'project splitting' as, conversely to the manner in which the term is typically used, the applicant has not attempted to circumvent the EIA directive as an EIAR has been prepared outlining the cumulative impacts of the three applications.
- The applications can proceed independently of each other.
- The applications are themselves sub-threshold projects for EIA, with a single EIAR prepared to allow the competent authority to determine the cumulative environmental impacts of the three developments synergistically.

#### 6.2.6. Validity of the Environmental Impact Assessment Report and the Natura Impact Statement

- Rejects appellant's claim that the EIAR is invalid and lacks sufficient information (cumulative impacts, alternatives considered, bats) to allow an EIA to be undertaken.

- The planning authority (as advised by environmental consultants) completed an EIA, finding the EIAR adequately describes the significant likely effects of the project on the environment.
- Having regard to section 172 of the 2000 Act, there is no jurisdictional bar preventing the Board from similarly completing an EIA, and the Board can rely on the information in Chapter 2 (alternatives considered) and Chapter 5 (biodiversity).
- Refutes the criticisms of the AA screening report and NIS including those relating to the sewer route (route is considered, surveyed, assessed with mitigation), Water Framework Directive (watercourses and water bodies (bays)) are considered, reference made to available EPA information, status of waters stable or improving and EIAR concludes the proposal has no likely significant effects on same), in-combination effects (plans and projects are considered, with potential significant effects screened in for the construction phase), survey effort (six surveys over a three year period used to build a comprehensive ecological profile of the site), wintering birds (surveys detailed, methodology reliable, scientific evidence relied upon, misunderstandings/ incorrect statements made), conservation objectives (those used are up to date, if generic objectives published then 'surrogate' objectives used) (refers to Appendix 5).
- The planning authority (as advised by environmental consultants) completed an appropriate assessment with reference to the applicant's AA screening report and NIS, agreeing with the findings and identifying no gaps of information in same.

#### 6.2.7. Validity of Further Information

- Determining whether an FI response is significant is purely an administrative process for the planning authority.
- There is no clear statutory basis upon which a planning authority must deem a FI request to be significant.

#### 6.2.8. Validity of Planning Authority Decision

- Submits the planning authority understood the nature of the planning applications, the singular nature of the EIAR and NIS prepared (indicative of the FI request), accepted the FI response, and granted permission accordingly.

#### 6.2.9. Documentation submitted with the Applicant's Response

- Appendix 1: Table of Consistency with Fingal Development Plan 2023-2029
- Appendix 2: Copy of Bat Derogation Licence
- Appendix 3: Waterman Moylan Written Response (on traffic, transportation, and wastewater drainage engineering matters)
- Appendix 4: CCK Architects Written Report (on drawings, public open space, curtilage of Auburn House, and parking standards)
- Appendix 5: Openfield Ecological Services Written Report (on the AA Screening Report and NIS)
- Appendix 6: Sheehan and Barry Conservation Architects Written Report (on Auburn House).

### **6.3. Planning Authority Response**

- 6.3.1. A response has been received from the planning authority stating it is of the opinion the proposed development is acceptable, would integrate appropriately with the surrounding area without causing undue impact on same. The decision of the planning authority is requested to be upheld, as are the inclusion of certain conditions (tree bond, security bond, development contribution).

### **6.4. Observations**

- 6.4.1. Two observations have been received on the appeal from third parties who made submissions on the application (on behalf of Streamstown Wood Owners' Management Company, and by an adjacent landowner). The main issues raised in the observations can be summarised as follows:

#### **6.4.2. Traffic Issues**

- Streamstown Lane is unable to sustain current levels of traffic.
- Fingal County Council has been inconsistent on the matter, stating in correspondence to residents of Streamstown Lane and Carey's Lane restricted access would be required due to conditions, then granting permission for more residences.
- Proposed development does not include any upgrade to Streamstown Lane.

- Disputes information provided by the applicant regarding plans to widen and/ or upgrade Streamstown Lane (section to the Malahide Road junction dependant on separate application, F19A/0446, which may never be implemented, and section to Feltrim Road junction is partly under private ownership so cannot be widened).
- Pathway for pedestrian access from the main entrance on Malahide Road to the village is substandard and unsafe (narrow, paving, public lighting).
- Development of site not suitable as bus services are not reliable, train station is too far a distance, and parking facilities in the village are minimal.
- Requests conditions be attached requiring upgrade of the full length of Streamstown Lane to 5.5m width with 2m footpath and pedestrian crossings to bus stops on the Malahide Road and Feltrim Road, and use of Streamstown Lane for construction traffic be excluded with all such traffic using the Malahide Road entrance.

#### 6.4.3. Implications of Conditions

- Requests to be included in final agreement on the signalised junction on Malahide Road (Condition 18b).
- Requests the provision of a riparian strip on the side of the bank (under his ownership) and annual maintenance of same as part of the SuDS system (Condition 12).
- Notes proposal's access to foul sewer system (Condition 13) involves c.2km of pressured pipe to access a new Uisce Eireann facility, instead requests Uisce Eireann be mandated to provide sewerage along the Malahide Road for properties in the area to be served by.

#### 6.4.4. Impact on Auburn House

- Main vehicular entrance on Malahide Road results in loss of trees (a previous refusal reason for ABP 309907-21).
- Concern regarding the future of Auburn House as little information is provided, leaving possibility of potential for a commercial use (with associated adverse impacts).

### 6.5. **Further Responses**

6.5.1. The applicant's response to the appeal grounds was circulated to the appellants and planning authority. Further responses (section 131 submissions) were received from both appellants and the planning authority (on dates in June 2023).

6.5.2. A number of issues raised in the further submissions are reiterations of issues raised previously in the third party grounds of appeal (which I have summarised above). The main issues raised in relation to the applicant's response and additional information contained therein can be summarised as follows:

6.5.3. Fingal Development Plan 2023-2029

- Accepts 2023 CDP is in effect but maintains that the previous LAP was a local authority made plan with local stakeholder engagement and included policies and objectives for the lands which were local authority led and not developer led.
- The proposed development is piecemeal and premature pending the preparation of a new comprehensive LAP for the lands and area.

6.5.4. Impacts on the Receiving Area

*Auburn House:*

- States the applicant's position that no demolition or alterations are proposed to Auburn House directly contradicts the description of development and site notices.
- These refer to the preservation and protection of the house and stables as a single dwelling unit (this is development and appropriate plans should have been provided).
- States the applicant now appears to indicate that there are no works being undertaken to Auburn House, and the preservation and protection works are standard maintenance and repairs works.
- States applicant fails to successfully argue that the proposed open space is well positioned, and the appellant contends open space is non-compliant with qualitative open space criteria CDP 14.4.4, 14.4.1, and 14.6.5. Further, states that the nature of the open space (private or publicly accessible) around Auburn House is unclear/ conflicted in the details.

*Traffic Impact*

- Refutes the applicant's claim that the traffic assessment (included as an appendix in the appeal) undertaken for ABP 309907-21 should be disregarded.
- Concerns and arguments are equally valid for the current application, i.e. proposal ignores impact on the operation of the receiving transport network, road safety, efficient movement of all transport mode users, and leaves key issues (access, design) for Carey's Lane, Streamstown Lane, and Malahide Road to post-consent agreement between the developer and planning authority.
- States the applicant accepts that it is not in a position to undertake the required upgrade works of/ along Streamstown Lane to Malahide Road and/ or Feltrim Road.

#### 6.5.5. Validity of Application Details

- Refutes applicant's claim that errors on the application form are de minimis, contends they are material and major errors, potentially rendering the application form of no consequence.
- Rejects applicant's claim that the site notices are sufficient, due to there being none on Kinsealy Lane and Back Road (is misleading), insufficient at main site area (is incorrect), and some should have had yellow backgrounds (notes no response from applicant).
- Rejects applicant's position that as the planning authority validated the application and as objections were lodged, any errors (application form, site notices) are acceptable.

#### 6.5.6. Validity of Three Consecutive Applications

- Rejects the applicant's claim that each application can be implemented independently, reiterating the position that the applications are intrinsically linked.
- Maintains submitting three consecutive applications is not valid as the range of potential outcomes have not been examined (only all granted) so it is impossible to separate out the environmental impacts for each potential outcome.
- Maintains this approach is not valid as there is no guarantee that each application will be granted permission, or that all three applications will be implemented.

- The planning authority has acted ultra vires in attaching Condition 3 which in effect requires the implementation of the other consecutive applications prior to the current application. It follows the decision itself is ultra vires.

6.5.7. Validity of the Environmental Impact Assessment Report and Natura Impact Statement

- Submits that the applicant appears now to acknowledge that all potential outcomes have not been examined, and that the EIAR is based on all three applications being granted and implemented.
- Maintains that the cumulative assessment does not hold true, and as all alternatives have not been examined the EIAR is null and void, and there is insufficient information to undertake the EIA.
- Refutes applicant's position that there is no requirement on a developer to identify any particular alternative as 'reasonable', as the identification of 'reasonable alternatives' are a mandatory requirement. Presentation of a lower density development should have been included as a reasonable alternative.
- Due to the high degree of overlapping, the recommendations in the EIAR (and NIS, or planning conditions) cannot be enforced as there would be no certainty as to which element of which application is being implemented.
- Highlights that the Bat Derogation Licence submitted with the application was valid until 1<sup>st</sup> March 2023, as this date has passed, the terms of conditions of same cannot be adhered to.
- States an application to the NPWS for a new bat derogation licence is irrelevant, supplementary to the EIAR, and should be subject to a public participation process.
- States there remains uncertainty as to how the EIAR complies with the requirements of the WFD.
- States that the further report included in Appendix 5 of the appeal response, in respect of the NIS, fails to address concerns as the range of potential outcomes not considered, impact on Hazelbrook Stream from laying foul sewer along Back Road and Kinsealy Lane not considered, no mitigation measures are included to prevent damage to Hazelbrook Stream at this location, states the rising main will be



constructed between the road-build up and the underground culvert but no evidence is provided for same, and Condition 18(b) cannot be implemented (requires a 10m exclusion zone to watercourses) at this location as would be outside the redline boundary.

- States there remains uncertainty, in terms of scientific evidence, as to the protection of European sites (use of the site by wintering birds, adequacy of surveys, methodology employed).

#### 6.5.8. Validity of Further Information

- Rejects the applicant's argument that as the planning authority decided the FI response was not significant, that is the end of the matter.
- Contends that the information submitted by the applicant in the FI response, in particular including a revised NIS, contained significant additional data on environmental effects, should have been deemed significant FI and readvertised accordingly. It is incumbent on the Board to recognise such a fundamental error.
- The process used by planning authority (non-statutory notification procedure instead of the mandatory SFI process, and withholding advice reports prepared by environmental consultants) actively prevented the appellant, the public and indeed the applicant from making observations on the full planning file within the appropriate time period.
- States the applicant accepts the CGIs are not verified and should therefore be disregarded.

6.5.9. The planning authority's response states there is no further comment.

#### 6.6. **Public Notices**

6.6.1. Following receipt of the section 131 submissions, in accordance with section 142(4) of the 2000 Act, the Board requested that public notices be published and erected informing the public that a revised NIS had been submitted as further information to the planning authority on 3<sup>rd</sup> February 2023.

6.6.2. The public notices were so published and erected on 4<sup>th</sup> July 2023, through which members of the public were invited to make written submissions or observations to

the Board during an appropriate 5-week period. For the Board's clarity, I confirm that no submissions were received during that period.

## **7.0 Planning Assessment**

### **7.1. Introduction**

7.1.1. Having examined the appeal details and all other documentation on the case file, inspected the site, and had regard to the relevant national, regional, and local policies and guidance, I consider that the main issues in the appeal to be as follows:

- Validity Issues
- Development Plan Policy
- Architectural Heritage
- Residential Amenity
- Traffic and Transportation
- Water Services

I propose to address each item in turn below.

7.1.2. I have carried out an Appropriate Assessment (AA) and an Environmental Impact Assessment (EIA) in respect of the proposed development, which are presented in sections 8.0 and 9.0 below in this report.

### **7.2. Validity Issues**

7.2.1. At the outset of this assessment, I consider it appropriate to address the grounds of appeal which focus on the validity of the application in the first instance. These include the manner in which the application has been made (one of three consecutive applications), the content of the application (inadequacies in the application form, site notices, plans, EIAR and NIS), and its processing by the planning authority (inadequacies in the FI request, decision, conditions attached the grant of permission). The applicant has responded to the grounds, and further submissions have been received by the appellant(s) and planning authority (see section 6.0 above). I propose to address the substantive grounds in turn.

#### Validity of Three Applications

- 7.2.2. Of the grounds that the development of the site by way of three applications constitutes project splitting and is therefore invalid, I do not agree. This term is generally used to describe applying for multiple permissions for smaller schemes so as to avoid the preparation of an EIAR. Conversely, the opposite is the case in this instance as an EIAR has been prepared considering the impacts associated with this proposal in conjunction with the two concurrent appeals.
- 7.2.3. Of the grounds that the decision to lodge three applications, each under 100 dwellings units, was taken by the applicant to avoid the LRD process and is therefore invalid, I do not agree. Section 32A of the 2000 Act allows a dedicated application process (for LRD schemes in excess of 100 dwelling units) to be initiated and followed should an applicant so intend. While the LRD process allows for streamlining and efficiency, the process is not mandatory. The applicant indicates that the decision to apply for the development of the total landholding by way of three applications has been taken to allow for flexibility as it is stated that each application can be implemented independently of the others. While I consider there are limitations in the extent to which this is possible (discussed below), I am satisfied that it is not incumbent on the applicant to have applied for the development of the landholding through a single application in the LRD process, and that the Board is not prohibited from determining the appeal(s).
- 7.2.4. Of the grounds that the application(s) cannot be implemented independently and is (are) therefore invalid, I agree in part with the appellant in relation to the implementation process. In my opinion, the applications are restricted in their implementation due to the inclusion of elements common to all three applications. These include the works at Auburn House and stables, the demolition of the stable block at Little Auburn, the connecting pedestrian/ cyclist path north of the walled garden, the shared use of the existing entrance and access road to Auburn House by pedestrians, cyclists and vehicles (with vehicular use restricted to named existing properties within the grounds, i.e., Auburn House, Bellmont, The Lodge, Bellview, and Elgin), and the wastewater drainage works (new on-site pumping station and foul sewer drains in public roads). These common elements are once-off development events, would only be undertaken for the application first implemented and would not be repeated for the remaining applications. The restrictions on implementation would arise as each permission is required to be implemented in

accordance with the submitted plans and particulars, and clarity would be necessary as to which application was being implemented. As such, for each application to be implemented independently, as is claimed by the applicant, I consider that the common elements would need to be positively-omitted from two of the applications (i.e., removed in practice through inclusion in an earlier stage of a phasing plan). In effect, the manner in which the applicant has applied to develop the landholding (i.e., three separate applications with common elements), necessitates a decision as to which application would be implemented first. Such a decision would, in practice, constitute a phasing plan that would be required to be clear and precise. Such a phasing plan would ensure the coordinated development of the lands and the timely delivery of the elements of the application(s). In my opinion, any other approach to the development of the landholding would be piecemeal and not in the interests of proper planning and sustainable development of the area. I consider that the development subject of ABP 316498-23, PA Ref. F22A/0580 should be implemented first followed by ABP 316504-23, PA Ref. F22A/0581, and lastly by this proposal. Further, there are components of the overall scheme that I consider should be commenced in the first instance, some of which maybe outside of the applicable redline boundaries but are within the blueline boundary indicated for the overall scheme and so can be included in a phasing plan. These include the preservation/restoration works to Auburn House, stables and walled garden (the latter is part of this proposal), and all tree preservation, protection and planting measures included in the Arboricultural Report applicable to the overall landholding. In the event of a grant of permission, I recommend phasing be addressed by condition.

- 7.2.5. Of the grounds that the information submitted with the application is inadequate, fails to examine the full range of potential outcomes (i.e., eight different permutations from the three applications), prohibits a full assessment of the planning and environmental impacts of the proposed development, and is therefore invalid, I agree in part with the appellant in relation to the information provided. I acknowledge that the information provided (particularly in the EIAR and NIS due to their nature) does focus on the three applications each being permitted and implemented (i.e., the development of the total landholding), and not on the various permutations as identified by the appellant. However, I do not agree that a full assessment of the proposed development cannot be undertaken. As is outlined in this report, I consider

the proposed development and the development subject of the two concurrent appeals to be acceptable and, once subject to a clear and precise phasing condition, I recommend to the Board that permission be granted for same. In this regard, I am satisfied that the information provided by the applicant is sufficient to allow a complete assessment, mindful that the appropriate and proper form of development is that of the total landholding. That being, I consider that the development of the site in the manner proposed, as part of the landholding and under the totality of the three applications, is acceptable and in the interests of proper planning and sustainable development of the area. In accepting that the development of the overall landholding is appropriate subject to phasing requirements, I consider that the preparation of a single EIAR and similarly a single NIS for the applications, which outline the environmental impacts of the three applications, is acceptable. I concur with the approach taken by the planning authority whereby the developments are assessed in combination, and the implementation of the three applications is phased and linked. In the event of a grant of permission, I recommend a similar approach be employed by the Board which ensures that the cumulative impacts of the development are adequately described and assessed, and that the coordinated development of the lands is achieved. Finally, I am satisfied that such an approach addresses other appeal grounds relating to the omission of examination of each development scenario, the absence of a guarantee that all applications will be implemented, and the lack of clarity regarding which permission the common elements are being implemented under.

#### Validity of Application

- 7.2.6. Of the grounds that the application form is incorrectly completed and is therefore invalid, I acknowledge the facts as presented by the appellant and agree in part. I note that the applicant responds the instances are de minimis in effect and have not misled the public or competent authorities. Of the instances referred to by the appellant, I have reviewed the full suite of documentation in the case file. I consider that it is apparent that the proposed development involves works to and in the vicinity of a protected structure (description of development, public notices, referenced in several plans, particulars, and reports, including details of the partial demolition works to the wall of the walled garden to create a new entrance), works in proximity to a European site (referenced in several reports (planning report, AA Screening and

NIS) at the initial and FI response stages), and that an EIAR has been prepared for the application(s). The case file does include details of the applicant's landholding (blue-line boundary provided) and correspondence consenting to the making of the applications(s).

- 7.2.7. Of the grounds that the public notification process (with a focus on the site notices) is insufficient, unrepresentative, incorrect, and therefore invalid, I acknowledge the facts as presented by the appellant and agree in part. The site location map submitted with application indicates locations of five site notices erected on/ at four public roads abutting the site and the wider landholding. Dissatisfaction is also raised with the public notification process at the receipt of the FI response stage (as the planning authority did not deem the FI response to be significant and therefore did not require SFI advertisements). The Board concurred with the appellant in this regard and, in accordance with section 142(4) of the 2000 Act, requested the applicant to advertise (newspaper and site notices) that a revised NIS had been submitted as FI to the planning authority on 3<sup>rd</sup> February 2023 and inviting new public participation. I have reviewed the readvertised details (newspaper notice, site notice, map indicating locations of site notices). I note that seven site notices were erected at locations on public roads including the disputed location of Back Road/ Kinsealy Lane. I consider the number and location of the sites notices to be sufficient to readvertise the proposed development. I consider this readvertisement process to have addressed any previous shortcomings and highlight to the Board that no submissions or observations were received during that time.
- 7.2.8. Of the grounds that there are deficiencies in the development description, plans and particulars (specifically in relation to the protected structure Auburn House), in similarity with my opinion of the application form, I have reviewed the full suite of documentation and, overall, I consider these to sufficiently describe the nature and extent of the proposed development and to correlate with the plans and particulars submitted. For more detail, I direct the Board to section 7.4 below for my planning assessment of architectural heritage relevant to this appeal and to section 9.6 below for my EIA of architectural heritage as part of the overall development of the landholding. On balance, I am satisfied that the proposal's description is adequate and correlates with the details submitted, which are sufficient to allow a full assessment of the proposed development and on which the Board can rely.

### Validity of EIAR and NIS

- 7.2.9. Of the grounds that the EIAR and the NIS have been prepared for the three applications (i.e. for a total of 259 dwelling units), have not examined the impacts of each individual application and/ or the range of potential outcomes, and are therefore invalid, I agree in part with the appellant in relation to the information as examined and presented. However, in similarity with my opinion that lodging three concurrent applications is valid, I consider that the development of the overall lands in this manner is appropriate and in the interests of proper planning and sustainable development of the area. I am satisfied that an EIA and AA can be undertaken by the Board based on the information prepared and presented by the applicant in the applicable environmental reports, and indeed, recommend to the Board that the developments be assessed in combination as is allowed for. Accordingly, criticisms regarding the inadequacies and duplication of information in the reports are noted but not relevant to this assessment or those of the two concurrent applications. Of section 172 of the 2000 Act ('requirement for an environmental impact statement'), I concur with the applicant that there is no legal impediment preventing the Board from undertaking its own EIA of the proposed development based on information prepared and presented in the case file (including the current scenario of the proposed development in combination with the two concurrent applications). Of the other cited inadequacies in the EIAR, AA screening report, and NIS, these are addressed in the relevant sections of this report below.

### Validity of Further Information Process

- 7.2.10. Of the grounds that the planning authority's FI request was inadequate, the applicant's FI response includes incorrect information, the planning authority erred in not deeming the FI response to be significant, and therefore the FI process is invalid, I agree with the applicant in part. That the FI request did not seek a rationale for lodging three consecutive applications or individual assessments of all potential outcomes, I consider it apparent that the planning authority understood and accepted the manner in which the development of the site and wider landholding was proposed, and the adequacy of the information in the EIAR (i.e., impacts associated with the development of 259 residential units within the wider landholding). As outlined above, I concur with the assessment approach taken by the planning authority and recommend a similar approach be employed by the Board to assess

the proposed development(s). That the FI response includes omissions and discrepancies, I address these as applicable in the following subsections (e.g., in relation to public open space in residential amenity, to Streamstown Lane in traffic and transportation, to wastewater infrastructure in the appropriate assessment), and find that on balance the CGIs are acceptable as I consider these to serve illustrative and informative purposes. That the planning authority erred in not deeming the FI response to be significant, I acknowledge that there is no clarity on the issue in the planning authority's reports or appeal responses. Nevertheless, the matter has been considered by the Board, the appellant's position was agreed with, and the applicant was requested to advertise the submission of the FI response. In similarity with my opinion that the public notices are valid, I consider the readvertisement process to have addressed any previous shortcomings relating to the validity of the FI response process.

#### Validity of the Planning Authority Decision

- 7.2.11. Of the grounds that the planning authority's decision to grant permission for the proposed development(s) is ultra vires, Condition 3 is flawed in nature, the permission(s) is (are) unimplementable, and therefore the decision is invalid, I do not agree. As outlined above, I consider that the development of the site and wider landholding is acceptable, is in accordance with the proper planning and sustainable development of the area preventing piecemeal development, there is no legal imperative preventing the development of the lands by way of three concurrent applications and, subject to phasing requirements, I recommend a similar approach be taken by the Board. I do not consider that by employing such an approach, the planning authority acted or indeed the Board would be acting in ultra vires. I consider Condition 3 of the planning authority's decision to be, in effect, a phasing plan for the development of the lands which are indicated as being under the applicant's control. Requiring clear and unambiguous phasing requirements by condition will ensure clarity under which permission these elements are being implemented and which can be enforceable (i.e., the common elements to the three applications will be undertaken only in the first instance). Finally, that the decision does not accord with the requirements of section 34(4)(a) of the 2000 Act, I do not agree as each consent is subject to a set of conditions applicable to each grant of permission, and the lands subject of the proposed developments (i.e., the three



concurrent applications) are all on lands within the blueline boundary (i.e., indicated as being under the control of the applicant).

### Conclusion

7.2.12. In conclusion, I consider that the planning application, the manner in which the development of the site and wider landholding has been applied for, and the assessment process of same are valid. Members of the public and prescribed bodies have been informed of and been able to participate in the decision-making process, most recently through the readvertisement process required by the Board. I am satisfied that the decision-making process is valid and that the Board can rely on information prepared, presented, and received during same.

### **7.3. Development Plan Policy**

7.3.1. Between when the application was decided by the planning authority (29<sup>th</sup> March 2023) and the appeals were lodged (25<sup>th</sup> April 2023), there has been a change in county development plans. The Fingal Development Plan 2017-2023 (2017 CDP) has been superseded by the Fingal Development Plan 2023-2029 (CDP 2023). The 2023 CDP is the applicable development plan for the determination of the appeal. I also note that in the interim the Sustainable Residential Development Guidelines have come into effect inclusive of mandatory SPPRs 1-4 (as cited in section 5.0 Policy Context of this report above) which supercede 2023 CDP policy and/ or objectives on the same topics.

7.3.2. Of the grounds that the assessment of the proposed development cannot continue due to the change in development plan, that the objectives of the Streamstown Local Area Plan (LAP) and Streamstown Masterplan (MP) remain credible with regard being given to same as if these are included in the 2023 CDP, I do not agree. The Streamstown LAP was in effect between 2009-2019 and has since expired. The Streamstown MP was included for in the 2017 CDP as the subject lands were referred to as MP 9.A for which Objective MALAHIDE 11 required the preparation and/ or implementation of the Masterplan in the lifetime of that CDP (included parameters on density and building height). As outlined above, the 2017 CDP is no longer in effect and has been superseded by the 2023 CDP. I have reviewed same and confirm to the Board that there are no masterplan designations and/ or references applicable to the site.

- 7.3.3. Of the grounds that the proposal is premature and piecemeal pending the preparation of a new or revised LAP or MP, similarly, I have reviewed the 2023 CDP (including Sheet Map 9) and confirm to the Board there is no policy or objective to prepare such plans for the appeal site. As such, I do not consider that the proposed development is premature, indeed the opposite is the case as the lands are zoned Objective 'RA – Residential Area' which is to facilitate new residential communities. Further, the nature of the wider landholding (size, access, serviceable) lends itself to a coordinated and comprehensive development as is being proposed through the three concurrent applications. In my opinion, positively assessing the proposed development in conjunction with the concurrent applications, subject to phasing requirements, addresses concerns relating to piecemeal or haphazard development at these lands, will also ensure the protection of Auburn House and tree cover at the lands.
- 7.3.4. Of the grounds that the proposed development constitutes a material contravention of policies, objectives, and standards in the CDP, I do not agree. While the claims of material contraventions are discussed as relevant in subsections below, in short, I do not consider the proposed development to constitute a material contravention of the 2023 CDP. I find the proposal complies with Objective HCAO24 and Objective HCAO27 (no adverse impact on Auburn House, partial demolition of a wall of in the walled garden acceptable, preservation and renovation works to structures positively noted, conservation measures to be undertaken in first phase of development), with Policy SPQHP36 and Objective DMSO72 (quantum and design of private open space serving for Auburn House, and the boundary treatment of the interface with the public open space is acceptable), and with policy in Section 14.4.1 on placemaking design criteria (increased options for travel modes, access to recreational facilities in a variety of open spaces).
- 7.3.5. I note that certain 2023 CDP objectives and standards are now superseded by the applicable mandatory SPPRs in the Sustainable Residential Development Guidelines. I have reviewed the plans and particulars and confirm that the proposed dwellings are provided with a quantum of private open space which complies with SPPR 2 and of car parking spaces which complies with SPPR 3 (114 car spaces following the FI response). Regarding SPPR 4 and cycle parking provision, I recommend the attachment of a condition for updated proposals to be submitted to

the planning authority for its agreement which would ensure there is sufficient quantity and acceptable design of same.

### Conclusion

- 7.3.6. In conclusion, the local policy context for assessing the proposed development has changed since the planning authority's decision, and the 2023 CDP is now in effect. The main implication of the change is that the specific provisions of the Streamstown Masterplan included in the 2017 CDP are no longer applicable. Importantly, key 2017 CDP objectives and designations are included in the 2023 CDP and continue to apply to the site and proposal. These include the 'RA – Residential Area' zoning objective for new residential communities, the protected structure status of Auburn House and its attendant grounds, and the preservation of trees, woodlands and hedgerow objectives, each of which the proposed development is consistent with/has had regard to.

### **7.4. Architectural Heritage**

- 7.4.1. Several issues are raised by appellants and observers relating to the proposed development and the architectural heritage of the site. These include the inadequate application documentation, and the insensitive treatment of and adverse impact on the protected structure Auburn House and its setting. I propose to address the substantive items in turn below.

#### Adequacy of the Application Documentation

- 7.4.2. Appeal grounds include criticisms of the case documentation relating to an incorrect description of development at Auburn House, inadequate plans and particulars of same, and insufficient information on the case file to allow an assessment of the impacts of the proposal on Auburn House and its setting.
- 7.4.3. In relation to Auburn House and its attendant grounds, I identify the proposal as involving the preservation of the house and its stable buildings as a single residence through the conversion of the stables to storage space to serve the main dwelling and the construction of boundary treatments. That being, the proposal relates to the land use (and any potential intensification of use) of Auburn House and its stable buildings, whereby the buildings are proposed to serve as a single residential entity.

- 7.4.4. The proposal also involves the preservation of existing follies and walls associated with the walled garden with amendments to the garden arising from the proposal (development as public open space with play facilities, and an orchard (as amended at FI stage)), and the use of the existing Auburn House entrance and access road by pedestrians and cyclists associated with the proposal with use by vehicles restricted to that of existing named properties.
- 7.4.5. I have reviewed the range of information on the case file (plans, particulars, reports, appeal responses) and find these to align with the description of development and to adequately represent the works proposed to be undertaken. These include a full set of drawings of the house and stables (floor plans, elevations, sections), of the railings (boundary treatment plan and elevations, landscaping plans), the walled garden (site layout plan, landscaping plans, pedestrian gateway opening), and the existing access road (site layout plan, landscaping plans).
- 7.4.6. The drawings and plans are supplemented by several reports which provide further details on the proposed development and the nature of any works, particularly preservation works. These reports include the Architectural Heritage Report (which outlines a conservation methodology for the house, stables, and garden, and includes as appendices a Maintenance Strategy (also referred to as the Protection Plan), and a Photographic Record), the Historic Landscape Report and Landscape Design Rationale (outline the context for the proposed boundary treatment (choice and siting of railings defining the curtilage of the house), landscaping and planting (maintenance of an eastwards open vista)), the Walled Garden Report (outlines the structural condition of the garden walls and corner bastions with recommendations on investigation, recording, vegetation removal, and repairs), the Arboricultural Report (outlines the high arboricultural value of the site, and includes as appendices a Tree and Woodland Management Plan and an Arboricultural Method Statement which includes a Tree Protection Plan), and the Planning Stage: Structural Report (outlines the methodology for construction of foundations, loadings, service movements in proximity to sensitive structures).
- 7.4.7. Overall, I do not agree with the appellant and instead find that the development description, associated drawings and plans, and range of reports provided adequately present the nature and scale of the works and provide sufficient

information to allow an assessment of the impacts of the proposal on the architectural heritage of the site to be undertaken.

#### Treatment of and Impact on the Protected Structure and its Attendant Grounds

- 7.4.8. Appeal grounds include objections to the proposed development due to its encroachment on the house's setting, the inappropriate assimilation of the house and grounds into public open space, the unjustified partial demolition of a wall of the walled garden to construct a pedestrian gateway, the absence of information on the future upkeep and maintenance of the house which may necessitate a potential and undesirable commercial use, the failure to comply with 2023 CDP Objective HCAO27 in relation to phasing, and the loss of trees along Malahide Road to facilitate the proposed main entrance.
- 7.4.9. In the interests of clarity, I direct the Board to section 9.6 in the EIA of this report below in which I consider several of these grounds as part of my overall assessment of the impact of the proposed development on the architectural heritage of the site. These grounds include the impact of the proposed development (and concurrent appeals) on Auburn House and its attendant grounds including the walled garden, trees and woodlands setting. The grounds raised which are more appropriately considered in this planning assessment are those of a procedural nature including legislative requirements relating to demolition works, and the future use (residential and intensification of same), and maintenance proposals for the house and stables.
- 7.4.10. The development proposes specific demolition works including that of part of a wall of the walled garden, a shed structure adjacent to Carey's Lane (southwestern corner), and a stables structure associated with Little Auburn dwelling (mid-way along the eastern side of the main avenue). There is no planning issue arising from the demolition of the shed and/ or stables structures due to their limited architectural value. However, in respect of the works to the walled garden, the appellant submits that as the walled garden forms part of the protected structure, section 57(10)(b) of the 2000 Act applies and is not complied with.
- 7.4.11. I note that section 57(10)(b) of the 2000 Act states that permission for the demolition of a protected structure shall not be granted save in exceptional circumstances. The 2023 CDP entry for the property, RPS Ref. 448, describes the protected structure as a 'late 18th or early 19th century house, outbuildings & walled garden', and

accordingly the protected status designation extends to the walled garden. I have reviewed the plans and particulars, and identify that the demolition works involve the partial removal of original fabric of the western wall of the walled garden to create a pedestrian gateway (approximately two-thirds down the length of the wall). The pedestrian gateway is required to allow unobstructed pedestrian access (following amendments made in the FI response removing gates) to the walled garden which is to serve as public open space for the development.

7.4.12. In considering the applicability of section 57(10)(b) of the 2000 Act, I highlight the following issues. The walls of the walled garden are largely intact, in good structural condition, with a total perimeter measuring c.216.5m in length. The demolition of the western wall of the garden is for c.2.5m in length. As such, the demolition works are partial and not total, constituting c.1.16% of the original fabric of the wall and c.214m of perimeter wall will remain intact. The demolition works have been informed by specialist consultants with the proposed gateway's design and finish similar to others, the Architectural Heritage Report describes its construction method, and the Walled Garden Report indicates construction methods and repair works for the remaining walls. I consider the creation of the pedestrian gateway to be a necessary intervention as it provides an additional entry point into the public open space (another publicly accessible entrance is an original gated entrance in the northern wall), which is modern and unobstructed, is sited at a more accessible and convenient location closer to the proposed dwellings and to members of the wider community. That being, the loss of original wall fabric to create the pedestrian gateway allows the walled garden to be retained in an amenity use thereby protecting its long-term status, as recommendations are included in the accompanying reports to conserve all principal trees, for replanting in the southern portion to re-establish the original orchard character, and for protection measures for the pet cemetery. In this context, I consider the partial demolition of the wall to be an exceptional circumstance with minimal impact and to not adversely affect the interest of the protected structure.

7.4.13. Of grounds relating to the absence of information on the future upkeep and maintenance of the house which may necessitate a potential and undesirable commercial use, I do not agree. Instead, I positively note the development approach taken for the house and stables (i.e., assimilation into a single residential entity with

a defined curtilage of private open space). This approach will ensure that the buildings will not be divided, sublet, or separated from each other, or that the residential use would be intensified, thereby addressing concerns relating to the future upkeep and avoidance of a potential commercial use of the house. I consider this matter can be addressed by condition.

- 7.4.14. Related to the maintenance of the house and attendant grounds, the appellant submits that the proposal fails to comply with 2023 CDP Objective HCAO27 in respect of phasing due to the manner in which permission has been applied for (i.e., three consecutive applications). Objective HCAO27 requires that repair and refurbishment work to a protected structure is contained and completed within the first phase of a larger development scheme. While I note the appellant's position, I do not agree as I am satisfied that the overall development of the lands can be achieved through the attachment of clear and precise conditions requiring the phased implementation of the concurrent appeals. I recommend that such a phased implementation plan include for the repair and restoration works to the house and attendant grounds in the first instance. The repair and restoration works are adequately provided for in the suite of reports accompanying the proposal including the Architectural Heritage Report (inclusive of a conservation methodology and Maintenance Strategy), the Walled Garden Report (inclusive of methodologies for repair and construction works), the Arboricultural Report (inclusive of the Tree and Woodland Management Plan and the Arboricultural Method Statement with the Tree Protection Plan), and the Planning Stage: Structural Report (inclusive of a construction methodology for works in proximity to sensitive structures). I consider that such an approach satisfactorily ensures compliance with Objective HCAO27.

#### Conclusion

- 7.4.15. In conclusion, I am satisfied that the description of development adequately reflects the works proposed to protected structure Auburn House and its attendant grounds and aligns with the plans, particulars and reports included in the case file. Further, I consider that the information provided, which is particular to the site's protected structure status in relation to demolition works, land use, and future maintenance, is sufficient to allow the Board to determine the appeal. I also conclude that the proposal complies with applicable 2023 CDP objectives HCAO24 and HCAO27.

## **7.5. Residential Amenity**

- 7.5.1. Appellants and observers raise concerns regarding the impact of the proposed development on the residential amenity of existing residents in adjacent properties. Concerns relating to the amenity of future residents are raised in respect of poor-quality open space (private space serving houses opposite to Clairville Lodge and Auburn House, and public space serving the wider scheme). Further, I consider the implications for the residential amenity of future residents arising from the amendments made to the scheme by the planning authority (FI request and conditions), and the requirements arising from applicable SPPRs in the Sustainable Residential Development Guidelines which are in effect at the time of assessment.

### **Existing Residential Amenity**

- 7.5.2. Of the grounds that the southern boundary of the site encroaches on the boundaries of the adjacent Clairville Lodge properties by c. 1m-2m, while I acknowledge the appellant's claim, there is no definitive evidence provided demonstrating same. I accept the applicant's response in respect of the depiction of the redline boundary on the drawings and that the site boundary matches the topographical survey information (which I note from a review of available mapping images and my site inspection). In any event, I highlight that boundary disputes are a civil matter, and any grant of permission is subject to the restrictions explicit in section 34(13) of the 2000 Act.
- 7.5.3. I consider issues of potential overlooking and loss of privacy on adjacent properties (houses to the west and south) due to the proposed development (i.e., arising from siting, separation distances, and rear garden depths) in the following subsection as part of an assessment of future residential amenity.
- 7.5.4. Of the particular issues (i.e., the operation of the signalised junction on Malahide Road and the management and maintenance of the surface water drainage system) raised by an observer (indicated as the owner of an adjacent property to southwest/southeast of site), I consider that matters pertaining to the provision/ design of the engineering infrastructure to support and service the proposed development should be subject to and meet the requirements of the planning authority. In the interests of the common good, I do not consider it appropriate for an individual third party to be included in such agreements. I consider both issues can be addressed by conditions



(e.g., the planning authority's Condition 12(d) can come within the scope of overall agreement on surface water management). As referred to in the subsection above, property and/ or boundary disputes are a civil matter, and any grant of permission is subject to the restrictions explicit in section 34(13) of the 2000 Act.

#### Future Residential Amenity

- 7.5.5. During the processing of the application, the planning authority requested the applicant to make amendments to the house designs of five proposed dwellings (House No.s 02-06) in the northwest of the site. The amendments were requested due to concerns regarding the potential impact on the residential amenity of the adjacent house to the west. The designs of the proposed dwellings in these plots were amended from 4-bedroom houses with rear windows at first floor level to smaller 3-bedroom houses with no such windows.
- 7.5.6. While I acknowledge the concern of the planning authority, I find this to be overly cautious. I do not consider that the proposed dwellings as initially submitted cause an adverse impact on the residential amenity of the adjacent house to the west. This is due primarily to the fact that the proposed dwellings are not aligned in direct opposition to that dwelling. Instead, the proposed dwellings in House No.s 02-06 oppose the gable walls of the house and garage, and the front garden area of the property. The separation distances indicated on the site layout plans (c.20m to the eastern gable of the house in both the initially submitted and in the FI response) indicate the side alignments. The elements of the adjacent house to the west that would likely be vulnerable to adverse impact through overlooking and loss of privacy are the first floor windows and the private amenity space to the rear of the property, neither of which are unduly impacted upon by the proposed development. Also, I highlight that the separation distances from the rear elevations of House No.s 02-06 to the gable of the adjacent house as initially proposed are in compliance with SPPR 1 of the Sustainable Residential Development Guidelines (i.e., in excess of 16m).
- 7.5.7. Further, I consider that the amendments made to the dwelling designs of House No.s 02-06 result in poor levels of amenity to the future residents of these properties. The dwellings are smaller houses with no windows serving the rooms to the rear of the first floor level (instead there is a reliance on roof lights). The amendments also result in a reduction in the proportion of 4 bedroom houses in the scheme,

decreasing the range of house types and opportunity to meet wider demographic needs. In the event of the Board granting permission, I recommend the reinstatement of the initial dwelling types in House No.s 02-06 be addressed by condition.

- 7.5.8. Amendments are also made by the planning authority to the type of fenestration in Apartment Block 1 though the FI request and Condition 10(a). South facing windows serving the living rooms of Apartments 6, 14, 24, and 32 were changed from standard to high-level windows so as to provide greater privacy to the balconies of the apartments to the south. I concur with these amendments. However, by Condition 10(a), a similar amendment to window types is stipulated for Apartments 18, 28, and 34. As these windows are north facing, serve bedrooms, and the balconies potentially impacted have been partially recessed (see below), I do not consider this amendment to be reasonable or necessary, and do not recommend to the Board the attachment of a similar condition. In the interests of clarity for the Board, I concur with the amendments made in the FI response to the apartment balconies which have been partially recessed thereby increasing the levels of privacy and shelter for same, and that all mid terrace houses would be provided with a proprietary lockable bicycle store (as per Condition 10(b)) or equivalent proposal as is discussed in the section 7.6 below with regard to the requirements of SPPR 4 of the Sustainable Residential Development Guidelines).
- 7.5.9. Of the grounds that the proposed dwellings, particularly those along the southern boundary of the site opposite Clairville Lodge, are provided with substandard private amenity space and rear garden depths (as per the the CDP standards), I have reviewed the applicable policy context. The related 2023 CDP standards are Objective DMSO27 and policy in section 14.8.2 (cited in section 5.0 Policy Context above). As referred to above, the Sustainable Residential Development Guidelines are in effect at the time of assessment. The applicable SPPRs include SPPR 1 (16m separation distances between opposing windows serving habitable rooms) and SPPR 2 (minimum areas of private open space for a 2 bedroom house of 30sqm, 3 bedroom house of 40sqm, 4 bedroom house of 50sqm).
- 7.5.10. I have reviewed the plans and particulars and note that the private open spaces of the proposed dwellings along the southern boundary range from 64sqm (House Type C, 3 bedroom) to 130sqm (House Type E1, 4 bedroom). The rear garden

depths range between 10.6m and 16.8m to the site boundary, with separation distances to opposing houses in Clairville Lodge ranging from 16.6m to 36.7m. As such, predominantly the proposed dwellings comply with the requirements of SPPR 1 and SPPR 2 (and with the 2023 CDP standards). I note that there are two exceptions, proposed House No.s 29 and 34 achieve separation distances of 15.7m and 13.5m to opposite House No.s 11 and 13 Clairville Lodge respectively. I note that the proposed dwellings oppose the northern gables of these houses, as opposed to rear elevations and that while there is a small window in each gable wall these are serving habitable rooms (indicated by applicant and confirmed at site inspection). As such, I am satisfied that these proposed dwellings also comply with SPPR 1.

- 7.5.11. Of concerns raised of injury to the amenity of Auburn House, I am satisfied that future residential amenity of the property will be of a high level and quality. The proposal includes for the conversion of the house and stables as a single residential unit, which is being provided with ample private open space that will be demarcated and enclosed with the new boundary.
- 7.5.12. Of the grounds that the open space in the proposal is of poor design, layout, and quality, I do not concur. I have reviewed the plans and particulars submitted for same which include quantitative details (compliant provision of communal and public open spaces, accords with requirements in 2023 CDP Section 14.6.5), and qualitative details on detailed design considerations (Landscape Design Rationale and accompanying landscaping plans), and planting (hard and soft as revised in the FI response details). Conversely to the appellant, I consider that the proposal provides sufficient quantum of usable, accessible, high quality and distinctive open spaces, particularly that within the walled garden with a favourable southern orientation which will ensure high standards of residential amenity for future residents.
- 7.5.13. Other items of relevance for residential amenity include the requirement arising from 2023 CDP Objective DAO11 for noise insulation to be provided for the dwelling units due to the site's location within Dublin Airport's Noise Zone C, which I recommend be addressed by condition. Finally, I confirm to the Board that I have reviewed the plans and particulars (Schedule of accommodation, Housing Quality Assessment) of the proposed houses and apartments and confirm these satisfy the applicable

quantitative and qualitative standards in the 2023 CDP and as relevant, the standards in the national planning guidelines in particular the SPPRs.

### Conclusion

7.5.14. In conclusion, I do not anticipate any adverse impacts on the amenity of existing residential properties, or that of future residential units and open spaces within the scheme arising from issues of overlooking, overshadowing, or overbearance. The proposal is of a design and layout that will provide acceptable standards of residential amenity for the future occupants of the scheme. The proposal includes a range of residential typologies which will meet the demographic needs of various households, further contribute to the housing offer in the vicinity of the site. The proposal meets required standards of accommodation and complies with applicable CDP and guidelines' policies.

## **7.6. Traffic and Transportation**

- 7.6.1. The appeal site is accessed via an existing entrance from Carey's Lane, in the southwest corner of the site, which presently serves three residences. The proposed development involves the upgrade of this entrance and provision of an internal road (shared surface) to access the scheme. The internal road terminates north of the walled garden, becoming a pedestrian/ cycle path. This path in turn connects to the existing access road which serves Auburn House (with the main entrance onto Malahide Road). The pedestrian/ cycle path is included within each of the three concurrent applications.
- 7.6.2. From the appeal site, access to the pedestrian/ cycle path is controlled by bollards, thus the internal layout of the proposal prevents vehicular through-traffic (save for emergency vehicles) from traversing the overall landholding and using the entrance at Malahide Road (and vice versa). The concurrent applications (ABP 316498-23, PA Ref. F22A/0580, Little Auburn with 98 residential units and ABP 316504-23, PA Ref. F22A/0581, Auburn Park with 92 residential units) are to be served by the new entrance onto Malahide Road (i.e., fourth arm, signalised junction). I note that this internal layout with a restricted vehicular access arrangement is different from that previously proposed in the SHD applications which allowed through-traffic.
- 7.6.3. The appeal grounds include the adverse traffic impacts associated with the proposed development. There is strong opposition to the use of Carey's Lane and

Streamstown Lane to serve the proposal, in particular during the construction phase of the development (requests that all construction traffic be required to use the Malahide Road entrance only), due to the existing conditions of the roads and the absence of definitive upgrades plans. Reference is also made to the proposed development relying on road improvement works in other permissions, on bus services and train access while in reality walking is the only option which is not safe from the site, and the likely operation phase traffic (modelling at junctions, TIA omissions).

- 7.6.4. Of the opposition to the use of Carey's Lane and Streamstown Lane, I acknowledge that the proposed development will result in increased activity on the local road network, particularly for construction traffic though also once the development is occupied and operational. Several of the concerns raised by the appellants and observers are typical of impacts that arise during site developments adjacent to residential properties (increased traffic movements, noise, dust, nuisance). In considering the traffic and transportation related impacts, the most relevant documents are the Construction and Demolition Waste Management Plan (CDWMP), and several of chapters in the EIAR (I direct the Board to section 9.6 in the EIA of this report in which I consider the impact of the proposed development on the material assets: transport factor).
- 7.6.5. I consider that the provisions outlined in the CDWMP are broad and (when combined with mitigation measures in the EIAR) include good site management practices, specified hours of operation, local traffic control measures, parking and compound area within the site boundaries, noise, vibration, dust surveying and monitoring will address and ameliorate the impacts. Of the request for all construction traffic to use the Malahide Road entrance, I do not consider such a restrictive arrangement to be appropriate, in the interests of efficiency, and potentially injurious to the walled garden and trees which would be along the necessary internal route. I consider that measures have been incorporated into the design of the scheme (primarily, a single entrance for vehicular access serving a smallscale 69 residential units, whilst facilitating convenient and accessible pedestrian and cycle trips through the overall lands), included for in the TTA and Travel Plan, and can be addressed in conditions (e.g, requirement for a final Construction Environmental Management Plan incorporating traffic management proposals) to ameliorate adverse impacts.

- 7.6.6. Of criticism regarding the methodology used and predicted capacity at surveyed junctions in the TTA, I have reviewed same (as also outlined in section 9.6 in the EIA of this report), and the applicant's first party appeal response on the matters (Appendix 3). I find the methodology used to be in line with the industry standard for traffic impact assessments for similar proposals, note that an alternative analysis or assessment of the proposed traffic generation associated with the proposal was not provided in the appeals or observations, and that the planning authority acknowledged incorrect information regarding the local roads infrastructure but otherwise accepted the methodology used, and cited no objection to the proposal.
- 7.6.7. In respect of claims of limited pedestrian access and concern for pedestrian safety, I note that at the time of my site inspection the road improvement works referred to in the application documentation (i.e., those being relied upon by the applicant and associated with planning applications (PA Ref. F19A/0446 (ABP 306844-20), and PA Ref. F21A/0547, see section 4.0 Planning History above) are at an advanced stage of construction. Once completed, the road improvement works widen a notable length of Streamstown Lane and provide a continuous footpath from the proposal's entrance on Carey's Lane along Streamstown Lane to the junction with Malahide Road. Pedestrian access will be facilitated from this junction further north along Malahide Road to the main site entrance and bus stops. The proposal also includes a segregated pedestrian/ cycle path which will allow access to and connection with other pedestrian links through the overall landholding. I note that the layout of the proposal includes pedestrian links to adjoining lands that are in private ownership (with no consent given)/ outside of the applicant's control. For such instances, I recommend the inclusion of a condition requiring these links to be provided up to the site boundary which can facilitate future connections subject to the appropriate consents. In this regard, I consider pedestrian accessibility and safety to be acceptable, having improved in the intervening period since the appeals were lodged.
- 7.6.8. Finally, with regard to car and cycle parking, I highlight the applicability of SPPR 3 and SPPR 4 of the Sustainable Residential Development Guidelines. As the appeal site is an intermediate location for the purposes of the guidelines, I confirm that the scheme complies with the maximum car parking standards stipulated in SPPR 3. SPPR 4 indicates requirements for cycle parking in terms of quantity (1 cycle storage

space per bedroom space for residential units above ground level, plus visitor spaces) and design (dedicated facility of permanent construction). As such, proposed cycle parking should align with these mandatory requirements. I recommend the attachment of a condition for updated proposals to be submitted to the planning authority for its agreement which would ensure there is sufficient quantity and acceptable design of same.

### Conclusion

- 7.6.9. In conclusion, I am satisfied that a development of the scale proposed at this site can be accommodated within the existing and improving road network, existing and planned public transport service and capacity, and pedestrian and cycle infrastructure. I consider the proposal would not give rise to a traffic hazard or be seriously injurious to the amenity of those in the immediate area of the site. In the event of a grant of permission, appropriate conditions would address associated impacts.

## **7.7. Water Services**

- 7.7.1. Of particular issues raised in respect of wastewater drainage (excessive length of foul sewer, mandate Uisce Eireann to provide foul sewer along Malahide Road) and surface water drainage (riparian strip and SuDS maintenance), I accept the applicant's justification for the wastewater proposals (necessary due to capacity issues in the immediate local network) as is attested to by Uisce Eireann. I consider that matters pertaining to the management and maintenance of the surface water drainage system be subject to and meet the requirements of the planning authority. Both matters can be appropriately addressed by condition. I direct the Board to section 9.5 in the EIA of this report in which I consider the impact of the proposed development on the water component of the environment, inclusive of water services infrastructure.

## **8.0 Appropriate Assessment**

### **8.1. Overview**

- 8.1.1. This section of the report considers the likely significant effects of the project on European sites by undertaking a number of distinct steps in compliance with Article

6(3) of the EU Habitats Directive and sections 177U and 177V in Part XAB of the 2000 Act. These steps include screening the need for appropriate assessment, reviewing the Screening Report for Appropriate Assessment (SRAA), the Natura Impact Statement (NIS), all associated documents, and undertaking an appropriate assessment of implications of the project on the integrity of any identified European sites.

- 8.1.2. In the interests of clarity for the Board, the 'project' subject of this appropriate assessment refers to the total development being proposed in the three concurrent applications, and the 'site' refers to the overall lands included within the three applications.
- 8.1.3. In undertaking this appropriate assessment, I have had regard to the SRAA and NIS (dated October 2022) as initially submitted with the applications, the revised SRAA and NIS (dated January 2023) submitted in the FI responses, the associated reports reviewing the SRAA and NIS as prepared by environmental consultants on behalf of the planning authority, and to related information provided by the applicant in Appendix 5 of the first party appeal response. In the interest of clarity, where I have made references to the SRAA and/ or NIS, these are the reports dated January 2023 which were submitted to the planning authority in the FI response.

## **8.2. Stage 1 – Appropriate Assessment Screening**

- 8.2.1. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).

### Test of Likely Significant Effects

- 8.2.2. The first test of Article 6(3) is to establish if the project could result in likely significant effects to a European site. This screening stage is Stage 1 of the appropriate assessment process. The project is examined in relation to any possible interaction with European sites designated as SACs and/ or SPAs to assess whether it may give rise to significant effects on any European Site.
- 8.2.3. In carrying out my assessment I have had regard to the nature of the project, characteristics of the site (i.e., the total lands within the three concurrent appeals), the distances from the site to European sites, the existence of connections, relied on



applicant's SRAA, the NPWS's Conservation Objectives reports and Site Synopses, and I have had regard to the appeal grounds, observations and submissions received in relation to the potential impact on European sites.

#### Project Description and Site Characteristics

- 8.2.4. The application is accompanied by a SRAA, dated January 2023. In Step 2: Analysis of the Project of the SRAA, the applicant identifies components of the project which are relevant for this screening, key among which include:
- Provision of a new surface water drainage system, with attenuation storage areas and incorporating SuDS measures, discharging into on-site drainage ditches/ local stream which merge with Hazelbrook Stream which flows to Baldoyle Bay.
  - New on-site wastewater pumping station with connection to the existing public wastewater system (via new foul sewers laid along Back Road and Kinsealy Lane) for treatment at Ringsend WWTP and discharge to Dublin Bay.
  - Connection to the existing public water supply system via the watermain (available in the R107 and Carey's Lane) which originates in Leixlip Reservoir.
- 8.2.5. In Step 1: Analysis of the Natura 2000 Network of the SRAA, the applicant provides a description of the nature of the site. The key characteristics identified include:
- The habitats within the site are classified as improved agricultural grassland (GA1), broadleaved woodland (WD1), field boundaries comprising hedgerows (WL1) and treelines (WL2), drainage ditches (FW4, along two field boundaries located to the south of Auburn House and to the east of the site extending southwards along the internal access road), and buildings and artificial surfaces (BL3, for Auburn House, Little Auburn House, and Back Road and Kinsealy Lane).
  - Drainage ditches are described as small watercourses, not accompanied by wetland flora, of low fisheries significance, culverted in locations on-site and under the R107, where open are observed to be slow flowing with minimal vegetation, highly modified and of low value for aquatic biodiversity.

- Drainage ditches are known to connect to the Hazelbrook Stream (reference is made to the applicant's Engineering Assessment Report) which is identified as a tributary of the Sluice River that ultimately outfalls to Baldoyle Bay.
- Route of the new foul sewer line is in the public roads, which is entirely composed of artificial surfaces, crosses the Hazelbrook Stream to the southeast of the main application site along Kinsealy Lane.
- Invasive species noted at the site include Spanish bluebells, and three-cornered garlic, with no Japanese knotweed.
- Habitats at the site are not suitable for wintering/ wetland/ migrating birds, which are qualifying interests of Natura 2000 sites.
- Habitats at the site are not examples of those listed on Annex I of the Habitats Directive (i.e. mudflats, sandflats, amenity grasslands) (the broadleaved woodland habitat is considered to be of high local value only).

8.2.6. Taking account of the characteristics of the project in terms of its nature and location, the site characteristics, and the scale of works, I consider that relevant issues in the identification of likely significant effects on European sites include:

- Surface water pollution related to construction phase activity.

For similar reasons, I consider the following to not be relevant issues in the identification of likely significant effects on (a) European site(s):

- Loss and/ or disturbance to habitats and/ or species.
- Wastewater pollution related to construction phase activity.
- Wastewater and/ or surface water pollution related to operation phase activity.

#### Submissions and Observations

8.2.7. Appeal grounds/ observations have raised that the information presented in the application for screening for and/ or AA is inadequate, including information on wintering bird surveys, claims in respect of habitat and treeline at the site/ receiving area, ex-situ effects on nearby SPAs, referenced out of date conservation objectives, and not considered the foul sewer construction.

- 8.2.8. Submissions received from prescribed bodies include the DAU in the Department of Housing, Local Government and Heritage. This notes the hydrological connection between the development site and the Baldoyle Bay Special Area of Conservation (SAC) and the Baldoyle Bay Special Protection Area (SPA). The potential risk for detrimental effects on these downstream Natura 2000 sites without the implementation of suitable mitigation measures (to avoid the mobilisation of pollutants such as silt, hydrocarbons, and cementitious materials from the development into surface water runoff during its construction phase) is raised.
- 8.2.9. Having reviewed the range of submitted documents, while I note concerns and shortcomings raised in the appeals/ observations, I am satisfied that the full range of information provided (outlined in subsection 8.1.3 above of this report) allows for a complete examination and identification of any potential significant effects of the development, alone, or in-combination with other plans and projects on European sites. I concur with the applicant's response and/ or planning authority's appropriate assessment whereby the foul sewer route, watercourses and water bodies, and in-combination effects have been considered, the methodology employed and scientific evidence referenced can be relied upon.

#### European Sites Likely to be Affected

- 8.2.10. The application site is not located in or immediately adjacent to a European site. The SRAA identifies several European sites within the precautionary 15km radius of the site, provides descriptions of the sites including the conservation objectives and qualifying interests.
- 8.2.11. The SRAA establishes the potential zone of influence of the project including therein the European sites observed as having hydrological links to the site following pathway analysis. The European sites identified include Baldoyle Bay SAC (site code: 000199) and Baldoyle Bay SPA (004016) due to the indirect hydrological link observed from the site to Baldoyle Bay (surface water drainage pathway from watercourse at the site to the Hazelbrook Stream to Baldoyle Bay estuary). Additionally, the European sites of North Dublin Bay SAC (000206), North Bull Island SPA (004006), South Dublin Bay SAC (000210), and South Dublin Bay and Tolka Estuary SPA (004024) in Dublin Bay due to the indirect hydrological link observed

between the site and Dublin Bay (wastewater drainage pathway from project via foul sewers to Ringsend WWTP to Dublin Bay).

- 8.2.12. While I note the identification of several European sites within the precautionary 15km radius in the SRAA (identified on Fig. 3, pg. 8), I consider that significant impacts on these SAC and SPA sites are unlikely, and I have not considered any European sites, other than those discussed below, as being potentially within the zone of influence due to the nature and scale of the project, the distance from, and absence of a connection to the site.
- 8.2.13. I concur with the conclusions of the applicant's screening, in that the only European sites on which there is potential for likely significant effects, are the Baldoyle Bay SAC and SPA designations as a result of indirect surface water hydrological connectivity, and the Dublin Bay SPA and SAC designations in Dublin Bay due to an indirect wastewater hydrological connection.
- 8.2.14. Notably, I confirm to the Board that the applicant's SRAA (January 2023) and Appendix 5 of the first party appeal response (May 2023) were prepared prior to the designation of the North-West Irish Sea SPA (site code:004236) in July 2023. As such, the SRAA does not list the North-West Irish Sea SPA in the project's zone of influence. The North-West Irish Sea SPA includes Dublin Bay and adjoins several of the SPAs listed in subsection 8.2.11 above. Applying the same rationale as the applicant applies for including the Dublin Bay European sites in the project's zone of influence, I similarly include the North-West Irish Sea SPA within the zone due to an indirect surface water hydrological connection.

#### Identification of Likely Significant Effects

- 8.2.15. As outlined in subsection 8.2.6 above, likely significant effects on European sites due to loss or disturbance to habitats or species associated with the project have not been considered as the site has been demonstrated to not be suitable for regularly occurring populations of wetland or wading birds, which may be associated with the European sites identified in subsection 8.2.11 above. These birds are associated with coastal and intertidal habitats, and no amenity grassland or other such necessarily supportive habitat suitable for such species has been identified at the site.

- 8.2.16. Of note from Step 4: Determination of Significance of the SRAA are the findings relating to the identification of likely significant effects. The significance of effects on the European sites are determined through a consideration of the different ways in which a project can impact upon a European site if a pathway exists. Of habitat loss and habitat disturbance, of wastewater and surface water pollution at operation phase, of groundwater quality and flow, and of water abstraction, the applicant's SRAA finds that: *'No significant effects to any Natura 2000 site is likely to arise from this source'*.
- 8.2.17. As established in the applicant's SRAA, and supported by associated engineering and flood risk documentation, there are indirect hydrological connections between the site and six European sites in Baldoyle Bay and Dublin Bay. Of the ecological status of the bays, Baldoyle Bay is indicated as failing to meet required standards with the exact cause unknown. While for Dublin Bay, sampling of water quality indicates that the discharge from Ringsend WWTP is having an observable effect in the 'near field' of the discharge. This includes the inner Liffey Estuary and the Tolka Estuary, but not the coastal waters of Dublin Bay.
- 8.2.18. The specific conservation objectives and qualifying interests of the potentially affected SAC sites relate to habitat area, community extent, community structure and community distribution within the qualifying interest. There are no objectives in relation to water quality. The specific conservation objectives for the bird species highlighted for the potentially affected SPA sites relate to maintaining a population trend that is stable or increasing, and maintaining the current distribution in time and space.
- 8.2.19. The hydrological connection from the site to Baldoyle Bay SAC and SPA is such that surface water from the project during construction and operation phase activity will drain to the on-site ditches then to Hazelbrook Stream and to Baldoyle Bay estuary. Of the construction phase activity, due to the extensive site clearance, demolition and construction works planned to facilitate the project and these being in close proximity to the ditches/ local stream (open watercourses) at the site, following a precautionary approach, the potential for large quantities of silt or other construction pollutants to be washed downstream means that significant effects to the Baldoyle Bay SAC and SPA cannot be ruled out. Of the operation phase activity, the surface water drainage strategy for the project involves collection, attenuation, and discharge

of run-off at greenfield rates to the drainage ditches/ local stream. The proposed drainage strategy is compliant with the requirements of the Greater Dublin Strategic Drainage Study and incorporates several SuDS measures. As a result of these measures, there will be not net change to the quantity or quality of surface water leaving the site and a risk to surface water quality during operation phase activity on the Baldoyle Bay SAC and SPA can reasonably be ruled out.

- 8.2.20. The hydrological connection from the site to the Dublin Bay SACs and SPAs is such that wastewater from the project during operation phase activity will be pumped via new foul sewers to connect to the existing public system for treatment in Ringsend WWTP and then discharge into Dublin Bay. Currently emissions from the Ringsend WWTP are not in compliance with the Urban Wastewater Treatment Directive. The Ringsend WWTP has been granted permission to upgrade Ringsend WWTP, which will improve treatment standards and increase network capacity by 50% (the current capacity is a weekly average of 1.65 million PE to 2.36 million PE). Evidence also suggests that in the current situation, some nutrient enrichment (pollution) is benefiting wintering birds for which the SPAs have been designated in Dublin Bay. Taking into consideration the comparably small quantum of effluent discharge from the project, the distances between the site and Dublin Bay SACs and SPAs, the lack of direct hydrological connection, and the dilution effect with other effluent and surface runoff, significant effects are considered to be unlikely. Further, no negative impacts to the European sites can arise from additional loading on the Ringsend WWTP as a result of the project as there is no evidence that negative effects are occurring to SACs or SPAs from water quality.
- 8.2.21. Of note from the SRAA, in respect of the likely significant effects on the identified European sites, specifically of those in Dublin Bay, is the conclusion that: '*No negative effects to Natura 2000 sites in Dublin Bay are likely to arise*'. However, of Baldoyle Bay SAC and SPA, the SRAA concludes that '*significant effects cannot be ruled out*' due to the existence of surface hydrological pathways from the site to the estuary and '*the potential for large quantities of sediment or construction pollutants to be washed into the bay due to the proximity of works to open water courses...*'.
- 8.2.22. From the foregoing, I consider that there are construction phase activities of the project that could give rise to likely significant effects, on their own or in-combination with other projects on the qualifying interests of the Baldoyle Bay SAC and SPA such

that the need for Stage 2 appropriate assessment of the Baldoyle Bay SAC and SPA cannot be excluded without further analysis and assessment.

8.2.23. A summary of the European sites including their conservation objectives and qualifying interests, the nature of the connection (source-pathway-receptor) to the site, and the possibility of likely significant effects arising from the project are presented in Table 3 below.

**Table 3: Screening Summary Matrix**

European Site Code and Conservation Objective	Qualifying Interests or Special Conservation Interests	Distance from Site and Connection (source, pathway, receptor)	Likely Significant Effect	Screening Conclusion
<u>Baldoyle Bay SAC (000199)</u>  To maintain the favourable conservation condition of the Annex I habitats for which the SAC has been designated.	Mudflats and sandflats not covered by seawater at low tide [1140]  Salicornia and other annuals colonising mud and sand [1310]  Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330]  Mediterranean salt meadows (Juncetalia maritimi) [1410]	c.3.8km  Indirect hydrological connection between the project (source), surface water drainage via the Hazelbrook Stream (pathway) to Baldoyle Bay estuary and the European site (receptor).	Likely significant effects may arise on the water quality in Hazelbrook Stream from surface water pollution during the construction phase of the project affecting the protected habitats in Baldoyle Bay estuarine environment.  No likely significant effects arising on the water quality in Hazelbrook Stream from surface water pollution during the operation phase as the project incorporates SuDS elements, attenuation of	Screened in for the need for AA due to potential surface water pollution during the construction phase of the project.

			surface water, certified standard of construction and connection to water services networks, that will prevent surface water pollution.	
<p><u>Baldoyle Bay SPA (004016)</u></p> <p>To maintain the favourable conservation condition of the bird species (including the Annex I listed, bird species), and the wetlands habitat for which the SPA has been designated.</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <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>Wetlands [A999]</p>	<p>c.3.8km</p> <p>Indirect hydrological connection between the project (source), surface water drainage via the Hazelbrook Stream (pathway) to Baldoyle Bay estuary and the European site (receptor).</p>	<p>Likely significant effects may arise on the water quality in Hazelbrook Stream from surface water pollution during the construction phase of the project affecting the protected habitats which the protected bird species rely upon in Baldoyle Bay estuarine environment.</p> <p>No likely significant effects arising on the water quality in Hazelbrook Stream from surface water pollution during the operation phase as the project incorporates SuDS elements, attenuation of surface water, certified standard of construction and connection to water services networks, that will prevent</p>	<p>Screened in for the need for AA due to potential surface water pollution during the construction phase of the project.</p>



			surface water pollution.	
<p><u>North-West Irish Sea SPA (site code 004236)</u></p> <p>To maintain or restore the favourable conservation condition of the bird species for which the SPA has been designated.</p>	<p>Red-throated Diver (<i>Gavia stellata</i>) [A001]</p> <p>Great Northern Diver (<i>Gavia immer</i>) [A003]</p> <p>Fulmar (<i>Fulmarus glacialis</i>) [A009]</p> <p>Manx Shearwater (<i>Puffinus puffinus</i>) [A013]</p> <p>Cormorant (<i>Phalacrocorax carbo</i>) [A017]</p> <p>Shag (<i>Phalacrocorax aristotelis</i>) [A018]</p> <p>Common Scoter (<i>Melanitta nigra</i>) [A065]</p> <p>Little Gull (<i>Larus minutus</i>) [A177]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Common Gull (<i>Larus canus</i>) [A182]</p> <p>Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183]</p> <p>Herring Gull (<i>Larus argentatus</i>) [A184]</p> <p>Great Black-backed Gull (<i>Larus marinus</i>) [A187]</p> <p>Kittiwake (<i>Rissa tridactyla</i>) [A188]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p>	<p>c.3.9km</p> <p>Indirect hydrological connection between the project (source), wastewater drainage to Ringsend WWTP for treatment (pathway), with discharge of treated wastewater to Dublin Bay and the European Site (receptor).</p>	<p>No likely significant effects arising on the water quality of Dublin Bay from wastewater pollution during the operation phase of the project as the project incorporates a certified standard of design and construction, connection to water services networks, treatment of foul effluent to necessary standard that will prevent wastewater pollution.</p>	<p>Screened out for need for AA.</p>

	<p>Common Tern (Sterna hirundo) [A193]</p> <p>Arctic Tern (Sterna paradisaea) [A194]</p> <p>Little Tern (Sterna albifrons) [A195]</p> <p>Guillemot (Uria aalge) [A199]</p> <p>Razorbill (Alca torda) [A200]</p> <p>Puffin (Fratercula arctica) [A204]</p>			
<p><u>North Bull Island SPA (side code 004006)</u></p> <p>To maintain the favourable conservation condition of the bird species (including the Annex I listed, bird species), and the wetlands habitat for which the SPA has been designated.</p>	<p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Shelduck (Tadorna tadorna) [A048]</p> <p>Teal (Anas crecca) [A052]</p> <p>Pintail (Anas acuta) [A054]</p> <p>Shoveler (Anas clypeata) [A056]</p> <p>Oystercatcher (Haematopus ostralegus) [A130]</p> <p>Golden Plover (Pluvialis apricaria) [A140]</p> <p>Grey Plover (Pluvialis squatarola) [A141]</p> <p>Knot (Calidris canutus) [A143]</p> <p>Sanderling (Calidris alba) [A144]</p>	<p>c.7.1 km</p> <p>Indirect hydrological connection between the project (source), wastewater drainage to Ringsend WWTP for treatment (pathway), with discharge of treated wastewater to Dublin Bay and the European Site (receptor).</p>	<p>No likely significant effects arising on the water quality of Dublin Bay from wastewater pollution during the operation phase of the project as the project incorporates a certified standard of design and construction, connection to water services networks, treatment of foul effluent to necessary standard that will prevent wastewater pollution.</p>	<p>Screened out for need for AA</p>

	<p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>			
<p><u>North Dublin Bay SAC (site code 000206)</u></p> <p>To maintain or restore the favourable conservation condition of the Annex I/ Annex II habitats and/ or species for which the SAC has been designated.</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p>	<p>c.7.1km</p> <p>Indirect hydrological connection between the project (source), wastewater drainage to Ringsend WWTP for treatment (pathway), with discharge of treated wastewater to Dublin Bay and the European Site (receptor).</p>	<p>No likely significant effects arising on the water quality of Dublin Bay from wastewater pollution during the operation phase of the project as the project incorporates a certified standard of design and construction, connection to water services networks, treatment of foul effluent to necessary standard that will prevent wastewater pollution.</p>	<p>Screened out for need for AA.</p>

	<p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p><i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p>			
<p><u>South Dublin Bay and River Tolka Estuary SPA (site code 004024)</u></p> <p>To maintain the favourable conservation condition of the bird species (including the Annex I listed, bird species), and the wetlands habitat for which the SPA has been designated.</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p>	<p>c.9.2km</p> <p>Indirect hydrological connection between the project (source), wastewater drainage to Ringsend WWTP for treatment (pathway), with discharge of treated wastewater to Dublin Bay and the European Site (receptor).</p>	<p>No likely significant effects arising on the water quality of Dublin Bay from wastewater pollution during the operation phase of the project as the project incorporates a certified standard of design and construction, connection to water services networks, treatment of foul effluent to necessary standard that will prevent wastewater pollution.</p>	<p>Screened out for need for AA</p>

	<p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Wetland and Waterbirds [A999]</p>			
<p><u>South Dublin Bay SAC (site code 000210)</u></p> <p>To maintain the favourable conservation condition of the Annex I/ Annex II habitats and/ or species for which the SAC has been designated.</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p>	<p>c.11.3km</p> <p>Indirect hydrological connection between the project (source), wastewater drainage to Ringsend WWTP for treatment (pathway), with discharge of treated wastewater to Dublin Bay and the European Site (receptor).</p>	<p>No likely significant effects arising on the water quality of Dublin Bay from wastewater pollution during the operation phase of the project as the project incorporates a certified standard of design and construction, connection to water services networks, treatment of foul effluent to necessary standard that will prevent wastewater pollution.</p>	<p>Screened out for need for AA</p>

### Mitigation Measures

8.2.24. No measures designed or intended to avoid or reduce any potentially harmful effects of the project on a European site have been relied upon in this screening.

8.2.25. In the interest of clarity, I confirm to the Board that of the potential surface water and wastewater pollution during operation phase activity, I have noted and had regard to measures which have been inherent in the design of the project. These include several SuDS and CDWMP best practice measures, which have not been devised to avoid or reduce any potentially harmful effects of the project on any European sites.

#### Screening Determination Conclusion

8.2.26. Having carried out Stage 1 screening for appropriate assessment of the proposed development, I have concluded that the project individually or in-combination with other plans or projects could have likely significant effects on Baldoyle Bay SAC (000199) and Baldoyle Bay SPA (004016) in view of the sites' conservation objectives and qualifying interests, and that a Stage 2 appropriate assessment is therefore required.

8.2.27. The possibility of likely significant effects on other European sites listed hereunder has been excluded on the basis of the nature and scale of the proposed development, separation distances, and lack of substantive connections between the project, the site and the European sites within Dublin Bay (North-West Irish Sea SPA (004236), North Bull Island SPA (004006), North Dublin Bay SAC (000206), South Dublin Bay and Tolka Estuary SPA (004024), and South Dublin Bay SAC (000210)).

### **8.3. State 2 – Appropriate Assessment**

#### Natura Impact Statement

8.3.1. The application is accompanied by a NIS dated January 2023. In Step 2: Impact Prediction of the NIS, the elements of the project identified as having potential to cause environmental impact on the Baldoyle Bay SAC and SPA are outlined. These are largely reiterated from the determination of significance in the SRAA referenced in subsection 8.2.16 above with more detailed consideration of effects from invasive species, air quality and in-combination effects with other plans and projects, including that of the concurrent appeals and the potential effects arising from the phasing plan/ implementation of the project.

8.3.2. The NIS finds that if the applications within the project were to be implemented at the same time there would be the *'possibility that construction pollutants entering waterways leading to Baldoyle Bay SAC and SPA could act in combination to result*

*in negative effects to invertebrate communities in qualifying interest habitats in the SAC and, by extension, qualifying interest bird species in the SPA', and that '[o]ther than during the construction phase [of the project] there are no projects or plans which could act in combination with the current proposal to result in significant effects to Natura 2000 sites'.*

8.3.3. In Step 3: Conservation Objectives, analysis is provided of the impacts in the context of the conservation objectives set for the SAC and SPA. The NIS outlines the analysis of the project which resulted in detailed consideration being given to how key habitats of the SAC (mudflats, sea meadows) could be affected and the resultant impact on the key species (wintering birds) of the SPA which rely on the SAC. While Step 4: Mitigation provides details of mitigation measures proposed, how and when they will be implemented. The NIS concludes that '*...Arising from this assessment, mitigation has been proposed. With the implementation of these measures adverse effects to the integrity of the SAC/ SPA will not occur. This conclusion is based on best scientific knowledge*'.

8.3.4. Having reviewed the SRAA and NIS (as revised in the FI response), the range of submitted documents (including the Engineering Assessment Report, Flood Risk Assessment (JBA), site specific Flood Risk Assessment (WM), Construction, Demolition and Waste Management Plan, Landscape Design Rationale, Invasive Species Report, and relevant chapters in the EIAR, including Chapter 5 Biodiversity and Chapter 7 Water), the environmental consultant reports prepared on behalf of the planning authority, the third party appeals and observations, and submissions from the prescribed bodies, I am satisfied that the information allows for a complete assessment of any negative effects of the development on the conservation objectives of the European sites, Baldoyle Bay SAC and SPA alone, or in combination with other plans and projects.

#### Assessment of the Implications of the Project

8.3.5. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European sites. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any negative effects are considered and assessed.

- 8.3.6. I have relied on the following guidance: Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities, DoEHLG (2010), Assessment of plans and projects significantly affecting Natura 2000 sites: methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC, EC (2002), and Managing Natura 2000 Sites: the provisions of Article 6 of the Habitats Directive 92/43/EEC, EC (2018).

#### The European Sites

- 8.3.7. The Baldoyle Bay SAC (000199) and Baldoyle Bay SPA (004016) are subject to this appropriate assessment. A description of the SAC and the SPA, their conservation objectives and qualifying interests, including any relevant attributes and targets for the sites are set out in Step 1: Analysis of the Natura 2000 Network of the SRAA, Step 3: Conservation Objectives of the NIS, and outlined in Table 3 of this report as part of my assessment.
- 8.3.8. The SAC is an estuary of the Sluice and the Mayne Rivers that is largely enclosed by a sand spit that stretches from Portmarnock to Howth. At low tide it has large areas of exposed mud and sediment that support rich invertebrate communities. The SAC is designated for its four habitats which are indicated as having intermediate status. The habitats at Baldoyle Bay are identified as being of great importance to the food chain. The SPA is composed of estuarine habitats and is designated for six bird species (wintering and breeding) ranging from highly unfavourable to favourable status.
- 8.3.9. The site-specific conservation objectives for the Baldoyle Bay SAC and SPA are as follows:
- Salicornia mudflats (1310): maintain habitat area and distribution including physical structure (sediment supply, creeks and pans, flooding regime). Maintain vegetation structure as measured by vegetation height, vegetation cover, typical species and sub-communities. Absences of the invasive *Spartina anglica*.
  - Atlantic/ Mediterranean Salt Meadows (1330/1410): as above.
  - Mudflats (1140): Permanent habitat area stable or increasing (estimated at 409 hectares), subject to natural processes.



- Birds: Long term population trend stable or increasing; there should be no significant decrease in the numbers or range of areas used by waterbird species, other than that occurring from natural patterns of variation.

8.3.10. The NIS considers the potential impacts of the proposed development upon the qualifying interests of the SAC and SPA areas. Effects to the habitats in the SAC may have consequential impact on the availability of food for birds using the SPA. There will be no direct habitat loss, fragmentation or direct impacts upon the qualifying interest bird species arising from the proposed development. However, as an indirect hydrological connection exists, potential for large quantities of sediment and other construction pollutants entering the Hazelbrook Stream resulting from works associated with construction of the proposed development, cannot be ruled out. This could increase deposition beyond normal levels, affecting the areas of habitat for which the SAC has been designated. The NIS also identifies that construction pollutants such as concrete or hydrocarbons could affect habitat functioning through toxic effects to invertebrate life. Effects on the availability of food sources would reduce the range of birds using the SPA. Following the precautionary principle, it is therefore considered appropriate to use specific mitigation measures as part of the proposed development.

8.3.11. I concur with the findings of the NIS in this regard. Due to the presence of the drainage ditches/ local stream within the site, with subsequent run-off into the Hazelbrook Stream, and the proximity to Baldoyle Bay SAC and SPA are particular characteristics that mean that likely significant effects cannot be ruled out. As such, specific mitigation measures during construction are required to protect and maintain the integrity of the habitats and species supported in Baldoyle Bay.

#### Aspects of the Proposed Development

8.3.12. The main aspects of the proposed development that could adversely affect the conservation objectives of the Baldoyle Bay SAC and SPA include construction phase pollution events at the site which could negatively affect water quality in the Hazelbrook Stream. These construction events include the site clearance, topsoil removal, all subsurface infrastructure including the laying of the wastewater rising main, and all above structures, roads, and areas of hardstanding.

#### Mitigation Measures

8.3.13. Mitigation measures are outlined in Step 4: Mitigation of the NIS, which focus on the construction phase and have been devised to address the likely significant effects specific to the project. The measures are outlined in detail under the following category headings:

- Pollution prevention during construction.
- Headwall and surface water sewer construction.
- General water protection measures.
- Run-off to ditches.
- Sediment control measures.
- Cross-connection prevention.
- Appointment of an Ecological Clerk of Works.

8.3.14. I consider that the mitigation measures are clear, straightforward and that conclusions can be reached whereby the likely significant effects of the proposed development on the qualifying interests of the Baldoyle SAC and SPA have been addressed. The measures proposed are considered to be effective, reflecting current best practice, and can be secured over the short/ medium term and the method of implementation can be secured through a detailed management plan. In the event of a grant of permission, I recommend that the implementation of these mitigation measures be subject of a condition.

#### In-Combination Effects

8.3.15. Within Step 2: Impact Prediction of the NIS the potential for cumulative or in-combination effects with other plans and projects on the Baldoyle Bay SAC and SPA is considered.

8.3.16. With regard to plans, the applicant's NIS refers to the broader urbanisation of Dublin City and its hinterland, which is planned for in the Fingal Development Plan 2017-2023 (which was in effect at the time the NIS was prepared (January 2023)). I confirm to the Board that the 2017 CDP has since been superseded by the 2023 CDP, and that points made by the applicant regarding the 2017 CDP continue to be applicable for the 2023 CDP. In the 2023 CDP, the site is zoned for new residential development, as are additional lands to the east and southeast of the site which are

also in proximity to the length of the Hazelbrook Stream. The NIS states that a full appropriate assessment was undertaken of the 2017 CDP which found that, subject to mitigation measures, the implementation of the 2017 CDP would not have adverse impacts on European sites. I note that this is a position which is also relevant for the 2023 CDP and consider this conclusion to be reasonable.

8.3.17. In respect of projects, the applicant's NIS refers to the concurrent applications and other permissions in the vicinity of the development site, and I have also had regard to SHD applications (e.g. ABP 313265-22 and ABP 313361-22) for residential development on lands to the east and southeast that are in the Hazelbrook Stream catchment area. The NIS states that potential in-combination effects arising would be those associated with cumulative construction impacts, as I have referred to in subsection 8.3.2 above. However, it is considered that these are not likely significant effects on the SAC and SPA due to mitigation measures being included for in the proposed development to address construction related impacts. I consider this conclusion to be reasonable.

8.3.18. In summary, the potential for in-combination effects arising from plans and projects has been referred to and considered in the applicant's NIS, and I have further considered and assessed the potential through reviewing the NIR of the 2023 CDP and the relevant planning permissions in the vicinity of the proposed development with potential to impact on the Hazelbrook Stream and thereby on the SAC and SPA. I am satisfied that there are no in-combination effects with other plans and projects that arise from implementing the proposed development.

#### **8.4. Appropriate Assessment Conclusion**

8.4.1. The project has been considered in light of the assessment requirements of sections 177U and 177V in Part XAB of the Planning and Development Act 2000, as amended.

8.4.2. Having carried out screening for appropriate assessment of the project, it was concluded that likely significant effects on the Baldoyle Bay SAC (000199) and the Baldoyle Bay SPA (004016) could not be excluded, and appropriate assessment was required of the implications of the project on the qualifying interests of the SAC and SPA in light of their conservation objectives.

- 8.4.3. Following an appropriate assessment, it has been ascertained that the proposed development, individually or in-combination with other plans or projects would not adversely affect the integrity of the Baldoyle Bay SAC (000199) and the Baldoyle Bay SPA (004016), or any other European site, in view of the sites' conservation objectives.
- 8.4.4. This conclusion is based on:
- An assessment of all aspects of the project including proposed mitigation measures in relation to the conservation objectives of the Baldoyle Bay SAC and SPA.
  - An assessment of in-combination effects with other plans and projects including historical projects, current proposals, and future plans.
  - No reasonable scientific doubt as to the absence of adverse effects on the integrity of the Baldoyle Bay SAC (000199) and the Baldoyle Bay SPA (004016).

## **9.0 Environmental Impact Assessment**

### **9.1. Statutory Provisions**

- 9.1.1. This section of the report comprises an environmental impact assessment (EIA) which considers the likely significant effects of the project on the several named factors of the environment. In the interests of clarity for the Board, the 'project' subject of this EIA refers to the total development being proposed in the three concurrent applications, and the 'site' refers to the overall lands included within the three applications. The applicant's Environmental Impact Assessment Report (EIAR) has been prepared for the project and the site as so described.
- 9.1.2. The project comprises the preservation of Auburn House and its stables as a single dwelling unit, and provides for a total of 259 residential units (113 houses, 105 apartments, and 21 duplexes). The project also includes for a total of 405 car parking spaces and 376 bicycle parking spaces, public and communal open spaces, vehicular, cyclist and pedestrian accesses, demolition of a residence, shed/ garage structures, and all other site servicing and development works including an on-site foul pumping station and laying foul sewer drains along Back Road and Kinsealy

Lane. The proposal is on a site measuring 13.28 ha that is located in the townlands of Auburn and Streamstown of Malahide town.

#### Requirement for an Environmental Impact Assessment

9.1.3. Section 172(1)(a) of the 2000 Act and Item 10(b), Part 2, Schedule 5 of the Planning and Development Regulations 2001, as amended (2001 Regulations) provides that an EIA is required for infrastructure projects that involve:

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

9.1.4. While the project is subthreshold in terms of number of dwelling units proposed, the total area of the site at 13.28ha (inclusive of road works and wastewater connection works) is greater than 10ha for a built-up area. I note the context for the applicant's decision to prepare an EIAR on this basis, concur that this southern area of Malahide town can be considered as a built-up area, and that accordingly an EIAR has been appropriately prepared for the proposal.

9.1.5. The following subsections examine the EIAR to ensure that statutory provisions in the 2000 Act (principally in Section 171A, Part X) and the 2001 Regulations (principally in Article 94, and Items 1 and 2, Schedule 6) have been complied with. These include the content of the EIAR, examination of the likely significant direct and indirect effects, identification of risk of major accidents and disasters, consideration of reasonable alternatives and undertaking of consultations.

#### Content of the Environmental Impact Assessment Report

9.1.6. The EIAR is laid out in two parts, the Main Statement with 16 chapters and the Non-Technical Summary. The latter fulfils the requirement of Article 94(c) of the 2001 Regulations.

9.1.7. Chapter 1 sets out the introduction and methodology including, as required by Article 94(e), a list of the competent experts involved in preparing the EIAR. Chapter 2 provides a description of the site, context, and proposed development, which accords with Item 1(a), Schedule 6, and includes an examination of reasonable alternatives, as required by Item 1(d), Schedule 6. Chapters 4 to 14 inclusive

examine the likely significant effects, as required by Item 1(b), Schedule 6 of the proposed development on the environmental factors identified in Section 171A(b)(i) of the 2000 Act. Chapter 15 examines potential of interactions between the environmental factors. Chapter 16 provides a summary of mitigation measures, in accordance with Item 1(c) and Item 2(g) of Schedule 6.

#### Likely Significant Direct and Indirect Effects

- 9.1.8. As required by Item 1(b) and Item 2(e), Schedule 6 of the 2001 Regulations, the EIAR describes and assesses the direct and indirect significant effects of the project on the specific environmental factors identified in Section 171A(b)(i) of the 2000 Act. These are: (a) population and human health; (b) biodiversity with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape. It also considers the interaction between the factors referred to in these points (a) to (d).
- 9.1.9. As referred to above, these environmental factors and the interaction between the factors correspond with Chapters 4 to 15 inclusive of the EIAR. The contents and layout of the chapters are relatively consistent, with a description of the receiving environment, identification of the potential impacts, outline of associated mitigation measures, and prediction and evaluation of impacts, during the construction and operation phases, with the application of same.

#### Risk of Major Accidents and/ or Disasters

- 9.1.10. Section 171A(b)(ii) of the 2000 Act and supplemented by Item 2(e)(i)(IV) of the 2001 Regulations, require that the expected effects derived from the vulnerability of the project to major accidents and/ or disasters that are relevant to the project concerned are considered.
- 9.1.11. The EIAR considers the risk of major accidents and/ or disasters under a specific headed item in Chapter 2. Due to the nature of the receiving area, the surrounding land uses, and the absence of any Seveso II Directive sites within 1km of the proposed project, the potential risk posed by a major accident and/ or disaster has been considered as low. Due also to the nature of the project as a residential use, the vulnerability of the scheme is considered to be low. Further I consider that the due to the nature of the project, that there are no significant risks arising from the

operation of the project or that the project is vulnerable to major risks. Overall, the risk of major accidents and/ or disasters is considered to be low, a position which I concur with.

- 9.1.12. I note that Chapter 7 Water of the EIAR, in respect of surface water drainage, does not identify any likely significant effect arising from flood risk (under separate cover the Flood Risk Assessment (JBA), site specific Flood Risk Assessment (WM)) for the project submit the site is located in a Flood Zone C and conclude that residual risks from all sources of flooding are extremely low/ low with the incorporation of mitigation measures). Chapter 13 Transport, in respect of construction phase impacts, identifies potential for traffic safety conflicts with mitigation measures including the preparation and agreement of a Construction Management Plan (CMP) and a Traffic Management Plan (TMP). Traffic safety is not identified as a likely significant effect during the operational phase of the project due to the safe design and operation of the internal roads and paths, site entrances, and external junctions (the separate DMURS Statement of Design Consistency report includes a Quality Audit), the implementation of the Travel Plan, and the Development Access report (which concludes the proposed Option 1 (of four options) is the safest and most suitable).

#### Reasonable Alternatives

- 9.1.13. Item 1(d) and Item 2(b), Schedule 6 of the 2001 Regulations require that reasonable alternatives be considered. Chapter 2 of the EIAR addresses the alternatives considered. The site is zoned for Objective 'RA' Residential Area. The alternatives considered relate to variations in the design, layout, and access arrangements of the project. The applicant outlines several alternatives considered for the site, including those that were related to the previous application for which permission was refused (including on grounds of adverse impact on Auburn House and its curtilage, and the loss of trees and hedgerows), and those subject to pre-planning consultations held with the planning authority and/ or the Board. No alternatives are considered in the EIAR in respect of locations, uses or processes.
- 9.1.14. Having regard to the parameters of the underlying zoning, the site context (Auburn House and its historic landscape setting), and the planning history at the site, I am satisfied that alternative locations, uses and processes are not relevant to the proposal. While submitted in the appeal grounds that the alternatives are insufficient

and should have included an alternative with a reduced residential density, in my opinion reasonable alternatives have been explored and the information contained in the EIAR with regard to alternatives provides a justification in environmental terms for the chosen scheme and is in accordance with the legislative requirements.

#### Consultations

- 9.1.15. The 2000 Act and the 2001 Regulations include for information being made available, consultations, and public participation in the EIA process. I am satisfied that the participation of the public has been effective, and the application documentation has been made accessible to the public by hard copy and electronic means (planning authority's planning register) with adequate opportunities and timelines afforded for the making and receipt of submissions.

#### Conclusion on Statutory Provisions

- 9.1.16. In conclusion, I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality, that a Non-Technical summary has been provided, in language understood, that reasonable alternatives have been considered, and consultations with the decision-making process have been facilitated. The appeal grounds include that the EIAR is invalid due to its being prepared for the project instead of for each application, however I am satisfied that the manner in which the EIAR has been prepared is valid, and that the Board can undertake an EIA of the project on the basis of the information contained therein.

### **9.2. Assessment of the Likely Significant Direct and Indirect Effects**

- 9.2.1. The likely significant direct and indirect effects of the proposed development on the environment are considered under the headings below which follow the order of the factors as set out in Section 171A(b)(i) of the 2000 Act:

- (a) Population and human health
- (b) Biodiversity, with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC
- (c) Land, soil, water, air, and climate
- (d) Material assets, cultural heritage, and the landscape, and
- The interaction between the factors referred to in points (a) to (d).



- 9.2.2. Within each of the environmental factors above, as applicable, I also examine and assess the mitigation measures identified to avoid, prevent, or reduce and if possible offset likely negative significant effects on the environment.
- 9.2.3. My assessment herein is based on the information provided by the applicant, including in the EIAR and the range of accompanying documentation, with regard had to the information contained in the submissions from the appellants, observers, planning authority and prescribed bodies, and on my site inspection.
- 9.2.4. In undertaking this EIA and determining the significance of effects on the environment, I have had regard to the requirements of the Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, DoHPLG, 2018, and of the Guidelines on the information to be contained in Environmental Impact Assessment Reports, EPA, 2022 (specifically to Table 3.4 Description of Effects).
- 9.2.5. In sections 3.0 and 6.0 of this report (and similar sections of the reports for the concurrent applications), I have presented the planning authority's decisions, outlined the submissions, appeal grounds, and responses made on the proposed development by third parties, prescribed bodies, appellants, observers, and the planning authority. I consider the main issues that are of particular relevance and applicability to this EIA to be:
- Population and Human Health
  - Biodiversity
  - Material Assets: Transport
  - Cultural Heritage
  - Landscape
- 9.2.6. This EIA has had regard to the planning assessment of the relevant issues set out in section 7.0 and to the appropriate assessment set out in section 8.0 of this report. This EIA section of the report should therefore be read in conjunction with those sections.
- 9.3. **(a) Population and Human Health**

- 9.3.1. Chapter 4 of the EIAR considers Population and Human Health, detailing key demographic information on the area for population, age profile, and employment activity. The project is indicated as having a potential construction period of up to 48 months with employment estimated at 150-240 persons. Once operational, the proposal will generate an increase in population and associated demands on services. I note that the CSO 2022 census information for Malahide town indicates a population of 18,608 persons. While a population increase is not indicated, using the average 2022 census household size of 2.74 persons and the area's household average size of 2.9 persons (Table 4.6 of the EIAR), I estimate a population increase in the region of c.710 and c.751 persons.
- 9.3.2. Section 4.8 of the EIAR describes community infrastructure and social facilities in the vicinity of the application site, which cross references to a separate submitted Community and Social Infrastructure Audit. A range of community infrastructure, including schools, churches, library services and health services are identified within 2km of the site. Indoor recreational facilities and outdoor spaces are also highlighted within a 2km radius of the subject site.
- 9.3.3. As part of the planning assessment of the applications, I recommend the provision of a childcare facility to serve the project. While the EIAR has not included for the provision of a childcare facility in Chapter 4, I have considered and incorporated any likely associated effects in this EIA. I am satisfied that such likely impacts (primarily increased traffic generation and daytime noise) will not be significant in and of themselves, moderate in effect, and come well within the scope of the overall impacts anticipated for the project. Indeed, the provision of the facility to serve the future residents and the wider community to have a positive impact on the population.
- 9.3.4. In terms of identified impacts, after mitigation (including measures to address the negative impacts relating to traffic, noise, dust effects for residents) there are no significant impacts anticipated during the construction phase, with impacts also being temporary in nature. During operational phase, mitigation measures are not proposed as the project has been designed so as not to have any undue negative impacts on human health (including mental health or wellbeing) and the existing amenity of residential properties (no adverse overlooking, overshadowing, or overbearance). On the whole, I consider the project to result in several positive

impacts including those related to increased economic activity, increased provision of housing, increased population (c.710-c.751 persons in a town of c.18,600 persons), thereby creating a new community in the town with services (recommended provision of a childcare facility) and amenities (public open spaces).

- 9.3.5. In line with the EPA Guidelines description of effects, I consider that once operational, the project will exert a moderate to significant positive effect on population and human health as the character of the environment, which is a sensitive aspect of the environment, will be altered in a manner that is consistent with existing and emerging patterns of development and the change improves the quality of the environment by improving residential amenities.

#### Conclusion

- 9.3.6. In conclusion, I am satisfied that all likely significant negative effects on population and human health would be avoided, mitigated, and managed due to measures designed into the project, from the implementation of mitigation measures, and through appropriate conditions in the event of a grant of permission. I conclude that the project would have likely moderate to significant positive effects in terms of population and human health.

#### **9.4. (b) Biodiversity, with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC**

- 9.4.1. Chapter 5 contains the biodiversity context for the site and assessment of the project. I highlight there are several documents submitted with the applications overlapping with and supporting Chapter 5, including the Bat and Badger Assessment (a bat derogation licence submitted with the application, and an updated license submitted with the applicant's appeal response), SRAA, NIS, SSFRA, Landscape Design Rationale, Arboricultural Report, and Invasive Species Report.
- 9.4.2. The chapter identifies the protected nature conservation sites and local water courses in the vicinity of the project site, including the Malahide and Baldoyle Bay Estuaries (SAC/ SPA/ pNHA), Feltrim Hill and Sluice River Marsh (pNHA), and Gaybrook Stream, Hazelbrook Stream, and Sluice River. Within the site are several fields and a series of drainage ditches (including with a stream) that drain surface water from across the site in a southeasterly direction to Hazelbrook Stream, a tributary of the Sluice River, which in turn drains to Baldoyle Bay. As such, there is a

hydrological link between the site and Baldoyle Bay. However, the lands are stated as not being located within a catchment of any significant water course as Hazelbrook Stream is not assessed under the Water Framework Directive (WFD) and Baldoyle Bay is not assigned a status under the WFD.

9.4.3. Several surveys were undertaken of the lands over four years (2019-2022), including specific surveys for badgers (most recent being October 2022), and bats (most recent being September 2022). In terms of habitats and flora, the site is described as comprising agricultural grassland and broadleaved woodland, with field boundaries of hedgerows and treelines, and drainage ditches along two such boundaries. These drainage ditches are described as very small with no wetland flora. These ditches are located centrally within the site and form an approximate 'T' configuration to the south/ southeast of Auburn House and extending along the main access road. The northern hedgerows are assessed as being of high local value due to their age, structure, and species. The large woodland around Auburn House is noted as being of non-native species, though assessed as high local value due to its rarity. Two invasive plant species are identified (Spanish bluebell and three-cornered garlic). Buildings, hardstanding areas, and the route of the foul sewer in the public roads are categorised as artificial surfaces. No protected habitats or plant species are identified at the site.

9.4.4. In terms of fauna, the presence of protected species (mammal, bird, insect, aquatic) is investigated. Of note, potential badger setts are identified in woodlands near Auburn House, however, no sightings or definitive evidence of activity was recorded during the survey periods between 2019-2022. It is confirmed that badgers are not in residence at the site. Sightings of individual bats confirmed three bat species as roosting in Auburn House and/ or the stables buildings (whiskered bat, brown long-eared bat, soprano pipistrelle) and for potential for a fourth species to be (common pipistrelle). General activity was recorded in trees/ fields within the site of these four species and the Leisler's bat species (the latter in two beech trees, Tree No. 712 and 604). No wetland, wintering, or wading birds are noted, and the site's habitats is confirmed as not suitable for birds associated with the nearby European Sites (Malahide Estuary, Baldoyle Bay). The site does not drain to any river of significant fisheries value. The ditches in the site are determined to be highly modified habitats (culverted in a number of locations), and where open are slow flowing and low value

for aquatic biodiversity (low fisheries significance, with minimal aquatic vegetation present).

- 9.4.5. In short, the presence of protected habitats, plant species or fauna is not recorded at the site during the surveys, save for certain bat species. Habitats at the site are concluded as having negligible to high local ecological value. The hydrological link downstream to the protected Baldoyle Bay Estuary via surface water ditches draining into Hazelbrook Stream is highlighted.
- 9.4.6. The construction phase impacts arising from the project include direct habitat loss from the removal of the grasslands, and certain hedgerows (with any ditch therein culverted), trees, and treelines, the mortality of species during land clearance (risk to birds and bats from building and tree removal), pollution of water courses from construction activities (site ditches drain to Hazelbrook Stream and Baldoyle Bay), and damage to hedgerows and treelines to be retained (during construction and operational phases). These impacts are (predominantly) identified as negative, significant, likely, and permanent.
- 9.4.7. The operational phase impacts identified include risk of water pollution from wastewater and/ or surface water runoff, disturbance of species from increased human activity (particularly light disturbance of bat species), invasive plant species (eradication required), and impacts to protected areas (potential impact to Baldoyle Bay through the identified hydrological link, otherwise there is no impact on other nature designations). Of these impacts, the disturbance to species (including the invasive species) from human activity once operational is classified as negative, significant, likely, and permanent (long-term). The water pollution from wastewater and/ or surface water runoff is classified as imperceptible in significance.
- 9.4.8. To address the impacts which are identified as being potentially significant in effect, the chapter includes targeted mitigation measures. For the construction impacts, these focus on reducing habitat loss, through implementing tree retention and protection measures, initiating planting along perimeters to allow mammal (including badger) movement, implementing several bat protection measures (bat boxes to be erected at suitable locations within the site, checking of trees and buildings for bats prior to/ during tree felling or surgery, or modification of buildings, removal of bats under licence as necessary, and a bat specialist to oversee all works and shall

ensure that bats are protected), ensuring seasonal clearance of vegetation to protect nesting birds, undertaking several measures to prevent land contamination or pollution to surface and ground water through erection of silt barriers on the ditches, proper storage and use of materials such as oils, petrol and concrete. For the operational impacts, these include tree protection measures, implementing the Woodland Management Plan and, in relation to light disturbance, are incorporated from the Bat and Badger Assessment including public lighting design, installation and standards. I consider the range of mitigation measures to be appropriate, necessary, and reasonable.

9.4.9. I have considered the appeal grounds and concerns raised by observers regarding, inter alia, the robustness of survey work with regard to birds, failure to adequately consider impacts relating to bats, or comply with the requirements of the Water Framework Directive. I am satisfied that the surveys undertaken are representative of several seasons, over several years (with most recent survey work dating from September-October 2022, and the application was lodged in October 2022) and can be relied upon given the robustness of the approach taken. In respect of impacts on bats and criticisms of the applicant's derogation licence, I consider the EIAR and bat assessment have adequately identified the impacts on bats with a range of targeted protection measures (I positively note that changes made during the further information process result in the retention of Tree No. 712, a likely bat roost). I highlight to the Board that the derogation licence process is subject to the European Communities (Birds and Natural Habitats) Regulations 2011, is a separate process to the planning consent process, and a grant of permission does not obviate the need to obtain a derogation licence. In similarity with the criticism of the applicant's NIS, I consider that information has been presented about watercourses and waterbodies relative to the WFD. Overall, I concur with the conclusions described in the EIAR and consider impacts upon biodiversity to be locally significant, with suitable mitigation to reduce negative impacts.

9.4.10. In line with the EPA Guidelines description of effects, I consider that once operational, the project will exert a moderate to significant positive effect on biodiversity as the character of the environment, which is a sensitive aspect of the environment (tree and hedgerow habitat, presence of five bat species, hydrological connection to Baldoyle Bay), will be altered in a manner that is consistent with

existing and emerging patterns of development and the change improves the quality of the environment (Tree Protection and Woodland Management Plans, several bat protection measures, management of surface water run-off to protect watercourses).

#### Conclusion

- 9.4.11. In conclusion, I am satisfied that all likely significant negative effects on biodiversity would be avoided, mitigated, and managed due to measures designed into the project, from the implementation of mitigation measures, and through appropriate conditions in the event of a grant of permission. I conclude that the project would have likely moderate to significant positive effects in terms of biodiversity, or on the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC.

#### **9.5. (c) Land, Soil, Water, Air, and Climate**

- 9.5.1. Within the applicant's EIAR, this group of environmental categories is considered in Chapter 6 Land, Soils, and Geology, Chapter 7 Water, Chapter 8 Air Quality, Chapter 9 Noise and Vibration, and Chapter 10 Climate.

#### Land and Soil

- 9.5.2. Chapter 6 describes land, soil and geology and identifies the site lies over three geological formations, mainly variations of limestone and shale, and that the site is within an area of high to extreme groundwater vulnerability. During construction, works will expose subsoil to weathering and may result in the erosion of soils. Surface water runoff may also result in silt discharges to the Hazelbrook Stream and excavations will result in surplus subsoil which will be used in fill areas where applicable. Additional imported fill will also be required and must meet chemical and biological standards. Dust from the site and from soil spillages may also result in oil contamination of soils and underlying geological structures. Any hydro-geological impacts are identified as temporary and associated with the construction phase. There are no ongoing impacts on underlying soil identified as part of the operational phase.
- 9.5.3. Mitigation measures are outlined to reduce impacts and include the following: finished floor levels of buildings and roads to match existing levels, appropriate storage of topsoil to allow as much on-site reuse as possible, use of silt traps, silt

fences and tailing ponds, provision of wheel wash areas, dampening down measures with water sprays during dry periods, appropriate storage and bunding measures, soil samples to investigate potential contamination, and measures to protect groundwater. Further to measures included in the preliminary Construction Demolition and Waste Management Plan (CDWMP), will be those included and implemented in the finalised Construction Management Plan, Traffic Management Plan and Waste Management Plan. During operational phase the planting programme is expected to reduce soil erosion. SuDS and filtration devices will also remove pollutants from rainwater runoff and prevent these entering the soils. The encouragement of surface water to ground water is also expected to replenish the natural groundwater table. The EIAR finds that with mitigation in place, there are no negative significant predicted impacts to land, soils and geology.

- 9.5.4. In undertaking my EIA, I have had regard to the zoned and serviceable nature of the site and the low importance value of the soil/ subsoil resource. I identify additional residual impacts as those associated with construction phase land take and excavation of soil/ subsoil and, in line with the EPA Guidelines description of effects, identify these impacts as being moderate neutral in effect. That being, the character of the environment will be altered in a manner that is consistent with existing and emerging patterns of development and the alteration is within normal bounds of variation for same. Otherwise, I agree with the applicant and find the identified construction and operation phase activities to have imperceptible neutral effects whereby a change capable of measurement will be caused to the character of the environment but without significant consequences, and the change is within normal bounds of variation for same.

#### Conclusion

- 9.5.5. In conclusion, I am satisfied that all likely significant negative effects on land, soils and geology would be avoided, mitigated, and managed due to measures designed into the project, from the implementation of mitigation measures, and through appropriate conditions in the event of a grant of permission. I conclude that the project would have likely imperceptible to moderate neutral effects in terms of land and soils.

#### Water



- 9.5.6. Chapter 7 outlines the water conditions for the project with a focus on water supply, foul and surface water drainage elements. In undertaking my EIA of the water component of the environment, I have also had regard to the other relevant chapters in the EIAR (in particular Chapter 5 and Chapter 6), and other supporting documents prepared for the project including the FRA, SSFRA, Engineering Assessment Report, SRAA and NIS which elaborate more upon the water and hydrology conditions of the site and receiving area.
- 9.5.7. The conditions of the receiving environment are outlined, including the presence of the public water supply (available mains in Malahide Road and Carey's Lane), wastewater infrastructure (no gravity sewer available, capacity constraints in local pumping stations, two of which are in private control, capacity in the Chapel Road pumping station), and surface water drainage services (existing drain in Abington estate on northern/ eastern boundary discharges to a culvert under the Malahide Road, site presently draining through ditches to Hazelbrook Stream).
- 9.5.8. In relation to water supply, mitigation measures include a method statement to describe correct procedures when working in the vicinity of watermains, and that watermains be cleaned and tested in accordance with Irish Water guidelines prior to connection to the public watermain, under the supervision of Irish Water or the Design Engineer. With mitigation in place, potential negative impacts will be short term only. During the operational phase, water meters will be installed to assist with the identification of potential leakages and all plumbing fixtures/ fittings will meet current best practice for water consumption minimisation. As a result of these remedial measures, the EIAR concludes that no negative significant effects are expected to arise due to the development on the water supply network. I note that Uisce Eireann has confirmed (prescribed body report, correspondence to the applicant (appendices) in the EIAR and Engineering Assessment Report) that the existing network has sufficient capacity to cater for the development in operation without the need for upgrades.
- 9.5.9. In relation to wastewater, remedial measures are identified to reduce the risk of defective or leaking foul sewers. This includes during the construction phase, testing in accordance with Irish Waters Code of Practice and Standard Details, inspection by the design Engineer in accordance with Building Regulations, surveys for physical defects, connection under supervision of Irish Water and the use of adequate

protection measures during excavations in public areas in the vicinity of utilities and public services. During the operational phase, foul drains will be tested and surveyed prior to connection to public sewers. As a result of these mitigation measures, no significant long-term impacts will result from construction works. During the operational phase, the development will increase wastewater flows in the existing drainage system, and it is noted that the existing Chapel Road Pumping Station will have capacity to cater for the development flows. I note that Uisce Eireann has confirmed feasibility and design acceptance for the proposed development (prescribed body report, correspondence to the applicant (appendices) in the EIAR and Engineering Assessment Report).

9.5.10. In terms of surface water, during construction there is a risk of rainfall washing silts and sediments into the surface water system, to Hazelbrook Stream, a tributary of the Sluice River, and ultimately to Baldoyle Bay. During the operational phase, runoff from roads and hardstanding areas will discharge contaminants to the surface water system. Remedial and reductive measures are outlined in the EIAR to mitigate against these potential pollutants of the water system, with implementation of measures in the preliminary CDWMP forming the core mitigation during construction. During the operational phase, surface water from the site will be attenuated and several SuDS measures included in the project will reduce and slow the rate of surface water runoff, with treatment to remove pollutants and hydrocarbons prior to discharge at greenfield rates into the Hazelbrook Stream. Maintenance measures will also be in place to ensure the longevity of this remediation. As a result, it is predicted in the EIAR that there will be some short term negative impacts during the construction phase, that with the implementation of mitigation measures will be minimised, and no significant long term impact will result. During operational phase, with the implementation of the mitigation measures described above, no negative significant impacts are envisaged.

9.5.11. For the most part, I agree with the conclusions of the applicant. I have identified further nuances in the predicted impacts particularly with regard to the interaction between surface water and groundwater aspects of the water component of the environment. In line with the EPA Guidelines description of effects, I identify the construction and operation phase activities to have predicted impacts which are moderate neutral in effect for water supply and wastewater and not significant

neutral in effect for surface water and groundwater conditions. For water supply and wastewater, I consider that the character of the environment will be altered in a manner that is consistent with existing and emerging patterns of development (connection to existing services, provision of new facilitating infrastructure) and the alteration is within normal bounds of variation for same. While for surface water and groundwater, I consider that a noticeable change will be caused to the character of the environment but without significant consequences (active surface water drainage management with several SuDS features and protective measures due to discharge to and/ or modification of on-site drainage ditches, and hydrological connection to Hazelbrook Stream and Baldoyle Bay) and the alteration is within normal bounds of variation for same.

### Conclusion

- 9.5.12. In conclusion, I am satisfied that all likely significant negative effects on water would be avoided, mitigated, and managed due to measures designed into the project, from the implementation of mitigation measures, and through appropriate conditions in the event of a grant of permission. I conclude that the project would have likely moderate neutral to not significant neutral effects in terms of water.

### Air and Climate

- 9.5.13. Chapter 8 assesses Air Quality and outlines the legislative context and baseline air quality for the area, with an assessment of potential impacts as a result of the proposed development. Key potential construction phase impacts are identified in relation to dust and construction traffic emissions, and the potential operational phase impact is in relation to traffic emissions. Mitigation measures are described in the EIAR to mitigate dust and air quality impacts during the construction phase, comprising the implementation of standard on-site mitigation measures to control emissions. These are outlined in Appendix A: Dust Management Plan, and in addition to on-site measures the plan includes measures to minimise the impact on sensitive receptors (adjacent residences) and road users of the wider local network. With the implementation of mitigation during the construction phase, impacts are predicted to be negligible. During the operational phase, it is not expected that the scale of emissions would have a negative impact on local ambient air quality and, as a result, no specific mitigation is required. I note a Travel Plan is included with the

application documentation to promote sustainable transport forms, which aims to reduce future residents' reliance on private car travel, with a focus on walking, cycling, bus and rail travel.

9.5.14. Chapter 9 describes noise and vibration, elements of the environment I identify as being within the scope of the environmental category of air. The EIAR describes the typical construction related activities that are expected to generate noise and vibration, including use of plant and machinery, both on, and travelling to, the site. Minor short term vibration impacts may occur during the construction phase as a result. During the operational phase potential noise could result from increased road traffic, alongside general maintenance activities on the site, while vibration is not expected to be a contributing factor during the operational phase. Remedial and reductive measures are described in the EIAR, with a focus on implementation on the control of construction activities to limit noise nuisance, such as erection of site hoarding to limit noise impacts on adjacent sensitive receptors. Impact from noise during the construction phase is identified as being short term. The impact of increased traffic on noise levels is categorised as slight in the operational phase but predicted in the EIAR to decrease over the next decade as petrol and diesel cars are phased out and replaced by quieter electrical vehicles. During construction, vibration will only have minor temporary increases, while operational vibration is deemed not to have any noticeable impacts.

9.5.15. Chapter 10 considers Climate and describes the climate policy context, receiving environment and potential CO<sub>2</sub> emissions resulting from the project. During the construction phase, CO<sub>2</sub> emissions relate to material use, transport, and machinery. During the operation phase, CO<sub>2</sub> emissions relate to embodied CO<sub>2</sub>, energy use, efficiency of buildings and transport. In terms of mitigation, the application of EU and Government targets for reducing CO<sub>2</sub>, will inform reduction measures during both the construction and operation phases. During construction, mitigation includes sourcing materials locally, recycling material from excavation for reuse on site, implementation of a traffic management plan to reduce traffic emissions and maintenance of plant and equipment. During operation, mitigation includes the selection of efficient materials, measures to improve the efficiency of buildings, and low carbon and renewable energy technologies in the proposed development. Sustainable travel modes are also promoted through the design of the development. With the

application of these remedial measures, CO<sub>2</sub> impact as a result of the proposed development is predicted as being marginal, when compared to the existing environment. Within a national context, the impact on national CO<sub>2</sub> emissions for the construction phase are deemed to be imperceptible and short term and for the operational phase to be imperceptible and long term. It is highlighted that any new development will increase CO<sub>2</sub> emissions to the national and global environment but that as reduction measures have been implemented at design stage the increase has been kept to a reasonable minimum.

9.5.16. I have considered the appeal grounds and concerns raised by observers relating to the nature and extent of construction impacts arising from noise, dust, and traffic pollution. Undoubtedly, the construction of the proposed development is likely cause disruption to adjacent residences and users of the road network and services in the receiving area, however the construction phase will be temporary, and the proposed development incorporates mitigation to limit the extent of the disturbance. Key mitigation measures include the implementation of the CDWMP, the Dust Management Plan, and finalised Construction Management Plan and Traffic Management Plan. I consider that the construction phase impacts (including traffic related) associated with the proposed development are within reasonable limits.

9.5.17. In summary, the EIAR finds that, subject to mitigation, predicted construction and operation phase impacts on air, noise, and climate are predominantly negligible and not significant in effect. I concur with the conclusions of the applicant. In line with the EPA Guidelines description of effects, I identify the predicted construction and operation phase activities to have imperceptible neutral effects whereby a change capable of measurement will be caused to the character of the environment but without significant consequences (particularly the case for temporary nature of the construction phase disturbances), and the change is within normal bounds of variation for same (typical of similarly scaled residential developments once constructed and operational).

#### Conclusion

9.5.18. In conclusion, I am satisfied that all likely significant negative effects on air (including noise) and climate would be avoided, mitigated, and managed due to measures designed into the project, from the implementation of mitigation measures, and

through appropriate conditions in the event of a grant of permission. I conclude that the project would have likely imperceptible neutral effects in terms of air (including noise) and climate.

**9.6. (d) Material Assets, Cultural Heritage, and the Landscape**

- 9.6.1. Within the applicant's EIAR, this group of environmental categories is considered in Chapter 12 Built Environment Utilities and Waste, Chapter 13 Transport, (I identify the environmental category of material assets as including utilities, waste, and transport), Chapter 14 Archaeological and Cultural Heritage, and Chapter 11 Landscape and Visual Impact Assessment.

Material Assets: Utilities and Waste

- 9.6.2. Chapter 12 considers utilities and waste impacts associated with the proposed development. There are presently electricity, gas and telecommunications utilities available to the site. During the construction phase, potential impacts due to disruptions in supply of these utilities for users in the locality are identified, which are considered to be neutral, slight and temporary impacts. The EIAR refers to the preliminary CDWMP which describes how waste generated from the site during construction, including demolition waste arising from the structures on site. Demolition waste will be managed and disposed of appropriately, with potential effects considered to be neutral, not significant and short term. During the operational phase and as a result of increased demand on the network, impact upon electricity is predicted to be slight and long term, impact on gas is predicted to be moderate and long term, and the impact on telecommunications is predicted to be neutral, imperceptible, and long term. In terms of waste, measures to manage waste on-site are outlined, with a management company identified to have responsibility for same, and collection intended to be through an appointed waste contractor. The potential effect of operational waste from the proposed development is expected to be long term, not significant, and negative. Mitigation measures identified for utilities and waste are centred on the implementation of the CDWMP during the construction phase, and a controlled approach to waste production through the implementation of an Operational Waste Management Plan at the operational phase.
- 9.6.3. I concur with the conclusions of the applicant. In line with the EPA Guidelines description of effects, I identify the predicted construction and operation phase

activities to have imperceptible neutral effects whereby a change capable of measurement will be caused to the character of the environment but without significant consequences, and the change is within normal bounds of variation for same (typical of similarly scaled residential developments once constructed and operational).

#### Material Assets: Transport

- 9.6.4. Chapter 13 assesses traffic and transportation impacts associated with the proposed development. I note that the appeal grounds and observations include concern for and objection to the anticipated adverse impact on the road network, the adequacy of pedestrian and cycle infrastructure, increased traffic hazards, risk to public safety, and the capacity of the existing public transport network.
- 9.6.5. The EIAR addresses these issues in tandem with the potential impacts at construction and operation phases (including cumulatively). Potential impacts on traffic during the construction phase are described as exerting a moderate effect on the surrounding environment over a short term period, estimated between 1-3 years. Mitigation measures include the preparation of a finalised Construction Management Plan (CMP) and a Traffic Management Plan (TMP) by the appointed contractor, which will outline matters such as noise, dust and dirt control measures, vehicular haulage routes and construction traffic forecasts. Through the implementation of the CMP and TMP, construction phase traffic impacts on the road network are predicted as slight short term in effect.
- 9.6.6. In determining the operation phases impacts, the EIAR presents the overall transport impacts for the proposed development i.e., the three concurrent applications. The EIAR refers to the information (data, modelling, analysis) contained in the Traffic and Transport Assessment (TTA) submitted with each of the applications. The transport impact methodology calculates trip generations for the proposed development, shares likely trip distributions to the various routes, applies to existing traffic levels in the local road network (based on a traffic count survey of four junctions (locations on Fig.13.19) undertaken on 24<sup>th</sup> September 2022), and predicts future traffic growth (base year 2022, opening year 2026, full assessment year 2041). During the operational phase, Junction 1 (R107/ Back Road (with the proposed access road as the fourth arm of the upgraded signalised junction)) is shown to operate within

capacity (i.e., restrained movements) during both peak hours for the opening year and future assessment year with the proposed development in place. Junctions 2, 3 and 4 are shown to operate well within capacity during both peak hours and are expected to continue to do so for the future assessed year 2041 with the project in place.

- 9.6.7. This modelling accounts for committed and potential future developments, with development on the Broomfield Masterplan lands to the east on Back Road incorporated. Overall, the EIAR concludes that in the operational phase, junctions will operate within satisfactory capacity for the future 2041 year with both the proposal and anticipated surrounding development in place, and the impact on the local road network is slight permanent in effect. The EIAR identifies that the implementation of the Travel Plan as a mitigation measure to lessen operation phase impacts (increased information on alternatives to private car use, car sharing), increased connectivity from the site to public transport options, and improved pedestrian and cyclist facilities (paths, storage) will result in a positive effect on sustainable transport modes.
- 9.6.8. As part of the planning assessment, amendments were made at the FI response and/ or are recommended by condition which the EIAR has not included for (e.g., a reduction in dwelling numbers, Malahide Road junction redesign, provision of a childcare facility). However, I have considered and incorporated any likely associated effects into this EIA and am satisfied that anticipated traffic impacts will not be significant in and of themselves, imperceptible in effect, and come well within the scope of the overall impacts anticipated for the project.
- 9.6.9. In line with the EPA Guidelines description of effects, I identify the predicted construction phase activities to have imperceptible neutral effects whereby a change capable of measurement will be caused to the character of the environment but without significant consequences (due to the temporary nature of the disturbances), and the change is within normal bounds of variation for same. I consider the majority of the operation phase activities (capacity and functioning of Junctions 2, 3 and 4, demands on public transport, increased pedestrian and cyclist activity) to similarly have imperceptible neutral effects. I identify the operation phase impact on Junction 1 as being moderate neutral in effect as its character will be altered in a manner that is consistent with existing and emerging patterns of development (changed design,



upgraded capacity and modified functioning as a four-arm junction) and the alteration is within normal bounds of variation for same (infrastructure upgrades typically required for similarly scaled residential developments).

#### Conclusion

- 9.6.10. In conclusion, I am satisfied that all likely significant negative effects on material assets including utilities, waste, and transport would be avoided, mitigated, and managed due to measures designed into the project, from the implementation of mitigation measures, and through appropriate conditions in the event of a grant of permission. I conclude that the project would have likely imperceptible neutral effects in terms of material assets (utilities, waste, majority of transport) and moderate neutral effects in terms of material assets (transport, capacity and operation of Junction 1).

#### Cultural Heritage: Archaeological Heritage

- 9.6.11. Chapter 14 considers Archaeology and Cultural Heritage. The prediction of the impacts on the archaeological heritage of site is informed by a Geophysical Survey Report and Archaeology & Cultural Heritage Report, both appended to Chapter 14 of the EIAR. There are no national monuments within or in the vicinity of the appeal site. Desk-based archaeological assessment, geophysical surveys, and archaeological test excavation were undertaken and did not reveal any features, finds or deposits of archaeological interest with the subject site boundary. As a result, archaeological potential is considered to be low. Nevertheless, the EIAR recommends remedial measures for monitoring during topsoil stripping to determine whether there are any archaeological features or deposits present, recording, and excavation under licence in the event of identification of archaeological remains. The EIAR concludes that the proposed development could have a slight negative permanent impact on any archaeological features present, as a result of groundworks. No operational impacts are predicted.

- 9.6.12. I concur with the applicant's conclusions, and in line with the EPA Guidelines description of effects, I identify the predicted construction phase activities to have imperceptible neutral effects whereby a change capable of measurement will be caused to the character of the environment but without significant consequences (as no known recorded monuments are at the site, nor any features identified at

geophysical survey and test excavation, and monitoring of sub-surface groundworks should be required by condition), and the change is within normal bounds of variation for same.

#### Cultural Heritage: Architectural Heritage

- 9.6.13. The EIAR clarifies that Chapter 14 presents information on the archaeological heritage of the site, and that submitted separately with the application are several reports which address the architectural heritage of the site and provide analysis of the proposed development. In undertaking my EIA of the architectural heritage component of the environment, I identify three key components for the site and the project. These include the impact of the proposal on Auburn House and its outbuildings and walled garden, on the setting and woodlands, and on the existing entrance and access road.
- 9.6.14. In respect of the house, outbuildings, and walled garden, I have had regard to the Architectural Heritage Report (with the Maintenance Strategy and Photographic Survey Record as appendices), Walled Garden Report and the Planning Stage: Structural Report. For the setting and woodlands are the Historical Landscape Report, Landscape Design Rationale, Arboricultural Report (inclusive of the Tree and Woodland Management Plan and the Arboricultural Method Statement with the Tree Protection Plan as appendices), CGIs and Verified Views to be read in conjunction with Chapter 11 and Chapter 14 of the EIAR. For the entrances and boundary treatment along Malahide Road are the Arboricultural Report, Conservation Impact Assessment of the Main Entrance Strategies Report, Development Access Assessment Report, and Entrance Options Verified Views to be read in conjunction with Chapter 11 of the EIAR. I highlight to the Board that while I have grouped the applicant's reports into these categories to undertake my assessment, there is often a degree of overlap between the three components and reports. I am satisfied that these reports allow an assessment of the proposed development on Auburn House, its curtilage, and attendant grounds to be undertaken in totality.
- 9.6.15. Of the preservation of Auburn House as a single residence, I confirm that no significant works are proposed to the structure. The main intervention for the house to function as a single residence served by the outbuildings relates to the new boundary treatment to enclose the house and its curtilage and to demarcate the

property's private amenity space. I do not consider any adverse impact arising on the architectural heritage of the site from the boundary treatment (railing is a suitable distance from the buildings, is open, relatively low, discreet in colour, and is consistent with and complimentary to the character of the house and historic setting). The demarcation of the residence ensures an appropriate curtilage area (ample private amenity space provided, the historical relationship between the house and outbuildings is preserved, and the functional hierarchy between the structures is maintained) and involves a programme of woodlands felling and replanting to re-establish the woodland context and pathways, interventions to the estate's setting which I consider to be significant positive in effect.

9.6.16. The works to the walled garden include the preservation and restoration of the walls and two bastion towers, development of the garden for use as public open space, and creation of a new gateway entrance in the western wall to allow for pedestrian access to the garden. Notwithstanding the demolition of original wall fabric to create the entrance, I consider this to be a minimal intervention and acceptable in terms of architectural heritage when balanced with the garden's overall restoration and reuse as the dominant conservation works will enhance the historic quality of the garden. I note that the Architectural Heritage Report finds the character of the walled garden will be modestly altered and categorises the works (conservation of walls, corner towers, rejuvenated planting, and improved access for amenity use) as a positive impact in conservation terms. I concur with the applicant's conclusion and consider the impacts arising from the proposed restoration, landscaping, and intensified open space use to be significant positive in effect.

9.6.17. The project includes for new residential development within the setting of the Auburn House estate. To be able to assess the impact of the project, I identify three components of the setting which are of most character and heritage value. These include the eastern orientation of Auburn House and open front vista (view field/ viewshed) towards Malahide Castle Demesne, the treelined avenue which restricts views of the house on approach until arrival, and the contemporaneous planted woodlands to the west of the house laid out in paths as 'pleasure gardens'. Development in these three areas include the courtyard clusters and rows of dwellings to the east/ northeast of Auburn House, apartment blocks (Apartment Blocks 4 and 5) and rows of dwellings to the east of the treelined avenue, and of

note to the west of the house's woodlands setting are apartment blocks (Apartment Blocks 2 and 3). Due to the siting of the built forms (fitted into existing field patterns, orientated along hedge rows and tree lines, adequate separation distances from Auburn House and woodlands, outside of key views to and from Auburn House), the scale, massing and height of the proposed buildings (modest principal dimensions, acceptable range of building heights), and the appropriate design (subtle architectural features and external finishes, targeted tree planting and screening), I consider that the impact of the new buildings within the setting of Auburn House to be acceptable in terms of impact on architectural heritage, exerting a moderate neutral effect.

9.6.18. The new access arrangements from Malahide Road (R107) include the creation of new entrance and access road, and the maintenance of the existing entrance for pedestrian, cyclist and restricted vehicular use. The proposed main entrance, located c.20m south of the existing entrance, is planned as the fourth arm of an upgraded signalised junction (of the 'T' junction between Malahide Road and Back Road), which includes new signage and road markings. The access arrangement results in the removal of c.15 trees, most associated with the internal road and not at the roadside boundary. The applicant's Conservation Impact Assessment of the Main Entrances report finds the proposed arrangement to be the most appropriate due to it having a modest impact on the setting of the property and mitigating against adverse conservation impacts. The Architectural Heritage Report states the new entrance is understated, avoids any conflict with the existing entrance in terms of form, colour or materials so that the existing entrance retains visual primacy, and is likely to have the least conservation impact. I concur with the applicant's conclusion and positively note aspects of the project which have had regard to the sensitivities of the site's boundary along this section of the Malahide Road (architectural heritage, arboricultural, visual amenity sensitivity). These include the setback of proposed dwellings c.43m-57m from the roadside boundary, restrained building heights closest to the road, and preservation of the majority of treeline and tree groupings including those adjacent to the roadside boundary. I consider that impacts arising from the proposed access arrangements and boundary treatments to be significant neutral in effect.

- 9.6.19. As part of the planning assessment, amendments were made at the FI response and/ or are recommended by condition which the EIAR has not included for (e.g., a reduction in dwelling numbers, changes to the designs of courtyard cluster dwelling, duplex blocks and apartment blocks, R107 junction redesign, amendments to the walled garden gate). However, I have considered and incorporated any likely associated effects into this EIA and am satisfied that anticipated architectural heritage impacts will not be significant in and of themselves, imperceptible in effect, and come well within the scope of the overall impacts anticipated for the project.
- 9.6.20. In line with the EPA Guidelines description of effects, when assessed in totality the impact of the project on Auburn House and its attendant grounds is certainly significant in effect. However, unlike the appeal grounds and observations, I find that the impacts as outlined above are predominantly positive in nature. Overall, I find the impacts are significant positive in effect as the architectural heritage of the site, which is a sensitive aspect of the environment will be altered, and the change improves the quality of the environment.

#### Conclusion

- 9.6.21. In conclusion, I am satisfied that all likely significant negative effects on cultural heritage including archaeological and architectural heritage would be avoided, mitigated, and managed due to measures designed into the project, from the implementation of mitigation measures, and through appropriate conditions in the event of a grant of permission. I conclude that the project would have likely imperceptible neutral effects in terms of archaeological heritage, and significant positive effects in terms of architectural heritage.

#### Landscape

- 9.6.22. Chapter 11 assesses the Landscape and Visual Impact. The EIAR outlines the landscape design rationale for the project has been based on retaining as many of the trees and as much of hedgerows within the site as possible, and maintaining the existing field patterns and field boundaries. The EIAR identifies impacts in three key components relevant to this environmental category: existing trees and hedgerows, landscape character, and views.
- 9.6.23. Of the existing trees and hedgerows, reference is made to the separate Arboricultural Report which includes surveys of trees and hedgerows at the site. The

arboricultural value of the site is referred to in the EIAR with 1,344 individual items i.e. trees or tree groupings being identified. Contemporaneous to Auburn House include the woodland adjacent to the north, west and south of the house, and the tree belt along the front boundary with the R107. Reasons given for the removal of trees and hedgerows is due to facilitating the development, need to fill and remodel ground levels, and to the poor condition and quality of the trees. The proposal involves the removal of 310 trees (note: that figure may include a degree of double counting between the applications). The majority of the trees being removed are of category U value (165 of the 310). Of the impacts on existing trees and hedgerows, these are identified as slight/ moderate negative during the construction phase, with initial mitigation measures (establishment of trees and supplementary hedge planting) reducing to slight negative effect, and with further mitigation (e.g. Tree and Woodland Management Plan) reducing to not significant negative during the operation phase.

- 9.6.24. The character of the site is distinctive with high arboricultural and architectural heritage value. The project alters the character of the site from recreational/ agricultural to one of more intensive residential. The EIAR identifies the impact on character as being significant negative (from within the site)/ slight negative (from outside) during the construction phase and with application of mitigation reduces to moderate negative (from within)/ slight negative (from outside) during the operation phase. I concur with the applicant's position that the project will change the landscape character of the site, though I positively note certain design elements including the maintenance of the eastern vista free of development, the visual framing and streetscape creation along the internal approach roads, the use of the courtyard cluster typology and scale of buildings' heights. I consider that the landscape character will continue to be visually interpreted as a historic setting under modern adaptation.
- 9.6.25. Views into the site from the surrounding area and public road network are described as limited due to the concealed nature of the house and its setting. The visual impact assessment in the EIAR is based on analysis of 59 viewpoints of the site from short range and long range locations. For these viewpoints, photomontages or verified views (VVs) have been generated of the existing and proposed views. The EIAR provides analysis of the views, with a description of the proposed change in

the viewpoint arising from the proposal and an evaluation of the type of effect at both the construction and operation phases. There is expectedly, a broad range of effects identified in the visual analysis varying in significance and quality of effect. The evaluation incorporates the mitigation measures (includes for further maturing of existing screening, new planting, additional landscaping and boundary treatments).

9.6.26. I consider the visual impact assessment to be sufficiently broad and representative of the likely locations from which views would be available and encountered. I concur with the applicant's analysis of the long range views (which predominantly finds that impacts are not significant), whereby the site is well concealed and not overtly visible from publicly accessible viewpoints. Views from within the site and from adjacent properties are more vulnerable and some likely to be more significantly affected. Mitigation measures to address predicted impacts centre on the landscape strategy to be implemented. The strategy involves the retention of trees and hedgerows, pruning and supplementary planting where possible, implementation of the measures in the Arboricultural Report (i.e., Arboricultural Method Statement with Tree Protection Plan during the construction phase, the Tree and Woodland Management Plan during the operation phase), coupled with a landscaping programme with a planting schedule for open spaces within the proposed development.

9.6.27. I have considered the project's impact on the landscape (i.e., three key components existing trees and hedgerows, landscape character, and views) through the project cycle from construction to operation phase. When assessed in totality, due to the extent of alteration, the impact of the project on the landscape of the site is certainly significant in effect for both phases. In line with the EPA Guidelines description of effects, I identify the impact arising from the project to be significant negative in effect at construction phase as a sensitive aspect of the environment will be altered, and the change reduces the quality of this aspect of the environment. I consider that the impact will improve in quality of effect to significant neutral (once construction is completed and the landscaping strategy implemented) as the alteration becomes within normal bounds of variation (appropriate design of the project, incorporates and includes for range of mitigation measures, would be typical of residential schemes in similarly sensitive landscape and historic settings). Once the project is operational, I anticipate the impact will improve to significant positive in effect as the

impacts improve the quality of landscape (e.g., through tree retention, protection, and supplementation, historic structure restoration, conservation, and rejuvenation, and new buildings establishing a high quality built environment and contributing to a distinct sense of identity in the area).

#### **9.7. Interaction between the factors referred to in points (a) to (d)**

- 9.7.1. Chapter 15 of the EIAR considers the Interactions between the environmental categories listed above. The interactions are presented in tabular format, with identification of the interactions which are predicted as being significant in effect. The EIAR concludes that the project will have no significant negative impact when the respective range of mitigation measures are incorporated (these are listed in Chapter 16 of the EIAR).
- 9.7.2. I have considered the interrelationships between factors and whether these might on the whole affect the environment, even though the effects may be acceptable on an individual basis. Having considered the incorporation and/ or implementation of the range of mitigation measures, I do not identify any residual risk of significant negative interaction between the environmental categories requiring further specific mitigation measures.

#### **9.8. Cumulative Impacts**

- 9.8.1. The appeal grounds include that the cumulative impacts have not been satisfactorily identified in the EIAR to allow an adequate and accurate assessment of the project. The development of the application site is planned for as the lands zoned for new residential development, the site is included within the development boundary of Malahide, a Self-Sustaining Town, identified for continued growth within the lifetime of the 2023 CDP. The development of the site would occur in tandem with the development of other sites that are zoned in the area. Such development would be unlikely to differ from that envisaged under the 2023 CDP which has been subject to Strategic Environment Assessment. A number of developments in the surrounding area have been specifically identified as being considered in the EIAR, for example recent planning applications (Chapter 5 Biodiversity), the Clairville Lodge housing estate (Chapter 11 Landscape and Visual Impact), the Broomfield Masterplan lands (Chapter 13 Transport). In this regard, I consider that the EIAR has adequately considered cumulative impacts where relevant.



- 9.8.2. The intended residential use with ancillary facilities (recommended childcare facility) are permitted in principle within the applicable RA zoning objective and vision for the site. The proposed development complies within the provisions of the 2023 CDP and/ or national planning guidance. It is therefore concluded that the culmination of effects from the planned, proposed, or permitted development would not be likely to give rise to significant effects on the environment other than those that have been described in the EIAR and considered in this EIA.

## 9.9. Reasoned Conclusion on the Significant Effects

- 9.9.1. The Board considered that the EIAR, supported by the supplementary documentation submitted with the application and appeal, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the proposed development on the environment, having considered current knowledge and methods of assessment.
- 9.9.2. As such, having regard to the examination of environmental information outlined above, to the submissions received on the application from observers and prescribed bodies, the decision of the planning authority, the appeal grounds, and observations and responses on same, it is considered that the main likely significant effects of the proposed development on the environment are as follows:

**Population and Human Health** – moderate to significant positive effects arising from the provision of new residential units, increased population and community creation, additional local facilities and services (a childcare facility and open spaces) and increased economic activity.

**Biodiversity** – moderate to significant positive effects arising from the implementation of the Arboricultural Report (inclusive of a Tree Protection Plan and a Tree and Woodland Management Plan), landscaping strategy, bat protection measures, and surface water management measures to prevent pollution of local watercourses and protect nature designations.

**Architectural Heritage** – significant positive effects arising from implementation of the Architectural Heritage Report (inclusive of a conservation methodology and Maintenance Strategy for Auburn House and its attendant grounds), the Walled Garden Report (inclusive of methodologies for repair and construction works), the Arboricultural Report (inclusive of a Tree Protection Plan and a Tree and Woodland

Management Plan), and the Planning Stage: Structural Report (inclusive of a construction methodology for works in proximity to sensitive structures).

**Landscape** – significant negative effects arising from construction phase activities, improving to significant neutral to positive effects arising from the implementation of the Landscape Design Rationale (inclusive of a landscaping strategy), the Arboricultural Report (inclusive of a Tree Protection Plan and a Tree and Woodland Management Plan), and from enhancements of the visual amenity of the site through appropriately sited, designed, scaled, and finished new buildings.

- 9.9.3. In conclusion, I consider that the likely significant environmental effects arising as a consequence of the project have been satisfactorily identified, described, and assessed in this EIA. I consider that the information contained in the EIAR is sufficiently up to date, complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU, and is compliant with the requirements of Article 94 of the 2001 Regulations.

## 10.0 Recommendation

I recommend that permission be GRANTED for the following reasons and considerations, and subject to the conditions set out below.

## 11.0 Reasons and Considerations

Having regard to the 'RA' Residential Area zoning of the site in the Fingal Development Plan 2023-2029, the national, regional and local policy objectives which seek to increase housing supply and deliver compact urban growth at appropriate locations, the nature, scale and height of the development, and the pattern of existing and permitted development in the vicinity of the site, it is considered that subject to compliance with the conditions set out below, the proposed development would appropriately intensify the residential use at the site, constitute an acceptable quantum and density of residential development, would respect the existing character and architectural heritage of the site, would not seriously injure the residential or visual amenities of property in the vicinity, would not be prejudicial to public health, would not cause serious injury to biodiversity and the natural environment, would not cause serious pollution in respect of air, water,

noise, vibration or disposal of waste, and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 12.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further information plans and particulars submitted to the planning authority on the 3<sup>rd</sup> day of February 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>a) Permission is hereby granted for 69 residential units comprising 35 houses and 34 apartments.</p> <p>b) Permission for same shall be implemented in accordance with the site layout plan (and other plans and particulars) submitted to the planning authority as further information on the 3<sup>rd</sup> day of February 2023, except for House No.s 02-06 which shall be implemented in accordance with the site layout plan, house plans and elevations as lodged with the application on the 21<sup>st</sup> day of October 2022.</p> <p>c) Auburn House, stable buildings and courtyard shall be jointly occupied as a single residential unit. The house, stable buildings and courtyard shall not be used, sold, let, or otherwise transferred or conveyed, save as part of the overall residential unit. The curtilage of the overall residential unit, including private amenity space, shall not be subdivided.</p> <p><b>Reason:</b> In the interests of clarity and residential amenity.</p>

3.	<p>a) This development shall be carried out in a phased manner as part of the coordinated development of lands under the applicant's control (total lands as indicated on Dwg No. 1902PS035 (Scale 1:2500)) unless otherwise stated in Condition 3(b) below, or if agreed in writing with the planning authority.</p> <p>b) Phase 1 shall comprise the development permitted under ABP 316498-23, PA. Ref F22A/0580. Measures included in/ works relating to the following shall be implemented in the first instance (as necessary applicable to lands under the applicant's control):</p> <ul style="list-style-type: none"> <li>i. Architectural Heritage Report and Report on Condition, Repair and Alterations for Walled Garden and Corner Bastions.</li> <li>ii. Arboricultural Report.</li> <li>iii. Wastewater infrastructure.</li> <li>iv. Main entrance, access road, and road works at Malahide Road (R107) and Back Road.</li> </ul> <p>c) Phase 2 shall comprise the development permitted under ABP 316504-23, PA. Ref F22A/0581, save for any components implemented under Condition 3(b) above.</p> <p>d) Phase 3 shall comprise the development permitted under this permission ABP 316444-23, PA Ref. F22A/0579, save for any components implemented under Condition 3(b) above.</p> <p>e) The occupation of residential units within each phase shall be restricted until the communal and public open space to serve the phase, and the childcare facility (applicable for Phase 1) have been developed, are operational and available for use, to the satisfaction of the planning authority.</p> <p><b>Reason:</b> To ensure the protection of Auburn House and its setting, and the timely provision of amenities and infrastructure for future residents.</p>
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4.	<p>Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report, as set out in Chapter 16 'Summary of Mitigation Measures' and in the Natura Impact Statement, as set out in 'Step 4: Mitigation', submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission. The developer shall appoint a person with appropriate ecological and construction expertise as an environmental manager to ensure that the mitigation measures identified in the Environmental Impact Assessment Report and the Natura Impact Statement are implemented in full.</p> <p>Prior to the commencement of development, the developer shall submit a comprehensive list of mitigation measures and a corresponding timeline/ schedule for implementation of same to the planning authority for its written agreement.</p> <p><b>Reason:</b> In the interest of protecting the environment, public health, and clarity.</p>
5.	<p>Mitigation and monitoring measures outlined in the plans and particulars, including the Architectural Heritage Report (inclusive of the Protection Plan/ Maintenance Strategy), the Report on Condition, Repair and Alterations for Walled Garden and Corner Bastions at Auburn House, the Planning Stage: Structural Report and the Arboricultural Report (inclusive of the Tree and Woodland Management Plan and the Arboricultural Method Statement with the Tree Protection Plan) submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission.</p> <p>Prior to the commencement of development, the developer shall submit a comprehensive list of mitigation measures and a corresponding timeline/ schedule for implementation of same to the planning authority for its written agreement.</p> <p><b>Reason:</b> To protect the architectural and arboricultural heritage of the site.</p>

6.	<p>Proposals for a development name and numbering scheme, and associated advertisements/ marketing signage (including the location of signage along the site boundary with Malahide Road/ R107, if any), shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The proposed name and numbering scheme shall be based on the site's historic association with Auburn House and/ or the townlands of Auburn and Streamstown, or other alternatives acceptable to the planning authority. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.</p> <p><b>Reason:</b> In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.</p>
7.	<p>Details of the materials, colours, and textures of all the external finishes to the proposed buildings, the front and rear boundary walls/ screening/ planting to residences, and to the site boundaries, shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
8.	<p>No additional development shall take place above roof parapet level on Apartment Block 1 including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas, or equipment, unless authorised by a further grant of planning permission.</p> <p><b>Reason:</b> To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>
9.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces. The design of the lighting scheme shall be approved of by a suitably qualified bat specialist. The details of the lighting scheme, including written evidence indicating approval by the bat specialist, shall be submitted to and agreed</p>

	<p>in writing with the planning authority prior to commencement of development/ installation of lighting. The agreed lighting system shall be fully implemented and operational before the proposed development is made available for occupation.</p> <p><b>Reason:</b> In the interests of amenity and public safety, and wildlife protection.</p>
10.	<p>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.</p> <p><b>Reason:</b> In the interests of visual and residential amenity.</p>
11.	<p>All links/ connections to adjoining lands (within and outside the developer's control) shall be provided up to the site boundary to facilitate future connections subject to the appropriate consents.</p> <p><b>Reason:</b> In the interest of permeability and safety.</p>
12.	<p>The internal road network serving the proposed development, including carriageway widths, corner radii, turning bays, junctions, parking areas, footpaths and kerbs, and cycle lanes shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets and the National Cycle Manual issued by the National Transport Authority. Pedestrian crossing facilities shall be provided in suitable locations to be agreed with the planning authority. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In the interest of sustainable transportation.</p>
13.	<p>a) Prior to the occupation of the development, a Parking Management Plan shall be submitted to and agreed in writing with the planning authority. The plan shall:</p>

	<p>i. identify the total number of car parking spaces to be assigned permanently and solely for the residential units.</p> <p>ii. shall indicate how these and other spaces (e.g., visitor) within the development shall be assigned, segregated by user, and continually managed.</p> <p>b) Prior to the occupation of the development, a Mobility Management Plan shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking, and carpooling by residents/ visitors, and to reduce and regulate the extent of parking. The plan shall be prepared and implemented by the management company for all units within the development.</p> <p><b>Reason:</b> To ensure that adequate parking facilities are permanently available to serve the proposed residential units, and encourage the use of sustainable modes of transport.</p>
14.	<p>a) 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.</p> <p>b) Electric charging facilities shall be provided for motorcycle and/ or bicycle parking, and proposals shall be submitted to and agreed in writing with the planning authority prior to the occupation of the development.</p> <p><b>Reason:</b> To provide for and/ or future proof the development such as would facilitate the use of electric vehicles.</p>



15.	<p>Prior to commencement of development, proposals for cycle parking and storage shall be submitted to and agreed in writing with the planning authority. The proposals shall accord in quantity and design with the requirements of SPPR 4, Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024.</p> <p><b>Reason:</b> To ensure that adequate cycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.</p>
16.	<p>a) The management and maintenance of the development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge.</p> <p>b) The communal open spaces, hard and soft landscaping, car and cycle parking areas, access ways, refuse/ bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.</p> <p>c) Details of the management company contract, and drawings/ particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.</p> <p><b>Reason:</b> To ensure the satisfactory completion and provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
17.	<p>a) The areas of communal and public open space in the development shall be reserved for such use, levelled, contoured, soiled, seeded, and landscaped (hard and soft) in accordance with the Landscape Design Rationale and associated landscape plans, unless otherwise agreed in writing with the planning authority.</p> <p>b) Final design, finishes, methods of construction and/ or installation of footpaths, cycle paths, crossing points over ditches/ watercourses/</p>

	<p>SuDS features, and equipment in play areas shall be submitted to the planning authority for its written agreement.</p> <p>c) The landscaping work shall be undertaken in accordance with the phasing requirements stipulated in Condition 3b) and shall be completed prior to any residential units being made available for occupation unless otherwise agreed with the planning authority.</p> <p>d) A schedule of landscape maintenance shall be submitted to and agreed in writing with the planning authority prior to occupation of the development. This schedule shall cover a period of at least three years and shall include details of the arrangements for its implementation.</p> <p>e) The areas of communal and public open space shall be reserved and maintained as such by the developer until taken in charge by the management company or by the local authority.</p> <p><b>Reason:</b> In the interest of nature conservation, residential amenity, and to ensure the satisfactory development of the open space areas and their continued use for this purpose.</p>
18.	<p>a) The developer shall engage the services of a qualified arborist as an arboricultural consultant for the entire period of works.</p> <p>b) The arboricultural consultant shall ensure the implementation of all recommendations in respect of tree removal, retention, protection, pruning, and other measures included in the Arboricultural Report, tree plans and particulars.</p> <p>c) Any tree felling, surgery and remedial works shall be undertaken in accordance with applicable BS standards or equivalent standards, supervised by and to the satisfaction of the arboricultural consultant.</p> <p>d) The developer shall facilitate the work of the arboricultural consultant in implementing the measures in the Arboricultural Report and bear the costs of same.</p> <p><b>Reason:</b> In the interests of arboricultural and environmental protection.</p>

19.	<p>a) The developer shall engage a suitably qualified archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, and groundworks associated with the development.</p> <p>b) The use of appropriate machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary. Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the National Monuments Service, regarding appropriate mitigation (i.e., preservation in-situ and/ or excavation). The developer shall facilitate the archaeologist in recording any remains identified.</p> <p>c) Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer.</p> <p>d) Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of the monitoring and any subsequent required archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.</p> <p><b>Reason:</b> To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.</p>
20.	<p>The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to and agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:</p>

	<ul style="list-style-type: none"> <li>a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse.</li> <li>b) Location of areas for construction site offices and staff facilities.</li> <li>c) Details of site security fencing and hoardings.</li> <li>d) Details of on-site car parking facilities for site workers during the course of construction.</li> <li>e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.</li> <li>f) Measures to obviate queuing of construction traffic on the adjoining road network.</li> <li>g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.</li> <li>h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works.</li> <li>i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.</li> <li>j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.</li> <li>k) Off-site disposal of construction/ demolition waste and details of how it is proposed to manage excavated soil.</li> <li>l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.</li> <li>m) A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the Planning Authority.</li> </ul>
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	<b>Reason:</b> In the interest of environmental protection, residential amenities, public health and safety.
21.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
22.	<p>Prior to the commencement of development, 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) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. 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.</p> <p><b>Reason:</b> In the interest of proper planning and sustainable development. .</p>
23.	<p>a) An Operational Waste Management Plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation, and collection of the waste and for the ongoing operation of these facilities for each residential unit shall be submitted to and agreed in writing with the planning authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>b) This plan shall provide for screened communal bin stores for the apartment and duplex blocks, the locations, and designs of which shall be as indicated in the plans and particulars lodged within the</p>

	<p>application unless otherwise agreed in writing with the planning authority.</p> <p>c) This plan shall provide for screened bin stores, which shall accommodate not less than three standard sized wheeled bins within the curtilage of each house plot.</p> <p><b>Reason:</b> In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
24.	<p>Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health and surface water management.</p>
25.	<p>a) The developer shall enter into water and/ or wastewater connection agreement(s) with Uisce Eireann, prior to commencement of development.</p> <p>b) If any proposals by the developer to build over/ near or divert existing water or wastewater services subsequently occurs, the developer shall submit details to Uisce Eireann for assessment of feasibility and have written confirmation of feasibility of diversion(s) received from Uisce Eireann prior to connection agreement.</p> <p>c) All development shall be carried out in compliance with Uisce Eireann Standards codes and practices.</p> <p><b>Reason:</b> In the interest of public health.</p>
26.	<p>All residential units to be provided with noise insulation to an appropriate standard, having regard to the location of the site within Noise Zone C for Dublin Airport.</p> <p><b>Reason:</b> To ensure compliance with Objective DAO11 of Fingal Development Plan 2023-2029, and to protect residential amenity.</p>
27.	<p>Prior to commencement of development, a proposal for the provision of a piece of public art at a location within lands under the applicant's control</p>

	<p>(as indicated on Dwg No. 1902PS035 (Scale 1:2500)) shall be submitted to and agreed in writing with the planning authority.</p> <p><b>Reason:</b> To ensure compliance with Objective DMSO194 of Fingal Development Plan 2023-2029, and to contribute to the cultural identity and visual amenities of the area.</p>
28.	<p>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.</p> <p><b>Reason:</b> 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.</p>
29.	<p>All of the permitted house or duplex units in the development, when completed, shall be first occupied as a place of residence by individual purchasers who are not a corporate entity and/ or by persons who are eligible for the occupation of social or affordable housing, including cost rental housing. Prior to commencement of development, the applicant, or any person with an interest in the land shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 as amended, to this effect. Such an agreement must specify the number and location of each house or duplex unit.</p> <p><b>Reason:</b> 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.</p>

30.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority to secure the tree removal, retention, protection, pruning, and other measures included in the Arboricultural Report as required by Condition 18, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory implementation of said measures.</p> <p>This security shall remain in place until the requirements of part (a) above are completed to the satisfaction of the planning authority and for a further period of 10 years following completion of said landscaping works, or as otherwise agreed by the planning authority.</p> <p>In default of agreement on (a) and/ or (b), the matter(s) shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To ensure the satisfactory implementation of the requirements of Condition 18 in relation to tree preservation, protection, and replanting measures.</p>
31.	<p>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/ in the event of being 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.</p> <p>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.</p> <p><b>Reason:</b> To ensure the satisfactory completion and maintenance of the development until/ in the event of being taken in charge.</p>



32.	<p>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.</p> <p><b>Reason:</b> 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.</p>
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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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Phillippa Joyce

Senior Planning Inspector

4<sup>th</sup> March 2024