



An
Bord
Pleanála

Inspector's Report

ABP-317192-23

Development	Demolition of bungalow and outbuilding and construction of a 3-storey apartment building comprising 14 residential units etc.
Location	Wycliffe, Millview Road, Malahide, Co. Dublin, K36 R966
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F22A/0652
Applicant(s)	Garvagh Homes Ltd.
Type of Application	Permission (s. 34)
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	Third Party (s. 37)
Appellant(s)	Talbot Court Management DAC
Observer(s)	A and J Speers
Date of Site Inspection	5 th April 2024
Inspector	Philip Maguire

1.0 Site Location and Description

- 1.1. The appeal site is located on the western side of Millview Road, southwest of its junction with Old Yellow Walls Road, in a suburban area of Malahide, c. 1.3km west of the town centre. Millview Road is a short section of road extending from the Sea Road/Yellow Walls Road signalised junction in a southerly direction towards the R106. There is a pinch point along the extent of the appeal site which lacks a public footpath.
- 1.2. The section of Millview Road where the appeal site is situated is mainly characterised by detached and semi-detached single-storey dwellings in a variety of styles but mostly vernacular in appearance. Talbot Court, a gated development of two and a half storey houses does however bound the site to the southwest. The nearest shop and school are some 200m and 400m away along Yellow Walls Road and Sea Road.
- 1.3. The appeal site has a stated area of 0.21ha and road frontage of c. 35m. It consists of a detached single-storey house and outbuilding in a sylvan setting including a mature belt of hornbeam, c. 14-17m high, along the northwestern boundary and a mixture of species including beech, maple and birch along the southeastern boundary.
- 1.4. The house is sited centrally and addresses Millview Road. The outbuilding is located to the rear and adjoins the northeastern boundary. The remainder of this boundary is defined by a wall (c. 2.1m high to the rear) and hedgerow, with planted border to the front. The front (southeastern) boundary is defined by a low wall, vehicular entrance and mature beech hedgerow. In addition to the belt of mature trees, the rear (northwestern) boundary is defined by a wall, c. 2.1m high. The southwestern boundary is defined by a c. 2.3m high block wall along Talbot Court. Site topography is consistent with road level, c. 10.4mAOD, albeit marginally higher in the rear garden.

2.0 Proposed Development

- 2.1. Planning permission is sought to demolish a bungalow and construct 14 apartments.
- 2.2. The proposed development would consist of:
 - the demolition of existing bungalow and outbuilding on a 0.21ha site;
 - the construction of a 3-storey over basement apartment building comprising 4 no. 1-bed and 10 no. 2-bed units;

- 19 no. car parking spaces, including 1 no. accessible space and 1 no. EV charging designated space;
- 45 no. bicycle parking spaces, including 1 no. non-standard/cargo bike space; and
- associated site works including drainage, tree removal, boundary treatments, green roofs, PV panels, bin stores, footpaths, new vehicular access arrangement, new tree planting and landscaping.

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

Table 1 – Key Figures

Site Area (Gross / Net)		0.21ha or 2,100sq.m
Dwelling Units		14 no. apartments
Density (Gross / Net)		67dph
Building Height		3-storey over basement (c. 12.10m)
Floor Areas (sq.m)	Demolition	247.9sq.m
	Stated GFA	1,389sq.m
	Resi GFA	1,389sq.m
Site Coverage		35% (753sq.m)
Plot Ratio		1.5 : 1
Dual Aspect		71% (10 of 14 no. units)
Part V		21% (3 of 14 no. units)
Open Space / Amenities		24% communal open space (513sq.m of site area)
Car Parking Spaces		19 (1.36 spaces per residential unit)
Bicycle Parking Spaces		48 (3.43 spaces per residential unit)

Table 2 – Apartment Unit Mix

	1-bed	2-bed (3P)	2-bed (4P)	3-bed	Total
Total	4 (29%)	0	10 (71%)	0	14 (100%)

2.4. In addition to a Town Planning Report (Manahan Planners, November 2022), planning application documents include:

- Traffic & Transportation Statement (NRB Consulting, November 2022)
- Drainage Report (JJ Campbell & Associates, October 2022)
- Landscape Management & Maintenance Plan (Park Hood, November 2022)
- Tree Survey & Report (Dr. Philip Blackstock, November 2022)
- Daylight & Sunlight Assessment (Digital Dimensions, November 2022)
- Design Strategy Report (Donnelly Turpin Architects, November 2022)
- Verified Photomontages (Digital Dimensions, November 2022)

2.5. The applicant's further information response included:

- design revisions including a 90° rotation of the gable-fronted undercroft element along with alterations to the angle of the pitched roof and fenestration;
- layout revisions to allow for internal access to Unit nos. 1, 2 and 3 from the building core in addition to external stairs/lift removal; and
- reconfiguration of the front boundary, including reduction in entrance width, relocation of accessible parking space to the basement and a 27-space secure cycle parking facility to the rear of the building at ground level.

2.6. In addition to revised drawings etc., the response included the following reports:

- Further Information Report including updated photomontages and Pre-Connection Enquiry (PCE) response from Uisce Éireann (Donnelly Turpin, March 2023)
- Cycle Parking Management Strategy (NRB Consulting, March 2023)

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Permission was granted on 27th April 2023, subject to 19 no. conditions.

3.1.2. The following conditions are of note:

Condition 3 – prohibits the use of the residential units as short-term lettings.

Condition 6 – requires all public areas to meet the planning authority's taking in charge requirements irrespective of whether they are to be taken in charge.

Condition 8 – requires the window in the northern elevation of Unit 6 to be fitted and permanently maintained with obscure glass.

Condition 12 – requires details to be agreed prior to commencement of development, including those in relation to the uncontrolled pedestrian crossing, vehicular entrance and footpaths and bicycle parking, in addition to a CEMP and a CTMP.

Condition 13 – requires the submission and agreement of a revised Tree Protection Plan prior to commencement of development and to include Tree No. 6. A tree bond is also required in addition to arborist monitoring, including wildlife inspections, prior to the removal of vegetation. Submission and agreement of a revised landscape is also required prior to the commencement of development.

Condition 18 – requires the payment of a special development contribution in lieu of a shortfall of 525sq.m of open space.

3.2. Planning Authority Reports

3.2.1. The Planning Officer's Report (20/01/23) can be summarised as follows:

Zoning

- States that proposal is acceptable within the zoning objective subject to compliance with the policies and objectives of the Development Plan 2017-2023.

Density and Visual Impact

- States that 66.6dph would exceed the 35-50dph threshold but notes that a balance has to be struck between the reasonable protection of amenities and character and the need to provide infill housing, through a design response.
- States that the variation in roof profiles and sectional design addresses the scale, bulk and massing concerns of the previously refused PA ref. F22A/0205 and the retention of the existing tree line to the rear boundary aids integration.
- Considers that the design response would be acceptable subject to modest amendments to the undercroft element in terms of integration with the overall scheme and setting.

Residential Amenity

- Acknowledges 3rd Party concerns in relation to residential impacts, including those of Talbot Court, but states that the proposal is sufficiently set off the shared 'western and north-western' boundaries to avoid undue overlooking and also notes the access road (to Talbot Court) separates opposing windows, which are not considered to be directly opposing in any event.
- Considers that the overall scale and mass has been broken up relative to PA ref. F22A/0205 and states that the proposal would not give rise to undue overbearance.
- Notes that the submitted Daylight and Sunlight Assessment concludes that the proposal would integrate appropriately without undue impact in terms of loss of light or overshadowing.
- Refers to a submitted 'Housing Quality Assessment' and states that the proposal would generally comply with the New Apartments Guidelines but states that clarification is required in respect of some of the internal floor areas.
- Raises concerns regarding Unit nos. 1, 2 and 3 in terms of pedestrian access.

Water Services

- Notes the internal and external responses from the Water Services Section and Irish Water, the latter requesting submission of a Pre-Connection Enquiry (PCE).

Transportation

- Notes the internal report from the Roads Section which highlights a deficit of 3 no. parking spaces but also notes the location of bus stops along Yellow Walls Road to the east and proximity to Malahide train station.
- States that the vehicular entrance width/large radii should be reconsidered in addition to front boundary set back and recommends further information.
- States that the Traffic and Transport Assessment is generally acceptable.

Parks

- Notes the internal report from the Parks Section and their requirement for a tree protection plan.

- States that the shortfall in open space be addressed by financial contribution and applied towards the continued upgrade of class 1 open space facilities in the Malahide area i.e., Malahide Demesne Regional Park.
- Notes the landscaping plan is acceptable subject to modest amendments.

Part V

- It notes that the applicant proposes 3 no. units in order to discharge their Part V obligations. It recommends that a standard Part V condition be attached in the event of a grant of permission.

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

- It states that no AA or EIA issues arise.

Conclusion

- Concludes that the principle of the proposal is acceptable subject to further information in respect of the issues raised.

3.2.2. The Planning Officer's Report (26/04/23) can be summarised as follows:

- Considers the further information amendments acceptable and sympathetic to the overall design of the structure but recommends that the additional window be fixed and obscured by condition.
- Considers the internal layout revisions acceptable and notes that this will ensure that the private amenity space will solely be used for this purpose.
- Notes the PCE response from Uisce Éireann which indicates that water and wastewater connection is feasible without infrastructure upgrades and considers this acceptable.
- Notes that the amendment to the front boundary is acceptable to the Roads Section subject to the agreement of the line of the new road kerb. It also notes that the shortfall in long stay cycle spaces could be addressed by condition. No issues were raised in respect of the Cycle Parking Management Strategy or EV charging provision and notes that the revised access is acceptable to the Roads Section.
- Notes that the Parks Section recommends a revised tree protection plan as part of a compliance submission.

- Notes the updated photomontage and considers that the overall design and variation to the roof profiles would aid the subordination of the structure into the surrounding context notwithstanding it being a significant introduction to the streetscape.

Conclusion

- Concludes that the proposal accords with the policies and objectives of Fingal Development Plan 2023-2029 and would integrate within the established context without undue impact on the visual and residential amenities of the area.
- Recommends a grant of permission on this basis.

3.2.3. Other Technical Reports

- Parks (20/04/23): No objection subject to condition.
- Roads (24/04/23): No objection subject to condition.
- Water Services (13/04/23): No objection subject to condition.

3.3. **Prescribed Bodies**

- Uisce Éireann (19/04/23): No objection.

3.4. **Third Party Observations**

3.4.1. The planning authority received a total of 31 no. third-party observations, 7 no. of which were received at further information stage. The main concerns can be summarised under the following themes:

- Impacts on the visual amenities and character of the area as a result of excessive density/overdevelopment; scale, height, massing, and design; prominence; and impact on building line.
- Impacts on residential amenities and privacy i.e., overlooking, overbearance, overshadowing and loss of light, noise and nuisance during construction and operational phases, inadequate public open space and boundary treatments.
- Traffic impacts on public safety including insufficient access and parking, pedestrian and cyclist infrastructure, and general congestion.

- Quality of life and public health impacts arising from the construction and operational phases including noise, dust, vibration and traffic congestion.
- Natural and built heritage impacts on the ecology and biodiversity of the area through loss of habitat and on a protected structure and period cottages generally.
- Non-compliance with planning policy, material contravention of the Fingal Development Plan, the creation of an undesirable precedent and failure to overcome precedent decisions i.e., previous refusals on site and in the area.
- Other concerns relate to the water and wastewater capacity, the purported presence of a natural spring in the garden, and impact on property values.

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

4.0 Planning History

4.1. Relevant to appeal site:

4.1.1. PA ref. F22A/0205 – in April 2022, the planning authority refused planning permission for the demolition of the existing bungalow etc. and construction of 15 no. apartments in a 3-storey over basement building. Impacts on character and visual amenity as a result of design, scale, mass, bulk and finishes; and overdevelopment by reason of excessive density, layout, substandard public and private open spaces and car parking provision, and unacceptable separation from the northern boundary were amongst the main reasons for refusal. Deficiencies regarding the preservation and management of trees and overreliance on underground attenuation were also reasons for refusal.

4.2. Adjacent sites:

14 and 14A Yellow Walls Road, Malahide – c. 0.5km east, southeast

4.2.1. PA ref. F21A/0442 – in May 2022, the Board overturned a decision of the planning authority and granted permission for the demolition of 2 no. dwellings and the construction of 12 no. dwellings under ABP-311839-21. Having regard to the residential zoning of the site, the infill nature of the development, and the pattern of existing development in the area, the Board considered that the proposed development would not seriously injure the amenities of the area or property in the vicinity, would be acceptable in terms of pedestrian and traffic safety etc.

Larch Wood, Estuary Road, Malahide – c. 0.7km west, southwest

- 4.2.2. PA ref. F23A/0250 – in July 2023, the planning authority refused permission for the demolition of bungalow and garage and the construction of 22 no. residential units. This decision is subject to appeal under ABP-317681-23, undecided at time of writing.

5.0 Policy Context

5.1. Fingal Development Plan 2023-2029

- 5.1.1. The current Development Plan came into effect on 5th April 2023. The planning authority decision of 27th April 2023 was made under the provisions of this Plan. This appeal shall also be determined under the current Development Plan provisions.
- 5.1.2. The site is zoned ‘Residential’ with an objective to *‘Provide for residential development and protect and improve residential amenity’*. Residential uses are ‘permitted in principle’ in this zoning. The zoning vision seeks to ensure that any new development would have a minimal impact on, and enhance, existing residential amenity.
- 5.1.3. A section of the GDA Cycle Network Plan is shown along Millview Road/appeal site.
- 5.1.4. The appeal site abuts ‘Open Space’ associated with Talbot Court with a zoning objective to *‘Preserve and provide for open space and recreational amenities’*.
- 5.1.5. The main policies and objectives are set out under chapters 2 (Planning for Growth), 3 (Sustainable Placemaking and Quality Homes), 6 (Connectivity and Movement), 9 (Green Infrastructure and Natural Heritage) and 14 (Development Management).
- 5.1.6. The following sections are relevant to the proposal:
- 2.2.11 – The Core Strategy (Table 2.14)
 - 2.7.2 – Role of Each Settlement (Self-Sustaining Town - Malahide)
 - 3.5.1 – Healthy Placemaking
 - 3.5.11 – Quality of Residential Development (including Density)
 - 3.5.13 – Compact Growth, Consolidation and Regeneration
 - 6.5.10.3 – Roads and Streets Design
 - 9.6.9 – Protection of Trees and Hedgerows

- 14.5 – Consolidation of the Built Form (including Building Height and Density)
- 14.6 – Design Criteria for Resi. Development (including Overlooking)
- 14.7 – Apartment Development/Standards
- 14.10 – Additional Accommodation in Existing Built-up Areas (including Infill)
- 14.13 – Open Space
- 14.17 – Connectivity and Movement (Tables 14.17 and 14.18)
- 14.18 – Green Infrastructure and Natural Heritage (including Biodiversity)

5.1.7. Summary of policies and objectives relevant to the appeal:

- | | |
|---------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SPQHO1 | Seeks to ensure that residential development helps create sustainable communities as per the Sustainable Residential Guidelines, as updated. |
| SPQHP35 | Seeks to promote a high quality of design at appropriate densities. |
| SPQHO34 | Seeks to encourage higher densities whilst ensuring the protection of existing residential amenities and established character. |
| SPQHO38 | Seeks to promote residential development at sustainable densities in accordance with the Core Strategy, particularly on under-utilised sites subject to architectural quality and integration with character etc. |
| SPQHO39 | Requires new infill development to respect the height and massing of existing residential units whilst retaining the character of the area. |
| SPQHO42 | Promotes development of underutilised infill sites in existing residential areas subject to the protection of area's character and environment. |
| SPQHO43 | Promotes contemporary and innovative design solutions subject to design respecting the character and architectural heritage of the area. |
| GINHP21 | Seeks to protect existing woodlands, trees and hedgerows which are of amenity or biodiversity value etc. |
| GINHO46 | Seeks to ensure adequate justification for tree removal in new developments etc. |

5.1.8. The following development management objectives are also of note:

- | | |
|--------|---------------------------------------------------------|
| DMSO22 | Daylight and Sunlight Analysis (required for 50+ units) |
|--------|---------------------------------------------------------|

DMSO24	Apartment Development
DMSO50	Monetary Value in Lieu of Play Facilities
DMSO53	Financial Contribution in Lieu of Public Open Space
DMSO67	Management Companies
DMSO105	Development within Airport Noise Zones
DMSO125	Management of Trees and Hedgerows
DMSO126	Protection of Trees and Hedgerows during Development
DMSO134	Site Summary of Specimen Removal, Retention and Planting
DMSO138	Protection and Enhancement of Biodiversity

5.2. National Planning Framework (NPF)

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

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

- 5.3.1. The Eastern and Midland RSES (EMRA, 2019) builds on the foundations of the NPF. Section 3.2 notes that the Dublin Metropolitan Area (DMA) covers the continuous built-up city area and the highly urbanised settlements of Swords, Malahide, Maynooth,

Leixlip, Celbridge, Bray and Greystones, which have strong connections to the city. It states that the key enablers for growth include promoting compact urban growth to realise targets of at least 50% of new homes within or contiguous to the existing built-up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

- 5.3.2. This is reiterated in section 5.3 having regard to Malahide's location within the Dublin MASP boundary in the context of compact sustainable growth and housing delivery.

5.4. Guidelines for Compact Settlements

- 5.4.1. The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (DHLGH, 2024) sets out policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential development and the creation of compact settlements. They are accompanied by a non-statutory Design Manual, albeit unpublished at time of writing.
- 5.4.2. Section 2.2 notes that these Guidelines should be read in conjunction with other guidelines where there is overlapping policy and guidance. Where there are differences between these Guidelines and other previously issued Section 28 guidelines, it is intended that the policies and objectives and specific planning policy requirements (SPPR's) of the Compact Settlements Guidelines will take precedence.
- 5.4.3. In this regard, section 3.0 of the Guidelines deals with settlement, place and density. Section 3.3.1 relates specifically to the five cities and MASP areas. Amongst the key priorities is to deliver brownfield and infill development at suitable locations within the existing built-up footprint and in a sequential manner closest to the urban core.
- 5.4.4. Table 3.3 relates to Metropolitan Towns and Villages. It states that it is a policy and objective of these Guidelines that net residential densities in the range of 50-150dph shall generally be applied in the centres and in urban neighbourhoods of Metropolitan Towns with 35-50dph to generally be applied in suburban and edge locations. Table 3.3 also notes that net densities of up to 100dph shall be open for consideration at 'accessible' suburban/urban extension locations. Table 3.8 of the Guidelines defines an 'accessible location' as lands within 500m (i.e., up to 5-6 minute walk) of existing or planned high frequency (i.e. 10 minute peak hour frequency) urban bus services.

5.4.5. The appeal site is within 300m walking distance of two bus stops on the Yellow Walls Road. Bus Stop no. 905 is served by the 42, 42d, 102, 102a, 102p, 102t and 142 and Bus Stop No. 3643 is served by the 32X, 41, 42d, 102, 102p, 102t and 142.

5.4.6. Section 5.0 sets out the development standards for housing including SPPR 1 (Separation Distances), SPPR 3 (Car Parking) and SPPR 4 (Cycle Parking & Storage).

5.5. Guidelines for New Apartments

5.5.1. The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (DHLGH, 2022, updated July 2023) focus on the locational and planning specific aspects of apartment development. Design parameters include locational considerations and internal space standards for different apartment types including amenity spaces etc. Many of these parameters are subject to SPPRs which take precedence over any conflicting Development Plan policies and objectives.

5.5.2. In terms of location, these Guidelines suggest that the appeal site falls within an intermediate urban location i.e., within walking distance (1 to 1.5km) of high-capacity public transport such as commuter rail. It notes that such locations are generally suitable for smaller-scale, higher density apartment development, subject to location i.e., broadly >45dph. The appeal site is a 1.4km walk from Malahide Train Station.

5.5.3. Section 6.6 of the Guidelines states that planning authorities should have regard to quantitative performance approaches to daylight provision outlined in guides like *A New European Standard for Daylighting in Buildings* (IS EN 17037:2018), *UK National Annex* (BS EN 17037:2019) and the associated practice guide BRE 209 2022 (3rd ed., June 2022), or any relevant future standards or guidance specific to the Irish context. The Guidelines do not, however, set out performance criteria for building height or building separation distance relative to location. This is subject to separate guidance.

5.6. Guidelines for Urban Development and Building Heights

5.6.1. The Urban Development and Building Heights Guidelines for Planning Authorities (DHPLG, 2018) reflects the policy direction espoused in the NPF in terms of achieving compact growth through urban infill and brownfield development. Section 1.10 states that it would be appropriate to support the consideration of building heights of at least 6 storeys at street level as the default objective in major town centres identified in the RSES, subject to the criteria in Section 2 and Section 3 of these Guidelines.

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

5.7. Other National Policy and Guidance

5.7.1. Housing for All

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

5.7.2. Climate Action Plan 2023

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

5.7.3. National Sustainable Mobility Policy

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

5.7.4. Design Manual for Urban Roads and Streets (DMURS)

Guidance relating to the design of urban roads and streets is set out in DMURS (DTTS and DHPLG, 2013, updated May 2019). Section 4.3.1 illustrates the space needed for pedestrians to comfortably pass each other with reference to the anticipated levels of activity. The minimum space for two people to pass comfortably in areas of low pedestrian activity is 1.8m. The desirable space for two people to pass comfortably in

areas of low to moderate pedestrian activity is 2.5m. The minimum space for small groups to pass comfortably in areas of moderate to high pedestrian activity is 3.0m.

Section 4.4.4 indicates that the stopping sight distance (SSD) for road design speeds of 30kph and 50kph is 23m and 45m respectively, or 24m and 49m on a bus route.

Section 4.4.5 notes that priority junctions in urban areas should have a maximum X-distance of 2.4m but this can be reduced to 2m where vehicle speeds are slow and flows on the minor arm are low. The Y-distance should correspond to the SSD while adjustments should be made for certain streets e.g., with higher frequency bus routes.

5.7.5. Cycle Design Manual

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

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

This TII technical guidance (May 2014) relates to traffic and transport assessments (TTA). Section 2.1 considers the thresholds at which the production of a TTA in relation to planning applications is recommended. Table 2.1 details the relevant thresholds, including where traffic to/from the development exceeds 5% of the traffic flow on the adjoining road where congestion exists or the location is sensitive; residential development in excess of 200 dwellings; and retail and leisure development in excess of 1,000sq.m. Table 2.2 of the guidelines sets out advisory thresholds where national roads are affected. Table 2.3 of the guidelines sets out sub-threshold criteria for TTA. Section 3.3 of the guidelines notes that an anticipated trip rate profile can be obtained from databases i.e., the TRICS (Trip Rate Information Computer System) database.

5.7.7. Trees in Relation to Design, Demolition and Construction

This British Standard publication (BS 5837:2012) came into effect on 30th April 2012. Clause 7 deals specifically with demolition and construction close to existing trees. Subclause 7.4 relates to permanent hard surfacing within the Root Protection Area

(RPA), but it does not apply to veteran trees¹, where it is recommended that no construction, including the installation of new hard surfacing, occurs within the RPA. It notes that where permanent hard surface within the RPA is considered unavoidable, site-specific and specialist arboricultural and construction design advice should be sought to determine whether it is achievable without significant adverse impact on trees to be retained (Subclause 7.4.1). New permanent hard surfacing should not exceed 20% of any existing unsurfaced ground in the RPA (Subclause 7.4.2.3).

5.8. Natural Heritage Designations

- Malahide Estuary SAC and pNHA (000205) – c. 0.13km northwest
- Malahide Estuary SPA (004025) – c. 0.13km northwest
- North-West Irish Sea SPA (004236) – c. 3km east, northeast
- Feltrim Hill pNHA (001208) – c. 1.8km southwest

5.9. EIA Screening

- 5.9.1. Having regard to the nature and scale of the proposed development, which is for 14 apartments in an established and serviced suburban location, and its proximity to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposal. The need for environmental impact assessment can, therefore, be excluded at preliminary examination stage and there is no requirement for a screening determination or EIA (see Appendix 1).

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A third-party appeal has been lodged by RW Nolan & Associates on behalf of Talbot Court Management DAC. The grounds reflect the observations made to the planning authority and can be summarised as follows.

¹ A tree that, by recognized criteria, shows features of biological, cultural or aesthetic value that are characteristic of, but not exclusive to, individuals surviving beyond the typical age range for the species concerned (Subclause 3.12)

6.1.2. In relation to 'non-compliance and planning precedent', the appellants submit that:

- The scale of the proposal is incompatible with the zoning vision due to the significant negative impact as confirmed by the previous refusal.
- The reduction in 1 no. unit could not drastically change the application assessment.
- The appropriate density is 35-50dph and considers that the proposed density is inconsistent with the surrounding area and the Development Plan policies.
- While revisions to the external finishes of the building have made some improvements to the visual impact, it does not address concerns in relation to height, scale, bulk and overlooking.
- The proposal would result in the loss of all the existing trees along the Talbot Court boundary, resulting in a severe visual impact.
- The proposal represents a drastic change to the established character of the area.
- Planning precedent supports lower density infill development within the existing landscape and additional housing in the area i.e., ABP-311839-21.
- Overall, the proposal has not overcome the previous refusal reasons under PA ref. F22A/0205 in relation to bulk, scale and significant negative impact on neighbouring dwellings.

6.1.3. In relation to traffic and road capacity, the appellants submit that:

- Millview Road is very heavily trafficked with long delays, particularly during peak times, including school times and therefore refutes the traffic assessment conclusion that there would be an 'absolutely negligible' change in traffic.
- The TRICS data set out in the traffic assessment is not site specific and considers this insufficient to make the asserted conclusion of 'absolutely negligible'.
- The movement of cars in and out of the development would inevitably cause significant disruption and safety concerns along the Millview Road.
- The requirement for a yellow box would be inevitable in order to avoid cars remaining on the footpath for long periods and this would result in two yellow boxes within 10m along the Millview Road, impacting traffic flow and priority systems.

- Overall, the traffic impacts have not been fully analysed in the context of the site and surrounding road network capacities, and site-specific surveys and assessments are required prior to granting permission on the site.

6.1.4. In relation to biodiversity and tree protection, the appellants submit that:

- The proposal has not addressed the 3rd refusal reason under PA ref. F22A/0205 in relation to tree loss and references the submitted tree survey in this regard.
- The basement car park would inevitably destroy the root systems of trees in the immediate area and considers that only 9 no. of the 50 no. identified trees could be realistically retained and this would destroy trees outside the site boundary.
- There is a priority within the Development Plan to protect and provide greater levels of tree cover within the county and references the Forest of Fingal in this regard, sections 4.8 and 4.92 specifically in addition to policy GINPH21 and objectives SPQHO34, GINHO46 and DMSO134 of the Development Plan.
- There are no appropriate protection measures, or an Arboricultural Method Statement submitted, and the appellants have not been consulted in relation to any tree protection measures or proposed replacements.
- Public open space should be provided on site, in compliance with the Development Plan and to ensure that extra pressure is not placed on existing services.
- Overall, the proposal is not consistent with the Development Plan policies in relation to tree provision and protection, and public open space.

6.1.5. In relation to construction management, the appellants submit that:

- They have significant concerns regarding the impact on their homes during the construction of the basement in relation to vibration. They also note that no construction methodology information or information in relation to the location of a construction compound has been submitted.
- At a minimum, a Construction Management Plan should have been required prior to any decision given the close proximity of the development to their homes.
- Any additional traffic and potential *ad hoc* parking along the street would result in significant disruption and safety concerns for the local residents during an extended construction period.

6.1.6. In conclusion, the appellants submit that:

- The proposal has not overcome the previous refusal reasons in relation to overall design, bulk and scale as well as the significant negative impact on neighbouring properties and the local area.
- The traffic study is inadequate and does not fully assess the potential impact of the proposal on the local road network.
- Significant concerns remain in relation to the existing biodiversity on the subject site as well as neighbouring lands.

6.2. Applicant Response

6.2.1. Manhan Planners responded on behalf of the applicant, Garvagh Homes Ltd. It can be summarised as follows.

6.2.2. In relation to 'non-compliance and planning precedent', the applicant submits that:

- The proposal accords with an important planning policy objective of suburban densification, and this must be given due weight and consideration.
- Refusal of permission can only be considered where the proposal is shown to be seriously injurious to the residential or visual amenities of the area, likely to lead to traffic congestion or hazard, or be contrary to the Development Plan, none of which apply in this case.
- The appeal site can be classed as an 'Intermediate Urban Location' i.e., c. 1.4km from Malahide Dart Station and c. 240m from frequent bus services on Yellow Walls Road i.e., routes 32X, 42, 42d, 102, 102a, 102p and 142.
- In terms of scale, massing and distance to site boundaries, and referencing an extract from the design statement, the proposal demonstrates a significant reduction from the previously refused application i.e., 32% less site coverage.
- In terms of overshadowing, the proposed building is located along the southeast of the site so as to minimise any impact on the residential amenity of the properties adjacent to the north.
- In terms of overlooking, the first and second floor windows will be orientated away from this area to the north.

- Overall, due to the low height, considerate siting and tree planting, there will be no negative impact on residential amenity resulting from overlooking or overshadowing.

6.2.3. In relation to traffic and road capacity, the applicant submits that:

- Millview Road is designated for improved pedestrian and cycling facilities and states that the proposed *BusConnects* scheme will increase the capacity and frequency of bus services in proximity to the subject site.
- The proposal accords with a compact, walkable neighbourhood where adequate cycle and car parking is provided, especially considering its location close to public transport facilities and neighbourhood centres.
- There are no significant operational traffic safety or road capacity issues, affecting the established road network, which would prevent a positive determination of the application – referencing the traffic assessment.

6.2.4. In relation to biodiversity and tree protection, the applicant submits that:

- Many of the existing trees are low value ornamental garden trees such as cabbage palm, lawson cypress and magnolia etc. and states that sufficient documentation has been provided to justify the removal of the identified trees in accordance with Development Plan objective GINHO46.
- The shortfall in open space will be addressed by way of financial contribution and applied to the continued upgrade of open space in the Malahide area.

6.2.5. In relation to construction management, the applicant submits that:

- They are committed to preparing a Construction and Demolition Waste Management Plan (RWMP) and complying with standard construction hours.

6.2.6. In conclusion, the applicant submits that:

- The proposal is consistent with national, regional and local policy and is an appropriate design response to a well-located site, consistent with the proper planning and sustainable development of the area.
- The proposal complies with the overarching objective of densification and does so in a proportionate manner having regard to the site size and without injuring the residential amenities of neighbouring buildings.

- Considerations in favour of the proposal outweigh the objections of adjoining residents and request the Board to uphold the decision and grant permission.

6.3. Planning Authority Response

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

- The assessment had regard to existing government policy and guidelines, and the Development Plan zoning objective as well as the impact on adjoining neighbours and the character of the area and third-party submissions.
- The proposal was considered to be consistent with the proper planning and sustainable development of the area and requests the Board to uphold the decision of the planning authority.
- The planning authority requests that conditions 13(b) (Tree Bond), 17 (Bond/Cash Security), 18 (Open Space Shortfall) and 19 (S. 48 levy) are included in the event that permission is granted.
- It states that the bond condition is the Council's sole mechanism to ensure that the roads, footpaths, public lighting, open spaces and underground services within the development are built to the Council's Taking in Charge standard.

6.4. Observations

6.4.1. An observation was received from Anne and John Speers of 'The Crossroads', Yellow Walls Road, Malahide, Co. Dublin. I note that this property has been referred to as 'Bianca' on the submitted layout drawings. The observation generally reflects the observations made to the planning authority and can be summarised as follows:

- Concerns are raised in relation to the 'blockage of light' and notes that the submitted shadow diagram for 21st December illustrates the observers house as being completely overshadowed at 12:00 UTC. This they suggest will impact on their solar panels block sunlight during the winter months.
- Concerns are raised in relation to the 'boundary wall', shown as a single-leaf block wall in an attached photograph, and the impact the removal of the garage may have on this wall during the construction phase. They also suggest that the proposal would encroach on their property along this particular boundary.

6.4.2. An observation was also received from the Development Applications Unit (DAU) of the Department of Housing, Local Government and Heritage (DHLGH) following a Section 131 Notice issued by the Board. It can be summarised as follows:

- There is some potential for the mobilisation of pollutants such as silt, hydrocarbons or cementitious materials into surface water runoff from the site during the construction phase, and which by means of the local storm water drainage system may reach the Malahide Estuary SAC and SPA and adversely affect the QI species or habitats for these sites.
- It therefore recommends that a Construction Environmental Management Plan (CEMP) condition be attached to any subsequent grant of permission.

7.0 Assessment

7.1. Preliminary Points

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

- Density
- Visual Amenity
- Residential Amenity
- Traffic and Transport
- Natural Heritage
- Appropriate Assessment
- Other Issues

7.2. Density

7.2.1. Planning permission has been sought for 14 no. apartments on a 0.21ha site. This equates to a density of 67dph. The appellants suggest that a density of 35-50dph is more appropriate. I note that this would equate to a maximum of 11 no. apartments if

applying the upper value of 50dph. They also put forward the redevelopment of 14 and 14A Yellow Walls Road (ABP-311839-21) with a density of 33dph, as precedent.

- 7.2.2. The applicant, on the other hand, suggests that the proposal accords with suburban densification, and asserts that this should be given due weight in the appeal decision.
- 7.2.3. The Development Plan is non-prescriptive in terms of density but section 3.5.11.3 does note that higher densities will be supported in appropriate locations in accordance with the NPF, RSES and Guidelines issued under Section 28 of the Planning and Development Act 2000, as amended. It also notes that regard should be given to the Residential Development Guidelines, and this is underpinned by policy SPQHP35.
- 7.2.4. Whilst I accept that net residential densities in the general range of 35-50dph are prescribed for 'outer suburban sites' in those Guidelines I am not convinced that the appeal site could be considered as such. Moreover, those Guidelines have been replaced by the Compact Settlements Guidelines which have been incorporated into the Plan by virtue of objective SPQHO1. This objective seeks to ensure that residential development accords with the former Guidelines 'and any superseding document'.
- 7.2.5. As noted above, Table 3.3 of the Guidelines for Compact Settlements outlines the appropriate density ranges for Metropolitan Towns and Villages such as Malahide. This is subject to the express objectives of the Development Plan, however. In this regard, I note that Objective SPQHO34 encourages higher densities whilst ensuring the protection of existing residential amenities and established character and Objective SPQHO37 seeks to promote sustainable residential densities and particularly on underutilised sites subject to integration with the character of the area.
- 7.2.6. In this context, I note that the adjacent Talbot Court is a gated development of 12 no. two and a half storey houses, equating to a density of c. 24dph. Similar residential densities of sub-30dph would appear prevalent in Millview Court and Millview Lawns to the south, Ard Na Mara to the southwest and in Milford and The Cove to the north.
- 7.2.7. I therefore consider that the appeal site, at a density of just 5dph, is currently underutilised and capable of accommodating higher residential density. The density should not be curtailed by the prevailing densities in the 'Yellow Walls' area of Malahide however, as such densities are an inefficient use of zoned and serviced land.

- 7.2.8. The density should however accord with Table 3.3 of the Compact Settlements Guidelines, and this should be given due regard, or weight according to the applicant.
- 7.2.9. Malahide is a Metropolitan Town for the purposes of the Compact Settlements Guidelines where net residential densities of 50-150dph are to be applied in the town centre and immediately surrounding neighbourhoods with 35-50dph to be applied in suburban and edge locations. The Guidelines do not provide an explicit definition of 'immediately surrounding neighbourhood' but do provide two examples, one of which relates to 'the inner city and its neighbourhoods within the canals' in the case of Dublin City. Whereas the Compact Settlements Guidelines do define suburban areas as 'the low-density car-orientated residential areas constructed at the edge of the town'.
- 7.2.10. In this regard, whilst I accept that the appeal site and the 'Yellow Walls' area is generally low-density and car-orientated and could be classified as 'suburban' for the purposes of these Guidelines, it is also a distinct urban neighbourhood just 1.3km west of the town centre, and within 1.4km walking distance of the train station and 300m of urban bus services. In this context, I note that the settlement pattern of Malahide has largely been dictated by its built and natural environment including the Malahide Estuary and railway line, and Malahide Castle and demesne. This leaves it difficult to clearly define the 'immediately surrounding neighbourhoods' of Malahide town centre.
- 7.2.11. I do not however consider that the appeal site is located 'at the edge of the town', having regard to 'Seabury', a separate urban neighbourhood, albeit of higher residential density, which lies further west and forms the western edge of the built-up footprint. The area is best described as an 'intermediate urban location' as set out in the Apartment Guidelines given its proximity to high-capacity public transport such as commuter rail. These Guidelines notes that such locations are generally suitable for smaller-scale, higher density apartment development, subject to location i.e. >45dph.

Conclusion on Density

- 7.2.12. In this context, I am satisfied that residential density is not limited to 35-50dph for a suburban area, but I consider the upper value of 150dph for urban neighbourhoods, or 32 units on the subject site, would be unsustainable. The appropriate range would therefore appear to me to be between 45-100dph, where 100dph is the maximum density 'open for consideration' at an 'accessible' suburban location, as noted above.

7.2.13. On balance, I am satisfied that 67dph is a sustainable residential density subject to further consideration of visual and residential amenity impacts, as discussed below.

7.3. Visual Amenity

7.3.1. The proposed apartment building is a 3-storey over basement structure with a parapet height of c. 12.10m and a stated gross floor area of 1,389sq.m. It is sited along the southwestern boundary and roughly equidistant from the front and rear boundaries.

7.3.2. The basement car park has a FFL of 8.65mAOD and is accessed via an undercroft ramp close to the northeastern boundary. Five apartments are located at ground floor, which is elevated above adjoining ground and has a FFL of 11.950mAOD. A further five apartments are provided at first floor level which has a FFL of 15.175mAOD and four apartments are located at second floor level which has a FFL of 18.400mAOD.

7.3.3. Parapet height is shown as 22.250mAOD but I note that the building also incorporates pitched roof elements along the road frontage. In this regard, the upper ridge height is illustrated as 22.550mAOD and the lower ridge height, which was rotated through 90° at further information stage, is illustrated as 20.980mAOD. I note that these roof structures can be read independently and are only linked by a flat roof bridging section at first floor. This has a parapet height of 18.400mAOD and pedestrian undercroft. For context, the drawings also illustrate the ridge of No. 12 Talbot Court as 20.070mAOD.

7.3.4. Whilst the appellants acknowledge the revisions and general improvements to the visual impact since the previous refusal under PA ref. F22A/0205, they submit that it does not address overarching concerns in relation to height, scale and bulk, and impact on the overall character of the area. They also suggest that the removal of the existing trees along the Talbot Court boundary would result in a severe visual impact.

7.3.5. The applicant, on the other hand, submits that the proposal demonstrates a significant reduction from the previously refused application with some 32% less site coverage. In this regard, I note the proposed site coverage is stated as 35% or 753sq.m overall.

Height, Scale and Bulk

7.3.6. The prevailing height along this section of Millview Road is predominantly single-storey and typified by the vernacular cottages directly opposite the appeal site and at the adjacent crossroads with further detached and semi-detached bungalows of similar form and appearance along Yellow Walls Road. The wider context has evolved

however with two-storey semi-detached dwellings in Millview Court to the west and more recent two and a half storey dwellings in Talbot Court, adjoining the appeal site.

- 7.3.7. The applicant has submitted a Design Strategy Report (Donnelly Turpin, November 2022) and a suite of verified photomontages (Digital Dimensions, November 2022), albeit updated at further information stage (Donnelly Turpin, March 2023), to articulate how the proposal will integrate into this context and overall character. I have reviewed the initial and updated photomontages, and I am satisfied that they illustrate the critical viewpoints from which the building would be most visually impactful. These are generally close to the site, with long-distance views limited by existing housing.
- 7.3.8. The Design Strategy Report almost exclusively responds to concerns raised by the planning authority in respect of the previously refused application under PA ref. F22A/0205. In terms of established character, it notes the residential expansion areas of 'Yellow Walls', including 'Seabury' to the west of the Gaybrook Stream, and states that these areas are characterised by the residential design principles of their time. I agree, and given this pattern, there has been little by way of new housing in the interim.
- 7.3.9. Whilst I do not propose to compare the appealed proposal with the previously refused scheme, it is important to note some of the key design aspects as alluded to in the applicant's response. In this regard, I note that the applicant has proposed a street facing elevation which they state is more consistent with the surrounding area and will minimise impacts on visual amenity. I agree, and I am satisfied that the front elevation reads as a two and a half storey building, stepping down to two-storeys adjacent to the cottage at the crossroads. This is evidenced in the further information report.
- 7.3.10. I also note the use of brick and metal roof cladding, particularly around the box dormers, which the applicant has stated will help minimise visual impact. The southwestern elevation has also been carefully modulated and broken up through form and external finishes, with a significant amount of façade recessed and some 5.160m from the common boundary with Talbot Court. Whilst I note the appellants concerns regarding tree loss along this boundary, and I accept that a significant quantum of tree removal is proposed overall, I am satisfied that the design response ameliorates any adverse visual impacts from Talbot Court which, as noted, is a private housing estate.
- 7.3.11. The other façades are generally enclosed and also limited to private views. In this regard, I note that the belt of trees along the northwestern boundary would be retained.

This would screen properties to the rear and help integrate the building from the Old Yellow Walls Road approach. These trees also provide a backdrop to the appeal site when viewed from Sea Road and Yellow Walls Road approaches to the crossroads.

- 7.3.12. I also note that a beech tree is to be retained to the front of the appeal site and these retained trees will be augmented with additional planting along the southwestern and northeastern boundaries as illustrated on the landscape masterplan drawing. This drawing also illustrates the proposed soft and hard landscaping and boundary treatments, albeit updated at further information stage, and overall, I am satisfied that the proposed landscaping would aid with integration and mitigate any visual impacts.

Conclusion on Visual Amenity

- 7.3.13. Whilst the proposed development would be visible from the immediate environs, and this is clearly illustrated in the various photomontages, I do not consider it visually jarring or incongruous. Rather, it is a contemporary approach, which has been carefully modulated, and is an acceptable intervention in the 'Yellow Walls' area, that complements as opposed to detracts from the character of the area, which has largely been informed by its vernacular architecture. I am therefore satisfied that the proposal would not visually compete with, or fundamentally fail to harmonise with, this area in terms of height, scale and bulk and any attempt to ape the vernacular scale would fail.
- 7.3.14. On balance, I am satisfied that the proposal reconciles the need to promote sustainable residential densities on underutilised brownfield sites, whilst integrating with, and protecting the character of the area in accordance with Objective SPQHO37.

7.4. Residential Amenity

- 7.4.1. The appellants have raised concerns in relation to overlooking and lack of open space whilst the observers have concerns in relation to overshadowing and loss of light.
- 7.4.2. The applicant, on the other hand, submits that the building is located along the southeast so as to minimise any residential amenity impacts on the properties to the north in terms of overshadowing. In terms of overlooking, the applicant notes that first and second floor windows will be orientated away from this area to the north and overall submits that due to the low height, siting and tree planting, there will be no negative impact on residential amenity resulting from overlooking or overshadowing. They also accept that any shortfall in open space can be addressed by condition.

- 7.4.3. As noted, the bulk of the building is sited some 5.160m from the common boundary with Talbot Court and roughly equidistant from the front and rear boundaries, c. 14m and 18m respectively. The separation distance from the northeastern boundary is between 12 and 14 metres. The closest dwellings are illustrated as No. 12 Talbot Court, 'Nepkin' and 'Bianca' along Old Yellow Walls Road, and 'Ivy Cottage 2' at the adjacent crossroads. The separation distances range between 16 and 22 metres.

Overlooking

- 7.4.4. These separation distances are generally reasonable having regard to section 14.6.6.3 of the Development Plan, and in the absence of any directly opposing windows, save for an upper floor window in the gable end of No. 12 Talbot Court which appears to be finished in opaque glazing, overlooking is limited. In this regard, I consider that any overlooking on 'Ivy Cottage 2', 'Bianca' and 'Nepkin' would be limited to oblique views generally and I also note the use of angled windows in this regard.
- 7.4.5. Moreover, SPPR 1 of the Compact Settlements Guidelines states that when considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained. The proposed development clearly meets this SPPR which is to be applied in accordance with Section 34(2)(aa) of the Planning and Development Act.
- 7.4.6. SPPR 1 also states that there shall be no specified minimum separation distance at ground level or to the front of houses, duplex units and apartment units in statutory development plans and planning applications shall be determined on a case-by-case basis to prevent undue loss of privacy. In this regard, I do not consider that there will be any direct overlooking from any of the units along the southwestern elevation towards the front of the houses in Talbot Court where the minimum separation is roughly 24m. It is also important to note that the Talbot Court estate road and the area of zoned open space, which includes mature trees and landscaping, provides an additional buffer from perceived overlooking from the adjacent apartment units.

Open Space

- 7.4.7. The appellants have also suggested that public open space should be provided on site in compliance with the Development Plan and to ensure that extra pressure is not placed on existing services whereas the applicant is content to address by condition.

- 7.4.8. The proposed development includes c. 513sq.m of open space to the rear of the apartment building. This is roughly 24% of the site area and includes a children's play area. Whilst the applicant refers to this as a communal area, I note that a podium area of communal space, which wraps around the rear and side elevation, has also been provided. This area measures roughly 150sq.m and is consistent with the provisions of the Apartment Guidelines and Development Plan in terms of communal open space.
- 7.4.9. In this regard, I consider that the open space provided to the rear of the building fully satisfies the requirements of Objective DMSO52 and Table 14.12 of the Development Plan being in excess of 12% of the site area for an infill/brownfield site. In these circumstances, I do not consider there to be a shortfall in open space provision. Nor do I consider the proposal will place extra pressure on existing facilities in the area.

Overshadowing and Loss of Light

- 7.4.10. In terms of overshadowing, I note that section 3.2 of the Building Height Guidelines provides that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE's *Site Layout Planning for Daylight and Sunlight* (2nd ed.) or *Lighting for Buildings – Part 2: Code of Practice for Daylighting* (BS 8206-2: 2008). This guidance was updated as noted in section 6.6 of the Apartments Guidelines (updated 2023). Relevant guidance is therefore contained in European Standard EN17037 or UK National Annex BS EN17037 and BR 209 2022, *Site Layout Planning for Daylight and Sunlight* (3rd ed.).
- 7.4.11. However, section 5.3.7 of the Compact Settlements Guidelines sets out a different approach to the consideration of daylight and sunlight issues than the one set out in the Building Heights and New Apartments guidelines. The new guidance notes that planning authorities must weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision, against the location of the site and the general presumption in favour of increase scales of urban development. This approach would specifically supersede the previous approach, including that in the Building Height Guidelines, which requires alternative compensatory design solutions to be set out when daylight provisions are not met.
- 7.4.12. I also note that the proposed development does not meet the threshold for daylight and sunlight analysis having regard to Objective DMSO22 of the Development Plan.

- 7.4.13. The planning application was accompanied by a Daylight & Sunlight Assessment (Digital Dimensions, November 2022) however, which references the updated guidance documents (Section 2) and provides an assessment of daylight and sunlight penetration to the proposed apartments, and of the impact the proposed development would have on daylight, sunlight and open spaces and gardens of adjacent dwellings. I note that a total of 9 no. existing dwellings and 44 no. windows were considered.
- 7.4.14. In terms of daylight, Table 6 of the report indicates that 100% of the assessed windows are in line with the BRE guidance i.e. greater than 27% VSC or greater than 80% of the existing VSC levels where VSC is less than 27%. In this regard, I note section 2.2.7 of BR 209 2022 states that if the VSC, with the new development in place, is both less than 27% and less than 0.80 times its former value, occupants of the existing building will notice the reduction in the amount of skylight. Section 3.7 of the report concludes that any reduction in daylight in the neighbouring dwellings would be imperceptible and any impact would be negligible. This has been amply demonstrated.
- 7.4.15. In terms of sunlight to existing houses, Table 7 of the report indicates that 100% of the assessed windows are in line with the recommended 25% APSH but I note that 50% of the windows are below 5% winter sunlight hours and significantly less than 80% of the existing value. This suggests that sunlighting of this dwelling, 'Ivy Cottage 2', may be adversely affected. However, it is important to note that the existing value for these windows is around 13% for the winter period. Whilst I also note that only two houses, 'The Crossroads' (also referred to as 'Bianca') and 'Ivy Cottage 2', and 6 no. windows were assessed overall, this is generally in line with section 3.2 of BR 209 2022.
- 7.4.16. Section 4.3 of the report concludes that all assessed windows at 'The Crossroads', the observers dwelling, fully meet the BRE guidelines and this has been demonstrated notwithstanding their concerns regarding blocking sunlight during the winter months.
- 7.4.17. In terms of sunlight to existing gardens and open spaces, Figures 9 and 10, and Table 8 of the report indicates that at least 50% of open space at No. 12 Talbot Court, 'Nephin', 'The Crossroads' ('Bianca') and 'Ivy Cottage 2' will receive at least 2 hours sunlight on the 21st of March. Section 5.2 of the report concludes that the proposal would not reduce the existing availability of sunlight below 80% of the current levels. In this regard, I note that the proposal accords with section 3.3.17 of BR 209 2022 and there will be no noticeable loss of sunlight on the observers, or any other dwellings.

- 7.4.18. Whilst I accept that the submitted shadow diagram for the Winter Solstice illustrates the observers house completely in shadow, the additional shadow cast is marginal when compared to the existing scenario and I am satisfied the impact is imperceptible.

Conclusion on Residential Amenity

- 7.4.19. As noted, in the absence of any residential properties immediately adjacent to the proposed apartment building, I consider there are no existing residential amenity issues that would conceivably arise by reason of overlooking or general overbearance. Whilst there is a degree of overshadowing and general loss of sunlight at 'Ivy Cottage 2' this must be weighed against the overall quality of the design and layout of the scheme, the measures to maximise daylight provision, the location of the site and the general presumption in favour of increased scales of urban residential development.
- 7.4.20. On balance, the benefits of the proposed development significantly outweigh any residential amenity impacts on existing residents, or indeed future occupants, modest as they might be. In this regard, I am fully satisfied that the proposal would deliver a high standard of living whilst successfully securing the comprehensive redevelopment of an underutilised brownfield site and providing an effective urban design solution.

7.5. Traffic and Transport

- 7.5.1. The appellant has raised concerns in relation to traffic impacts from additional car movements and in respect of the carrying capacity of the road infrastructure generally. They also raise specific concerns in relation to the TRICS data in the traffic statement.
- 7.5.2. Referencing the submitted Traffic and Transport Statement (NRB Consulting, November 2022), the applicant submits that there are no significant operational traffic safety or road capacity issues affecting the established road network. They also suggest that the proposed development accords with a compact neighbourhood close to public transport facilities where adequate cycle parking and car parking is provided.

Traffic Impacts

- 7.5.3. The appeal site is located along Millview Road where a periodic speed limit of 30kph applies between 0815 and 0930 and 1215 and 1515 with 50kph applying at all other times. The existing road is c. 5.7m wide and the footpath on the opposite side of the road is c. 1.4m wide. The proposed vehicular entrance would be located c. 46m from

the adjacent signal-controlled crossroads which includes pedestrian crossing points. Traffic movements were light during my site inspection, albeit outside of peak hours.

- 7.5.4. Whilst there is no public footpath currently across the front of the appeal site, I note that Millview Road is designated for improved pedestrian and cycling infrastructure in both the Fingal Development Plan and the Greater Dublin Area Cycle Network Plan.
- 7.5.5. The planning authority's Roads Section raised some specific concerns in relation to the proposed front boundary in terms of setback from the road edge, entrance width, radii and pedestrian crossing details. Concerns were also raised in relation to bike parking access and infrastructure generally in addition to EV charging infrastructure. These concerns appear to have been fully addressed at the further information stage.
- 7.5.6. The Roads Section did not raise any concerns in relation to the submitted traffic assessment however and accepted the stated conclusion that the proposal would have a negligible and unnoticeable change in traffic conditions in terms of car movements. I have reviewed the Traffic/Transportation Impact Assessment set out in Section 2.0 of the submitted Traffic and Transport Statement, which includes TRICS data for a 14-unit apartment development. Whilst the appellant notes that the data used is not site-specific, I accept that it complies with current TII technical guidance.
- 7.5.7. The TRICS data indicates that the proposal would generate 4 no. two-way trips at weekday AM and PM peaks and 31 no. trips over a 24-hour period. As noted, the report states that this would result in a negligible and unnoticeable change in traffic conditions locally in terms of car movements. Whilst this statement has not been underpinned by an ambient traffic survey, as noted by the appellant, and I accept that traffic at the crossroads may be heavy during peak hours, the additional movements would be generally imperceptible on the immediate environs and wider road network.
- 7.5.8. Moreover, the appeal site, as noted, is located in an 'intermediate urban location' given its proximity to high-capacity public transport. In this regard, the applicant suggests that the parking provision demonstrates a commitment to modal shift through reduced car spaces and this will act as an effective demand management and control measure.

Car Parking

- 7.5.9. The layout drawing submitted at further information stage illustrates 19 no. car parking spaces, including 1 no. disabled space at basement level. The Apartment Guidelines

are non-prescriptive in terms of car parking standards other than to note that planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard in intermediate urban locations.

- 7.5.10. The proposed apartment block has 14 no. 1-bed and 2-bed units. Table 14.19 of the Development Plan indicates that this would require a maximum of 7 no. car parking spaces, being within 1.6km of an existing DART station i.e., 0.5 spaces per unit. The Compact Settlement Guidelines have been published in the interim and the SPPR's contained therein take precedence. In this regard, SPPR 3 outlines a maximum rate of 1.5 no. spaces per dwelling in 'accessible locations' and 2 no. spaces per dwelling in 'intermediate/peripheral locations'. The parking quantum is therefore acceptable.

Cycle Parking

- 7.5.11. The layout drawing submitted at further information stage illustrates a 27-space facility within a flat roof structure at ground level to the rear of the building. It is 2.745m high, 4.30m wide, 7.40m deep and finished in galvanised mesh. In addition, 8 no. 'Sheffield stands' are illustrated along the northeastern boundary with capacity for 16 no. spaces and adjacent to a cargo/disabled bike stand with 1 no. space, 44 no. spaces in total.
- 7.5.12. A Cycle Parking Management Strategy (NRB, March 2023) was also submitted under further information. It suggests that a significant number of residents would be willing to cycle to work with secure parking in place in line with the Apartment Guidelines. I consider that the revised location is in accordance with section 4.17 of the Guidelines.
- 7.5.13. In terms of quantity, I note that the Apartment Guidelines require a minimum of 1 no. space per bedroom and 1 no. visitor space per 2 no. residential units whereas Table 14.17 of the Development Plan indicates that 38 no. long-stay and 7 no. short-stay/visitor spaces are required. As noted, the Compact Settlement Guidelines have been published in the interim. SPPR 4 provides for a general minimum standard of 1 cycle storage space per bedroom with visitor cycle parking also required. The proposal has 24 no. bedrooms (4 no. 1-beds and 10 no. 2-beds) and accords with SPPR 4 in terms of both quantity and design, where a secure cycle cage is amongst best practice.

Conclusion on Traffic and Transport

- 7.5.14. The appeal site is in an 'intermediate urban location' within reasonable walking distance to/from urban bus services and high frequency and high-capacity commuter

rail services. On balance, I do not consider that 14 no. apartments served by just 19 no. car parking spaces and 44 no. cycle parking spaces would significantly increase traffic volumes in the area or endanger public safety by reason of a traffic hazard.

- 7.5.15. There is scope for the Board to reduce the quantum of car parking by condition and relocate the cycle parking facility to the basement, but I don't consider this necessary.

7.6. Natural Heritage

- 7.6.1. The appellants have raised concerns in relation to the impact of the proposal on existing trees within the appeal site and along the adjoining boundary with Talbot Court. This, they suggest, is inconsistent with the provisions of the Development Plan.
- 7.6.2. The applicant, on the other hand, suggests that many of the existing trees are low value ornamental garden trees and states that sufficient documentation has been provided to justify their removal in accordance with Objective GINHO46 of the Plan.
- 7.6.3. As noted, the appeal site consists of a house and outbuilding in a sylvan setting including mature hornbeam, c. 14-17m high, along the northwestern boundary and a mixture of species such as beech, maple and birch along the southeastern boundary.
- 7.6.4. Having regard to the submitted Tree Survey and Report (Dr. Philip Blackstock, November 2022) and my own site observations, I agree with the applicant that the majority of trees to the front of the site (T1 to T7, H8 and T9-T20) are of ornamental value. Whilst the majority are in 'fair' condition, their removal is not precluded by the policies and objectives set out in the Development Plan. Moreover, the report identifies the row of hornbeam (T24 to T29) as the oldest trees on site and whilst they are also generally in a 'fair' condition, they are of higher value in terms of integration.
- 7.6.5. As noted above, the landscape masterplan drawing illustrates that 5 no. of these hornbeam would be retained in addition to an apple tree, and beech tree to the front of the site. These retained trees will be augmented with additional planting along the southwestern and northeastern boundaries, 26 no. root ball planted trees in total. This replacement planting mitigates the loss of trees which is, in my opinion, justified by the improvements to pedestrian safety as a result of the new footpath along the frontage.
- 7.6.6. Whilst the appellants also suggest that no appropriate protection measures or Arboricultural Method Statement was submitted, I note the Arboricultural Method Statement contained within the Tree Survey and Report, and protection measures

illustrated on the development impact plan submitted at further information stage. The protective barriers referenced in the method statement are illustrated on the drawing.

- 7.6.7. Although I also note that the planning authority's Parks Section recommended that a revised Tree Protection Plan and a method statement in relation to the works within the RPA's of the trees to be retained, T6 specifically, be conditioned in the event of a grant of permission. They also recommended a tree bond and the appointment of an arboricultural consultant which is reasonable given the sylvan setting of the appeal site.
- 7.6.8. In this regard, I am satisfied that, subject to a suitably worded condition requiring detailed measures in relation to works within the RPA's of the trees to be retained (similar to Condition 13 of the planning authority decision), there will be no significant adverse impact on trees and the proposal will not materially impact on retained trees. The proposal therefore accords with Objective DMSO126 of the Development Plan.

Conclusion on Natural Heritage

- 7.6.9. I am therefore satisfied that the proposed development would not have any unacceptable impacts on natural heritage and no significant impacts are likely to arise.

7.7. Appropriate Assessment – Screening

- 7.7.1. The Planning Officer's Report noted the proximity of the appeal site to the Malahide Estuary Special Area of Conservation (SAC) and Special Protection Area (SPA). It noted that it was not connected to any European site and considered that there was no realistic pathway to the SAC or SPA or any other European sites. Having regard to the nature, scale and location of the proposal in comparison with the existing baseline, it considers that there is no likelihood of significant effects on any European sites during the construction or operation of the proposed development. It further considers that the proposal, individually or in combination with another plan or project, would not have a significant effect on any European sites.

Compliance with Article 6(3) of the Habitats Directive

- 7.7.2. The requirements of Article 6(3) of the Habitats Directive as related to screening the need for AA of a project under Section 177U of the Act are considered fully hereunder.
- 7.7.3. Having examined the application details and all other documentation on the appeal file, I am satisfied that I have sufficient information before me to allow for a complete

examination and identification of any potential significant effects of the proposed development alone, or in combination with other plans and projects, on Natura sites.

Test of likely significant effects

- 7.7.4. The project is not directly connected with or necessary to the management of a European site and, therefore, it needs to be determined if the proposed development is likely to have significant effects on European sites.
- 7.7.5. The proposed development is examined in relation to any possible interaction with European sites designated as SACs and SPAs to assess whether it may give rise to significant effects on any European sites in view of their conservation objectives.

Submissions and Observations

- 7.7.6. As noted, the DAU consider that there is some potential for the mobilisation of pollutants such as silt, hydrocarbons etc. into surface water runoff during the construction phase and this may reach the Malahide Estuary SAC and SPA, adversely affecting the QI species or habitats for these sites via the local storm water drainage system. They therefore recommend a CEMP condition be attached to any permission.
- 7.7.7. Uisce Éireann have no objection to the proposed development subject to standard conditions including those relating to connection agreements and compliance with their codes and practices. They specially note the PCE received a Confirmation of Feasibility stating that water and foul connections are both feasible without upgrade. I have reviewed Uisce Éireann's water supply and wastewater Capacity Registers. I note that there is capacity in water supply to meet the 2032 population targets with a level of service improvement. I also note there is capacity available at Malahide WWTP. I have reviewed the foul drainage and water supply proposals as set out in sections 3 and 6 of the Drainage Report (JJ Campbell & Associates, October 2022), and I am fully satisfied that these issues can be addressed by planning condition.
- 7.7.8. The Water Services Section have no objection subject to standard conditions. Having regard to the drainage proposals outlined in section 5 of the Drainage Report, I am satisfied that attenuation and disposal of surface water can be addressed by condition.

European Sites

- 7.7.9. The appeal site is not located in a European site. Having regard to the source-pathway-receptor (S-P-R) model, a summary of nine European sites that occur within

a possible Zone of Influence (ZoI) of the appeal site are outlined in Appendix 2, six of which have been excluded at preliminary screening. The excluded sites either have no pathway or hydrologically, the combination of distance, dilution and dispersal would have no significant impact on these sites. There is, however, a pathway to the Malahide Estuary SAC and SPA via the Gaybrook Stream which lies 155m northwest of the appeal site and via the road network which adjoins the SAC and SPA at Barrack Bridge, a similar distance away. These sites require further consideration in addition to the adjoining North-West Irish Sea SPA which partly overlaps the SAC boundary.

Malahide Estuary SAC (000205)

- 7.7.10. According to the Site Synopsis, Malahide Estuary, the estuary of the Broadmeadow River, is a fine example of an estuarine system with all the main habitats represented. It is also a wintering bird site which holds an internationally important population of Brent Goose and nationally important populations of a further 15 species. It notes that the outer part of the estuary is mostly cut off from the sea by a large sand spit, known as 'the island' and drains almost completely at low tide, exposing sand and mud flats whilst the inner estuary does not drain at low tide apart from the extreme inner part.
- 7.7.11. Map 3 of the Conservation Objectives Series illustrates the distribution of mudflats and sandflats not covered by sea water and Map 4 shows their marine community including 'estuarine sandy mud etc.' just east of the Estuary Bridge/M1 and 'sand to muddy sand etc.' east of the railway viaduct. Map 5 illustrates the distribution of saltmarsh habitats, the qualifying interests (QI's) of which include *Salicornia* and other annuals colonising mud and sand, Atlantic salt meadows and Mediterranean salt meadows. These QI's are focussed at the mouth of the river, south and west of the large sand spit, currently occupied by The Island Golf Club, and to the south at the mouth of the Gaybrook Stream. Map 6 shows the distribution of sand dune habitats, the QI's of which include shifting dunes along the shoreline with *Ammophila arenaria* ('white dunes') and fixed coastal dunes with herbaceous vegetation ('grey dunes'). These QI's are focussed to the south of the golf club. Other than the Atlantic salt meadows north of Barrack Bridge, the appeal site is remote to the majority of QI's for which this SAC has been selected.
- 7.7.12. In this regard, I note that the Conservation Objectives for the Malahide Estuary SAC includes the requirement to restore the favourable conservation condition of Atlantic salt meadows (*Glauco Puccinellietalia maritimae*) in Malahide Estuary SAC.

Malahide Estuary SPA (004025)

- 7.7.13. The Malahide Estuary SPA shares a similar geographical region to the SAC. According to the Site Synopsis, it encompasses the estuary, saltmarsh habitats and shallow subtidal areas at the mouth of the estuary. A railway viaduct, built in the 1800s, crosses the site and has led to the inner estuary becoming lagoonal in character and only partly tidal. It notes that this lagoonal nature is particularly valuable as it increases the diversity of birds which occur at the site. It also notes that two of the species which occur regularly, Golden Plover and Bar-tailed Godwit, are listed on Annex I of the EU Birds Directive. The estuary is also a Ramsar Convention site.
- 7.7.14. The Conservation Objectives for the Malahide Estuary SPA seek to maintain the favourable conservation condition for each of the bird species for which the SPA has been selected. In this regard, I note that Table 4.3 of the Supporting Document (NPWS, August 2013) indicates that site population trends are generally increasing, and the site conservation condition is favourable for the majority of species with a significant increase in Bar-tailed Godwit, above the national trend. Although, I also note a significant decline in Golden Plover, which is above the recent national trend.

North-West Irish Sea SPA (004236)

- 7.7.15. The North-West Irish Sea SPA was designated in July 2023 and after the appeal was lodged. According to the Site Synopsis, the North-West Irish Sea SPA extends offshore along the coasts of counties Louth, Meath and Dublin, and is approximately 2,333sq.km in area. This SPA is ecologically connected to several existing SPAs in this area. It notes that the estuaries and bays that open into it along with connecting coastal stretches of intertidal and shallow subtidal habitats, provide safe feeding and roosting habitats for waterbirds throughout the winter and migration periods. These areas, along with more pelagic marine waters further offshore, provide additional supporting habitats, for foraging and other maintenance behaviours, for those seabirds that breed at colonies on the north-west Irish Sea's islands and coastal headlands, and are also important areas for seabirds outside the breeding period.
- 7.7.16. The Conservation Objectives for the North-West Irish Sea SPA seek to maintain/restore the favourable conservation condition for each of the bird species for which the SPA has been selected. In this regard, I note that a supporting document of population trends and conservation condition has yet to be published by the NPWS.

Identification of Likely Effects

7.7.17. The appeal site is hydrologically connected to the Malahide Estuary SAC and SPA and North-West Irish Sea SPA. On this basis, I consider that potential impacts associated with the construction and operational phase of the proposed development primarily relate to potential impacts on water quality including:

1. Deterioration of water quality as a result of sediment and pollution loads arising during the construction phase; and
2. Deterioration in water quality as a result of sediment, pollution loads, hard surface flood/water runoff etc. during the operational phase.

Construction Phase

7.7.18. A stormwater drainage network serves the existing dwelling. Section 4 of the Drainage Report indicates that surface water discharges to a Ø225mm surface water sewer.

7.7.19. During the construction phase there is potential for surface water runoff from site works to temporarily discharge to the existing storm water drainage system as noted above.

7.7.20. There is also potential for discharge to the Gaybrook Stream, c. 155m to the northwest, which discharges to the Malahide Estuary SAC and SPA, with further, albeit tenuous, connection to the North Irish Sea SPA. However, in the absence of rivers, streams or drainage ditches on, or bounding, the appeal site, the uncontrolled hydrological connection between the SAC and SPA's and site is indirect and extremely weak.

7.7.21. Similar connectivity via the road network towards Barrack Bridge, which adjoins the SAC and SPA, is also indirect and extremely weak. In this regard, I note that the drainage layout indicates that the surface water network along Old Yellow Walls Road flows in a southeasterly direction away from the Malahide Estuary SAC and SPA.

7.7.22. Intervening land uses and the separation distance means that water quality in these European sites will not be negatively affected by any pollutants such as silt, hydrocarbons etc. from demolition, site clearance and other construction activities, if such an event were to occur, due to dilution and settling out over such a distance.

7.7.23. Moreover, a CEMP condition as recommended by the DAU, requiring typical standard construction methods for managing construction surface water runoff, including silt traps, fences, and bunded areas will ensure that any such events are contained within the appeal site and would not discharge to the local stormwater drainage system.

- 7.7.24. In this regard, I note that whilst the underlying GSI groundwater vulnerability is classified as 'moderate', the ground waterbody WFD Status for 2016-2021 for the appeal site is 'good' and therefore a CEMP is equally relevant in terms of controlled groundwater management during the basement excavations and subsurface works.
- 7.7.25. Given the relatively small basement footprint, and having regard to the underlying GSI bedrock aquifer, which is classified as 'moderately productive only in local zones', it is unlikely that any water pumping would be required during basement excavations and any subsequent discharge would be subject to a discharge licence in any event².
- 7.7.26. I consider that the construction phase will not therefore result in significant environmental impacts that could affect European sites within the wider catchment.

Operational Phase

- 7.7.27. Blue/green roof SuDS measures are proposed, covering the majority of the roofed area in order to capture rainwater. Permeable paving (409sq.m) is also proposed.
- 7.7.28. Section 5.2 of the Drainage Report states that stormwater from the roofs and podium slab will be attenuated on the roofs (20.34cu.m) and the remaining areas (47.17cu.m) will be directed to attenuated storage which will also allow for infiltration to ground.
- 7.7.29. I note that surface water discharge will be restricted to an equivalent rate of 2.0 l/s and this would be achieved with the provision of a flow control device before discharging to the existing Ø225mm surface water sewer along the western side of Millview Road.
- 7.7.30. A new foul system is proposed through a Ø150mm connection to the existing Ø225mm surface water sewer along the western side of Millview Road. Wastewater will then discharge to Malahide WWTP, which discharges, under licence, to Malahide Estuary.
- 7.7.31. Uisce Éireann Annual Environmental Report (AER) for 2022 notes that the Malahide WWTP was compliant with the Emission Limit Values (ELV) in the Wastewater Discharge Licence. The AER also confirms that the facility has a surplus organic capacity of 4,535 PE and will not be exceeded within the next 3 years. Section 3.1 of the Drainage Report indicates that a 14-unit development is anticipated to generate 38 PE. This is well within the surplus capacity at Malahide WWTP. The 2021 AER

² Geological Survey Ireland (GSI) and Water Framework Directive (WFD) data retrieved from EPA Maps, 2024. [Online] Available at: <https://gis.epa.ie/EPAMaps/default> (Accessed: 17th April 2024)

also indicates that the Malahide WWTP was compliant with the ELV, this being an improvement on the 2020 AER where it was non-compliant in respect of ammonia.

- 7.7.32. The river waterbody WFD Status for 2016-2021 for the Gaybrook Stream is 'poor', which is the same status for 2013-2018. The transitional waterbody WFD status for 2016-2021 for Broadmeadow Water, the lagoon area between the railway viaduct and the Estuary Bridge/M1 is 'moderate', up from 'poor' for 2013-2018. The coastal waterbody WFD status for Malahide Bay, the area between the railway viaduct and coastline is 'moderate', which is the same status for the 2013-2018 monitoring period.
- 7.7.33. Whilst the 2022 AER includes stormwater overflow upgrades as part of the specified improvement programme summary (section 4.2.1), this is within Uisce Éireann's control, as is a connection agreement. In such circumstances, I am satisfied that the impact on overall discharge would be negligible in the context of the Malahide WWTP.

Consideration of residual impacts

- 7.7.34. Airborne pollution during construction, namely dust, is unlikely to affect the Malahide Estuary SAC, which consists mainly of mudflats and sandflats not covered by sea water at low tide. As noted, the more sensitive receptors of this SAC are primarily east of the railway viaduct, more than 1km away, and dust would have settled out before this point, as it would for the Atlantic salt meadows at the mouth of the Gaybrook Stream, c. 270m away. Dust is also unlikely to be a factor during the operational phase.
- 7.7.35. Noise disturbance on bird species that occur in the SPA's as a result of the proposed construction phase can also be ruled out due to distance from their favoured habitat and such noise is highly likely to be absorbed within the suburban noise environment.
- 7.7.36. I also note that the appeal site generally offers no supporting habitat, *ex situ* or otherwise, for such species, including those whose populations are in decline, notwithstanding the sylvan nature of the site and appellants submissions in this regard.
- 7.7.37. Whilst I accept that a number of species, including Golden Plover and Black-tailed Godwit, do forage within the wider landscape in arable fields and grasslands, it is highly unlikely at the appeal site due to the limited suitability and urban setting.

7.7.38. In this regard, I note that the appeal site is remote within the overall SPA context and noise from suburban traffic is likely to deter bird activity. Whilst two of the SCI species³ for which the North-West Irish Sea SPA is designate, appear in the National Biodiversity Data Centre 1km grid around the site (O2146), none of the Malahide Estuary SPA species are present which is notable given its proximity to the site.

Consideration of in-combination effects

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

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

Mitigation measures

7.7.41. In terms of operation, I note that the proposal connects to a drainage system which incorporates SuDS measures including treatment storage as detailed in section 5.1 of the Drainage Report. I accept that this may be designed to remove contaminants and may therefore have the effect of reducing the harmful effects of the project on SAC and SPA, or other European sites. However, having regard to the recent *Eco Advocacy CLG* judgement (C-721/21), I am satisfied that these and other measures are features that are incorporated as standard features inherent in the construction of such schemes, irrespective of any effect on such sites, and are not therefore relied upon to reach a conclusion of no likely significant effects on any European site.

Screening Determination

7.7.42. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. Having carried out

³ Lesser Black-backed Gull *Larus fuscus* and Herring Gull *Larus argentatus* retrieved from Biodiversity Maps, 2024. [Online] Available at: <https://maps.biodiversityireland.ie/Map> (Accessed: 17th April 2024)

screening for appropriate assessment of the project, it has been concluded that the project individually, or in combination with other plans and projects, would not be likely to give rise to significant effects on the Malahide Estuary SAC or SPA, or the North-West Irish Sea SPA or any other European site, in view of the site's Conservation Objectives, and appropriate assessment (and submission of a NIS) is not required.

7.8. Other Issues

Construction Management

- 7.8.1. As noted, the appellants and observers have raised concerns in respect of the construction phase including impacts from vibrations and construction traffic. The appellants also suggest that a Construction Management Plan should have been required prior to a decision but I am satisfied that this can be equally addressed by way of a CEMP, as noted above, and a construction traffic management condition.

Legal and Procedural

- 7.8.2. The observers have also suggested that the proposal would encroach on their property although this is a civil matter to be resolved between the parties, having regard to the provisions of Section 34(13) of the Planning and Development Act 2000, as amended.

Planning Authority Submission

- 7.8.3. The planning authority has requested that in the event that their decision is upheld, that the Board include conditions 13(b), 17, 18 and 19. Condition 13(b) relates to a tree bond, Condition 17 relates to bond/cash security and Condition 19 relates to a S. 48 development contribution, all of which are considered reasonable and appropriate.
- 7.8.4. Condition 18 relates to a payment of €30,813.89 in lieu of 525sq.m of public open space but does not state the legislative basis on which it relies i.e., a special contribution under Section 48(2)(c) of the Planning and Development Act 2000.
- 7.8.5. Note 5 of the Fingal Development Contribution Scheme 2021-2025 states that the Fingal Development Plan provides the discretion to the Council to determine a financial contribution in lieu of all or part of the open space requirement for a particular development. The public open space requirement under Objective DMSO51 is a minimum of 2.5ha per 1000 population, while Objective DMSO52 also requires a minimum 12% of a proposed site area be designated for use as public open space.

- 7.8.6. The applicant is proposing to provide c. 24% of the site as public open space, and I am satisfied that the public open space requirements of Objectives DMSO51 and DMSO52 have been complied with. I therefore do not consider that Condition 18 is necessary or justified, and I recommend only a standard S. 48 contribution condition.

8.0 Recommendation

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

9.0 Reasons and Considerations

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

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 5th day of April, 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning

authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interests of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed building shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. (a) The glazing to all bathroom and en-suite windows shall be manufactured opaque or frosted glass and permanently maintained. The application of film to the surface of clear glass is not acceptable.

(b) The glazing to the northeast facing window of Unit 6 shall be manufactured opaque or frosted glass and permanently maintained. This window shall be fixed and non-openable.

Reason: In the interests of residential amenity.

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

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

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

Reason: In the interest of urban legibility.

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

Reason: In the interests of visual amenity.

7. (a) Details of the uncontrolled pedestrian crossing point shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

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

8. (a) The maximum number of car parking spaces serving the proposed residential development shall be 19 in number, inclusive of car club spaces. The minimum number of motorcycle spaces serving the proposed residential development shall be 1 in number. The location and layout of these spaces shall be agreed in writing with the planning authority prior to the commencement of development.

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

(c) A minimum of 20% of all residential car parking spaces shall be provided with functioning electric vehicle charging stations or points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points or stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations or points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

(d) Key/fob access shall be required to resident bicycle compound. All cycle parking design including visitor parking shall allow both wheel and frame to be locked. Electric bike charging facilities within the resident cycle parking areas shall be provided. All cycle parking shall be *in situ* prior to the occupation of the development.

Reason: In the interest of sustainable transportation.

9. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a Traffic Management Plan (TMP) for the construction phase of the development for the written agreement of the planning authority. The TMP shall incorporate details of the road network to be used by construction traffic including oversized loads, detailed proposals for the protection of bridges, culverts and other structures to be traversed, as may be required. The agreed TMP shall be implemented in full during the course of construction of the development.

Reason: In the interest of sustainable transport and safety.

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

Reason: In the interests of amenity and public safety.

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

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

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

Reason: In the interest of public health.

13. (a) Detailed measures in relation to the protection of trees on and adjoining the site, including an Arboricultural Method Statement, shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

(b) All demolition and construction works shall be carried out under the supervision of a qualified arborist.

Reason: To ensure the protection of the natural heritage on site.

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

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

Reason: In the interest of visual amenity.

15. (a) The open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

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

months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

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

17. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

18. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan (CEMP), which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
 - (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
 - (b) Location of areas for construction site offices and staff facilities;
 - (c) Details of site security fencing and hoardings;
 - (d) Details of on-site car parking facilities for site workers during the course of construction;

(e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;

(f) Measures to obviate queuing of construction traffic on the adjoining road network;

(g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

(h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;

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

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

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

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

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

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

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

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

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

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

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

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

22. 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 accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To secure the protection of the trees on the site.

23. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other

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

Reason: To ensure the satisfactory completion of the development.

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

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

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

Philip Maguire
Planning Inspector
30th April 2024

Appendix 1

Form 1 – EIA Pre-Screening

Case Reference	ABP-317192-23		
Proposed Development Summary	Demolition of bungalow and outbuilding and construction of a 3-storey, 14 no. unit, apartment building		
Development Address	Wycliffe, Millview Road, Malahide, Co. Dublin, K36 R966		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	No EIAR or Prelim. Exam. Required
Yes	X	Class 10(b)(i) Class 10(b)(iv)	Proceed to Q.4
4. Has Schedule 7A information been submitted?			
No	X	Preliminary Examination required (Form 2)	
Yes		Screening Determination required (Form 3)	

Inspector: _____

Date: _____

Form 2 – EIA Preliminary Examination

Case Reference	ABP-317192-23	
Proposed Development Summary	Demolition of bungalow and outbuilding and construction of a 3-storey, 14 no. unit, apartment building	
Development Address	Wycliffe, Millview Road, Malahide, Co. Dublin, K36 R966	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The construction of 14 no. apartments on serviced residential lands and adjacent to other residential uses is not considered to be exceptional in the context of the existing environment.</p> <p>The development will involve demolition wastes in the form of tarmac, brick, blocks and concrete in addition to excavated soils, boulder clay and rock. Construction activities will require the use of potentially harmful materials, such as fuels, concrete and other such substances and give rise to waste for disposal. Such wastes will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be localised and temporary in nature and implementation of a CEMP will satisfactorily mitigate potential impacts. Connection to the WWTP is feasible and capacity is available. Significant wastes, emissions or pollutants are therefore not anticipated.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p>	<p>The appeal site has a stated area of 0.21ha and consists of a detached single-storey house and outbuilding. It is bounded to the southeast by 12 no. two and a half-storey houses. The construction of a 3-storey building consisting of 14 no. apartments is proposed. This is not considered exceptional in this context nor do significant cumulative effects arise.</p>	No

Are there significant cumulative considerations having regard to other existing and/or permitted projects?		
Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location? Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?	There are no ecologically sensitive locations in the immediate vicinity of the appeal site. The Gaybrook Stream is c. 155m northwest of the appeal site. The nearest European sites are located c. 130m to the northwest – Malahide Estuary SAC and SPA. Malahide Estuary is also a proposed Natural Heritage Area (pNHA) and Ramsar site. The appeal site is hydrologically connected to these sites. The appeal site is previously developed brownfield land. Having regard to the scale of the proposal, intervening land uses and separation distance, the proposed SuDS measures and CEMP, there is no potential to significantly impact on the ecological sensitivities of these European sites or other significant environmental sensitivities in the area.	No
Conclusion		
There is no real likelihood of significant effects on the environment. EIA not required.		

Inspector: _____

Date: _____

Appendix 2 – European Sites within Zone of Influence

European Site (Code)	Qualifying Interests <i>*indicates a priority habitat under the Habitats Directive</i>	Distance/ Direction	Connections	Considered further in Screening
Special Areas of Conservation (SAC)				
Malahide Estuary SAC (000205)	[1140] Mudflats and sandflats not covered by seawater at low tide [1310] <i>Salicornia</i> and other annuals colonising mud and sand [1320] <i>Spartina</i> swards (<i>Spartinion maritimae</i>) [1330] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1410] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [2120] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2130] Fixed coastal dunes with herbaceous vegetation (grey dunes)*	0.13km NW	Yes. Potential hydrological connections via (i) surface water run-off to the Gaybrook Stream and road network during the construction phase (ii) surface water run-off to the existing drainage network during the construction phase (iii) wastewater from the appeal site which passes through Malahide WWTP and discharges to the Outer Malahide Estuary, via a short outfall adjacent to the Malahide Estuary Railway Viaduct, during the operational phase.	Yes

<p>Rogerstown Estuary SAC (000208)</p>	<p>[1130] Estuaries</p> <p>[1140] Mudflats and sandflats not covered by seawater at low tide</p> <p>[1310] <i>Salicornia</i> and other annuals colonizing mud and sand</p> <p>[1330] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>)</p> <p>[1410] Mediterranean salt meadows (<i>Juncetalia maritimi</i>)</p> <p>[2120] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes)</p> <p>[2130] Fixed coastal dunes with herbaceous vegetation (grey dunes)*</p>	<p>4.9km</p> <p>N-NW</p>	<p>No.</p> <p>There is no direct connection between the appeal site and this SAC.</p> <p>Surface waters from the appeal site flow towards the Malahide Estuary and there is no indirect connection between it and the SAC via watercourses, drains, ditches etc.</p> <p>The location, scale and duration of the project is such that it will not contribute to direct, indirect or in-combination impacts for which the SAC is designated.</p>	<p>No</p>
------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------

<p>Baldoyle Bay SAC (000199)</p>	<p>[1140] Mudflats and sandflats not covered by seawater at low tide</p> <p>[1310] <i>Salicornia</i> and other annuals colonizing mud and sand</p> <p>[1330] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>)</p> <p>[1410] Mediterranean salt meadows (<i>Juncetalia maritimi</i>)</p>	<p>4.3km</p> <p>SE</p>	<p>No.</p> <p>There is no direct connection between the appeal site and this SAC.</p> <p>Surface waters from the appeal site flow towards the Malahide Estuary and there is no indirect connection between it and the SAC via watercourses, drains, ditches etc.</p> <p>The location, scale and duration of the project is such that it will not contribute to direct, indirect or in-combination impacts for which the SAC is designated.</p>	<p>No</p>
--------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------

<p>North Dublin Bay SAC (000206)</p>	<p>[1140] Mudflats and sandflats not covered by seawater at low tide</p> <p>[1210] Annual vegetation of drift lines</p> <p>[1310] <i>Salicornia</i> and other annuals colonizing mud and sand</p> <p>[1330] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>)</p> <p>[1395] Petalwort <i>Petalophyllum ralfsii</i></p> <p>[1410] Mediterranean salt meadows (<i>Juncetalia maritimi</i>)</p> <p>[2110] Embryonic shifting dunes</p> <p>[2120] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes)</p> <p>[2130] Fixed coastal dunes with herbaceous vegetation (grey dunes)*</p> <p>[2190] Humid dune slacks</p>	<p>7.8km</p> <p>S-SE</p>	<p>No.</p> <p>There is no direct connection between the appeal site and this SAC.</p> <p>Surface waters from the appeal site flow towards the Malahide Estuary and there is no indirect connection between it and the SAC via watercourses, drains, ditches etc.</p> <p>The location, scale and duration of the project is such that it will not contribute to direct, indirect or in-combination impacts for which the SAC is designated.</p>	<p>No</p>
----------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------

Special Protection Areas (SPA)				
Malahide Estuary SPA (004025)	[A005] Great Crested Grebe <i>Podiceps cristatus</i>	0.13km	Yes.	Yes
	[A046] Brent Goose <i>Branta bernicla hrota</i>	NW	Potential hydrological connections via (i) surface water run-off to the Gaybrook Stream and road network during the construction phase (ii) surface water run-off to the existing drainage network during the construction phase (iii) wastewater from the appeal site which passes through Malahide WWTP and discharges to the Outer Malahide Estuary, via a short outfall adjacent to the Malahide Estuary Railway Viaduct, during the operational phase.	
	[A048] Shelduck <i>Tadorna tadorna</i>			
	[A054] Pintail <i>Anas acuta</i>			
	[A067] Goldeneye <i>Bucephala clangula</i>			
	[A069] Red-breasted Merganser <i>Mergus serrator</i>			
	[A130] Oystercatcher <i>Haematopus ostralegus</i>			
	[A140] Golden Plover <i>Pluvialis apricaria</i>			
	[A141] Grey Plover <i>Pluvialis squatarola</i>			
	[A143] Knot <i>Calidris canutus</i>			
	[A149] Dunlin <i>Calidris alpina alpina</i>			
	[A156] Black-tailed Godwit <i>Limosa limosa</i>			
	[A157] Bar-tailed Godwit <i>Limosa lapponica</i>			
	[A162] Redshank <i>Tringa totanus</i>			
[A999] Wetlands				

<p>Rogerstown Estuary SPA (004015)</p>	<p>[A005] Great Crested Grebe <i>Podiceps cristatus</i></p> <p>[A046] Brent Goose <i>Branta bernicla hrota</i></p> <p>[A048] Shelduck <i>Tadorna tadorna</i></p> <p>[A054] Pintail <i>Anas acuta</i></p> <p>[A067] Goldeneye <i>Bucephala clangula</i></p> <p>[A069] Red-breasted Merganser <i>Mergus serrator</i></p> <p>[A130] Oystercatcher <i>Haematopus ostralegus</i></p> <p>[A140] Golden Plover <i>Pluvialis apricaria</i></p> <p>[A141] Grey Plover <i>Pluvialis squatarola</i></p> <p>[A143] Knot <i>Calidris canutus</i></p> <p>[A149] Dunlin <i>Calidris alpina alpina</i></p> <p>[A156] Black-tailed Godwit <i>Limosa limosa</i></p> <p>[A157] Bar-tailed Godwit <i>Limosa lapponica</i></p> <p>[A162] Redshank <i>Tringa totanus</i></p> <p>[A999] Wetlands</p>	<p>5.1km</p> <p>N-NW</p>	<p>No.</p> <p>There is no direct connection between the appeal site and this SPA.</p> <p>There is no indirect connectivity between the project and this SPA via watercourse, drains or ditches etc.</p> <p>The project is sufficiently remote that there is no risk of disturbance to waders and wildfowl using the SPA.</p> <p>Whilst a number of QI species do feed in fields in the wider area, given the nature of the appeal site, the impacts on such species, such as displacement or disturbance from foraging or roosting is highly unlikely.</p> <p>The location, scale and operation of the project is such that it will not contribute to direct, indirect or in-combination impacts on bird species for which the SPA is designated.</p>	<p>No</p>
----------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------

North-West Irish Sea SPA (004236)	[A001] Red-throated Diver <i>Gavia stellata</i>	3km E-NE	Yes. Potential hydrological connections via (i) surface water run-off to the Gaybrook Stream and road network during the construction phase (ii) surface water run-off to the existing drainage network during the construction phase (iii) wastewater from the appeal site which passes through Malahide WWTP and discharges to the Outer Malahide Estuary, via a short outfall adjacent to the Malahide Estuary Railway Viaduct, during the operational phase.	Yes
	[A003] Great Northern Diver <i>Gavia immer</i>			
	[A009] Fulmar <i>Fulmarus glacialis</i>			
	[A013] Manx Shearwater <i>Puffinus puffinus</i>			
	[A017] Cormorant <i>Phalacrocorax carbo</i>			
	[A018] Shag <i>Phalacrocorax aristotelis</i>			
	[A065] Common Scoter <i>Melanitta nigra</i>			
	[A179] Black-headed Gull <i>Chroicocephalus ridibundus</i>			
	[A182] Common Gull <i>Larus canus</i>			
	[A183] Lesser Black-backed Gull <i>Larus fuscus</i>			
	[A184] Herring Gull <i>Larus argentatus</i>			
	[A187] Great Black-backed Gull <i>Larus marinus</i>			
	[A188] Kittiwake <i>Rissa tridactyla</i>			
	[A192] Roseate Tern <i>Sterna dougallii</i>			
	[A193] Common Tern <i>Sterna hirundo</i>			
	[A194] Arctic Tern <i>Sterna paradisaea</i>			
	[A195] Little Tern <i>Sterna albifrons</i>			
	[A199] Guillemot <i>Uria aalge</i>			
	[A200] Razorbill <i>Alca torda</i>			
	[A204] Puffin <i>Fratercula arctica</i>			
	[A862] Little Gull <i>Hydrocoloeus minutus</i>			

<p>Baldoyle Bay SPA (004016)</p>	<p>[A046] Brent Goose <i>Branta bernicla hrota</i> [A048] Shelduck <i>Tadorna tadorna</i> [A137] Ringed Plover <i>Charadrius hiaticula</i> [A140] Golden Plover <i>Pluvialis apricaria</i> [A141] Grey Plover <i>Pluvialis squatarola</i> [A157] Bar-tailed Godwit <i>Limosa lapponica</i> [A999] Wetlands</p>	<p>4.3km SE</p>	<p>No.</p> <p>There is no direct connection between the appeal site and this SPA.</p> <p>There is no indirect connectivity between the project and this SPA via watercourse, drains or ditches etc.</p> <p>The project is sufficiently remote that there is no risk of disturbance to waders and wildfowl using the SPA.</p> <p>Whilst a number of QI species do feed in fields in the wider area, given the nature of the appeal site, the impacts on such species, such as displacement or disturbance from foraging or roosting is highly unlikely.</p> <p>The location, scale and operation of the project is such that it will not contribute to direct, indirect or in-combination impacts on bird species for which the SPA is designated.</p>	<p>No</p>
--------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------

North Bull Island SPA (004006)	[A046] Brent Goose <i>Branta bernicla hrota</i>	7.8km S-SE	No. There is no direct connection between the appeal site and this SPA. There is no indirect connectivity between the project and this SPA via watercourse, drains or ditches etc. The project is sufficiently remote that there is no risk of disturbance to waders and wildfowl using the SPA. Whilst a number of QI species do feed in fields in the wider area, given the nature of the appeal site, the impacts on such species, such as displacement or disturbance from foraging or roosting is highly unlikely. The location, scale and operation of the project is such that it will not contribute to direct, indirect or in-combination impacts on bird species for which the SPA is designated.	No
	[A048] Shelduck <i>Tadorna tadorna</i>			
	[A052] Teal <i>Anas crecca</i>			
	[A054] Pintail <i>Anas acuta</i>			
	[A056] Shoveler <i>Anas clypeata</i>			
	[A130] Oystercatcher <i>Haematopus ostralegus</i>			
	[A140] Golden Plover <i>Pluvialis apricaria</i>			
	[A141] Grey Plover <i>Pluvialis squatarola</i>			
	[A143] Knot <i>Calidris canutus</i>			
	[A144] Sanderling <i>Calidris alba</i>			
	[A149] Dunlin <i>Calidris alpina alpina</i>			
	[A156] Black-tailed Godwit <i>Limosa limosa</i>			
	[A157] Bar-tailed Godwit <i>Limosa lapponica</i>			
	[A160] Curlew <i>Numenius arquata</i>			
	[A162] Redshank <i>Tringa totanus</i>			
	[A169] Turnstone <i>Arenaria interpres</i>			
	[A179] Black-headed Gull <i>Chroicocephalus ridibundus</i>			
	[A999] Wetlands			

This page is intentionally left blank.