



An  
Bord  
Pleanála

## Inspector's Report

### ABP-318108-23

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<b>Development</b>	192 no. apartments and all associated site works
<b>Location</b>	Swift Square Office Park, Off Northwood Avenue, Santry, Dublin 9 ( <a href="http://www.swiftsquarelrd.com">www.swiftsquarelrd.com</a> )
<b>Planning Authority</b>	Fingal County Council
<b>Planning Authority Reg. Ref.</b>	LRD0012/S3
<b>Applicant</b>	JOM Investments Unlimited Company
<b>Type of Application</b>	Large-Scale Residential Development (LRD)
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party v Grant of Permission
<b>Appellants</b>	1. Andrew Hehir & Angela Lloyd
<b>Observer</b>	1. DAA
<b>Date of Site Inspection</b>	14 <sup>th</sup> November 2023
<b>Inspector</b>	Anthony Kelly

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## 1.0 Site Location and Description

- 1.1. The subject site to be developed comprises two surface car parks divided by an access roadway. There is also some hard and soft landscaping within the site boundary. The site is located in a built-up mixed-use area approx. 700 metres south east of Junction 4 of the M50, and approx. 150 metres east of Gulliver's Retail Park in the north of Dublin city. There has been substantial development in this area in the last number of years.
- 1.2. A two-storey housing development (Cedarview) is located immediately north of the site, there is an undeveloped area to the east and south east (with planning permission granted for 255 no. apartments in five blocks up to nine storeys in height (Whitehaven)), two five-storey commercial office buildings (Swift Square) located immediately to the south of the site, and an eight storey residential development (Blackwood Square) on the opposite side of the roadway along the western site boundary. Gulliver's Retail Park is further to the west.
- 1.3. The western car park contains 148 car parking spaces. The eastern car park contains 208 spaces. The red line site boundary cuts through the eastern car park. The eastern area of the eastern car park which is outside the current site boundary is within the boundary of the permitted Whitehaven development.
- 1.4. The red line site boundary also includes an area approx. 150 metres to the north west of the main development site. This area is to be used as a temporary car park for construction personnel and, initially, Swift Square Office Park basement parking. Once a new temporary access is provided to the Office Park basement parking area the temporary car park would accommodate cars relocated from the existing on-site car parks to be removed.
- 1.5. The site has a gross area of 1.919 hectares and a net area of 1.135 hectares.

## 2.0 Proposed Development

- 2.1. The proposed development will consist of the construction of a residential development of 3 no. apartment blocks comprising 192 no. apartment units to include 4 no. 1-bedroom units and 188 no. 2-bedroom units, shared residential services

(conciierge, multifunction unit, and gymnasium), and open amenity spaces over a basement.

2.2. The apartment blocks are to be constructed above a basement level and a partially shared podium structure (undercroft at ground-level), comprising:

- Block 1, ranging in height from 4-9 storeys, will contain 64 no. apartment units consisting of 1 no. 1-bedroom unit, 63 no. 2-bedroom units with a conciierge space (approx. 158.2sqm) at ground-floor level with associated communal open spaces at podium level;
- Block 2, ranging in height from 4-9 storeys, will contain 62 no. apartment units consisting of 2 no. 1-bedroom units, 60 no. 2-bedroom units with a multifunction area (approx. 167.8sqm) at ground-floor level with associated communal open spaces at podium level; and,
- Block 3, ranging in height from 4-9 storeys, will contain 66 no. apartment units consisting of 1 no. 1-bedroom unit and 65 no. 2-bedroom units with associated communal open spaces at podium level.
- The proposed development will also provide the following:
  - 180 no. car parking spaces for residents, consisting of 146 no. spaces at the new basement level (incl. 1 no. disabled space) and 34 no. spaces at ground-floor level (undercroft) (incl. 1 no. disabled space);
  - 12 no. car parking spaces for visitors (incl. 1 no. disabled space and 2 no. car-sharing parking spaces at surface level);
  - relocation of permitted 254 no. car parking spaces catering for Swift Square Office Park personnel, consisting of 214 no. spaces at the new basement level (incl. 1 disabled space) and 40 no. spaces at ground-floor level (undercroft);
  - 33 no. motorcycle parking spaces, including 28 no. spaces at the basement level and 5 no. spaces at ground-floor level (undercroft);
  - 392 no. bicycle parking spaces for residents distributed across 4 no. secure cycle store areas at ground-level (undercroft), and 100 no. bicycle parking spaces for visitors at surface level;

- 30 no. sheltered bicycle parking spaces at street level for Swift Square Office Park personnel;
- a new vehicular access ramp to the new basement level;
- communal and public open spaces, including play areas;
- private open space to apartments in the form of terraces and balconies;
- an ancillary residential gymnasium space (approx. 89.7sqm) at ground-floor level (undercroft) between Block 1 and Block 2;
- site clearance and removal of all existing structures on site ancillary to the existing surface car parking;
- provision of a temporary car parking area and a construction access from Northwood Avenue to be removed on completion of the proposed works; and,
- all associated plant, drainage arrangements, works to facilitate utility connections, boundary treatment, landscaping, public lighting, refuse storage, vehicle, pedestrian and bicycle access, construction compounds and site development works.

2.3. The following tables set out some key elements of the proposed development.

**Table 1 – Key Figures**

Site Area (Gross / Net)	1.919 hectares / 1.135 hectares
Number of Units	192 apartments
Building Heights	Block A – 4-9 storeys Block B – 4-9 storeys Block C – 4-9 storeys
Density	Approx. 169 units per hectare
Plot Ratio	1.76 (net)
Site Coverage	44.37% (net)
Dual Aspect	136 (71%)

Open Space / Amenities	<p><u>Public open space</u> – 0.337 hectares (29.68% of net site area)</p> <p><u>Communal open space</u> – 1,336sqm required, 1,600sqm provided</p> <p><u>Amenities</u> – Concierge, multifunction area, and gymnasium</p>
Part V	20 no. units in Block 3 (1 no. 1-bed and 19 no. 2-bed units)
Roads / Pedestrian and Cycle Infrastructure	Pedestrian and cycle permeability through the site
Car / Bicycle Parking	<p><u>Car parking</u> – 180 residential spaces [reduced to 96 no. spaces by the local authority’s planning decision]</p> <p>12 visitor spaces</p> <p>254 spaces for Swift Square Office Park personnel (relocated from existing car park to be removed to accommodate the proposed buildings)</p> <p>33 motorcycle spaces</p> <p><u>Bicycle parking</u> – 392 residential spaces</p> <p>100 visitor spaces</p> <p>30 spaces for Swift Square Office Park personnel</p>

**Table 2 – Unit Breakdown**

Block	Bedroom Numbers		Total
	1 Bedroom	2 Bedroom	
1	1	63	64
2	2	60	62
3	1	65	66

Total	4 (2.1%)	188 (97.9%)	192 (100%)
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2.4. The three apartment blocks are oriented in a north-south configuration. Ridge levels are lower towards the north facing the two-storey Cedarview development and higher at the southern facades facing the Swift Square Office Park buildings. Open space/landscaped areas are provided between and around the buildings. Vehicular access to the basement is directly off the existing circulation road along the western site boundary. Vehicular access to the undercroft car parking area is from the existing circulation road along the northern boundary. Visitor car parking spaces are located perpendicular to the existing circulation road along the northern boundary. Footpaths are provided around the perimeter. A layout plan has been provided showing the footpath and cycle path interconnectivity between the proposed development and the adjacent Whitehaven development.

2.5. In addition to standard plans and particulars the planning application was accompanied by a number of supporting documents. These include (but are not limited to):

- a 'Planning Report & Statements of Consistency' document prepared by RPS dated July 2023,
- an Environmental Impact Assessment Report (EIAR) in three volumes comprising: Volume 1 (Non-Technical Summary), Volume 2 (Main Text), and Volume 3 (Appendices), prepared by RPS dated July 2023
- an 'Appropriate Assessment Screening Report' prepared by Scott Cawley dated 21<sup>st</sup> April 2023
- an 'Architectural Design Statement' prepared by MCORM dated May 2023,
- a 'Housing Quality Assessment' prepared by MCORM dated May 2023,
- an 'Assessment of Sunlight & Daylight Access Within the Proposed Development' prepared ARC Architectural Consultants dated April 2023,
- a 'Flood Risk Assessment' (FRA) prepared by Barry & Partners dated May 2023,
- a 'Water Services Report' prepared Barry & Partners dated October 2022,

- a 'Traffic and Transport Assessment' (TTA) prepared by Barry & Partners dated June 2023,
- a 'Stage 1 Road Safety Audit' (RSA) prepared by Traffico dated March 2023,
- a 'Landscape Report' prepared by Kevin Fitzpatrick Landscape Architecture dated 12<sup>th</sup> May 2023,
- an 'Arboricultural Report' prepared by The Tree File dated May 2023,
- a 'Construction Environmental Management Plan' (CEMP) prepared by Barry & Partners dated February 2023,
- a 'Construction Waste Management Plan' prepared by Barry & Partners dated March 2023,
- a 'Draft Construction Management Plan' prepared by Barry & Partners dated May 2023, and,
- a 'Childcare Demand Analysis' prepared by RPS dated June 2023.

### **3.0 Planning Authority Pre-Application Opinion**

- 3.1. A LRD meeting took place on 9<sup>th</sup> December 2022 between the applicant and Fingal County Council, following two earlier section 247 meetings.
- 3.2. In the LRD Opinion the planning authority considered that the documentation submitted 'constitutes a reasonable basis on which to make an application for the proposed LRD'. The planning authority specified information that should be submitted with the application. These related to matters of building height, public open space, playground provision, balconies, phasing, matters raised by the Transportation Planning, Water Services, Parks and Green Infrastructure, and Architects sections, childcare provision, Part V, EIA and AA, and the submission of various management plans.
- 3.3. The applicant submitted with the planning application a 'Statement of Specific Information Requirements of the LRD Opinion' prepared by RPS dated July 2023 which contains the LRD Opinion and relevant appendices, and which addresses each of the matters cited by the planning authority in the LRD Opinion.



## 4.0 Planning Authority Decision

### 4.1. Decision

- 4.1.1. Fingal County Council granted permission for the proposed development subject to 27 no. generally standard conditions. Of relevance to the grounds of appeal is condition 4(a).

Condition 4

The following shall be complied with in full:

- a) The number of car parking spaces serving the proposed residential development shall be limited to the maximum permitted in the car parking standards of the Fingal Development Plan 2023-2029, which is 96 spaces in total; the location and layout of which shall be agreed in writing with the Planning Authority prior to commencement of development.

...

Reason: In the interest of the proper planning and sustainable development of the area.

### 4.2. Planning Authority Reports

#### Planning Report

- 4.2.1. The report is dated 31<sup>st</sup> August 2023 and contains a background, details of the development, national and local planning policy, an assessment of the LRD, and a recommendation. The key planning considerations of the report are summarised as follows.
- 4.2.2. *Compliance with zoning objective* – Residential development is acceptable on this zoning (MRE; Metro and Rail Economic Corridor).
- 4.2.3. *Density* – The density of approx. 169 units per hectare is acceptable in principle.
- 4.2.4. *Mix* – The unit mix is considered to be in accordance with the ‘Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities 2022’ and with Objective DMSO24 of the Fingal Development Plan 2023-2029.

- 4.2.5. *Residential units* – No concern is expressed in relation to apartment floor areas, aspect, floor to ceiling heights, units per floor and per core, private open space, and communal open space. 99% of units achieve relevant sunlight and daylight recommendations. Public and communal open spaces will receive adequate daylight over the course of the year. One ground floor unit in the adjacent Blackwood Square would potentially be affected by shadowing by the proposed development. However, this unit is currently affected by Tree Preservation Order trees and therefore it benefits from limited sunlight, and the proposed development would not severely affect this further.
- 4.2.6. *Layout* – The layout and design are considered to be successful and would be visually in keeping with permitted developments while providing adequate levels of amenity. The stepped approach to height allows for density while addressing the height difference with Cedarview. Adequate separation distances to Cedarview and Blackwood Square are provided.
- 4.2.7. *Impact on residential amenity* – The proposed four-storey heights along the northern elevations are acceptable and tree planting along the northern site boundary would result in additional screening and softening. North-facing balcony overlooking mitigation by way of 2 metres high louvered panels is acceptable. Shadows cast by the proposed development in summer months are not likely to result in a material impact on sunlight access for Cedarview residents.
- 4.2.8. *Open space and landscaping* – A large proportion of the open space is not acceptable as public open space because it does not meet Fingal's standards being on the roof of a car park and the inclusion of the curtilage of private buildings in places. It is accepted that areas provided for play would benefit residents and the public. The applicant has met the minimum requirements for play provision and 'open space' i.e. 12% of the site area. The proposed play provision layout is acceptable.
- 4.2.9. *Transportation considerations* – In relation to these issues the Planning Report effectively reproduces the Transportation Planning section report. The location of the two vehicular access points is generally acceptable. Detail of the intersection between the public footpath and the vehicular access should be further developed. Sightlines from the vehicular entrances in excess of those required for a 30kph speed limit are achievable. Car parking provision would be significantly in excess of Development

Plan standards. 166 additional bicycle parking spaces are required to satisfy Development Plan requirements. Connectivity and permeability through the proposed development and adjacent developments is generally acceptable. The car parking layout is generally acceptable. Adequate electric vehicle charging will be provided for. Following any grant of permission Stage 2 and Stage 3 RSAs must be completed. A special contribution towards the upgrade of the R108/Northwood Avenue road junction and the Old Ballymun Road/Northwood junction shall be agreed between the developer and the planning authority under section 48(2)(c).

- 4.2.10. *Flooding* – The proposed development is entirely located within flood zone C and is deemed to be in accordance with ‘The Planning System and Flood Risk Management’ Guidelines, 2009.
- 4.2.11. *Water and Drainage* – The proposed development is deemed to acceptable subject to conditions in relation to foul and surface water drainage and water supply.
- 4.2.12. *Conservation* – The Conservation Office has no specific comments or requirements.
- 4.2.13. *Childcare* – Existing and permitted childcare services in the area can comfortably meet likely demand from the proposed development.
- 4.2.14. *Part V* – The submitted Part V proposal is acceptable subject to a condition.
- 4.2.15. *Environmental Impact Assessment (EIA)* – The submitted EIAR was summarised. In the reasoned conclusion it was considered that there would be a positive impact with regard to population and material assets, there would not be a significant visual impact mitigated by landscaping and the architectural treatment reducing the visual mass, measures are proposed to mitigate any traffic and transportation impacts, bat and bird boxes are proposed for biodiversity, and best practice construction measures would mitigate noise and vibration during the construction phase.
- 4.2.16. *Appropriate Assessment (AA) Determination* – The findings of the applicant’s AA screening report are agreed with. AA or a Natura Impact Statement (NIS) is not required.
- 4.2.17. *Conclusion / Recommendation* – The Planning Report considered that, subject to compliance with conditions, the proposed development ‘would constitute an acceptable residential density at this location, would not seriously injure the residential or visual amenity of the area, would be acceptable in terms of urban design, height

and quantum of development and would be acceptable in terms of pedestrian and traffic safety'. A grant of permission was recommended.

### **Other Technical Reports**

- 4.2.18. **Architects Department** – No further comments.
- 4.2.19. **Parks and Green Infrastructure Division** – Conditions recommended.
- 4.2.20. **Transportation Planning Section** – No objection subject to conditions.
- 4.2.21. **Water Services** – The proposal is acceptable subject to conditions.
- 4.2.22. **Housing Department** – If permission is granted the developer is to liaise with the Housing Department in respect of an agreement to satisfy the Part V obligation.
- 4.2.23. **Architectural Conservation Officer** – No specific comments or requirements.
- 4.2.24. **Public Lighting Section** – A condition is recommended.
- 4.2.25. **Environment Section (Waste Enforcement & Regulation)** – One condition recommended.
- 4.2.26. **Economic, Enterprise, Tourism & Cultural Development Department** – A condition is recommended.

### **4.3. Prescribed Bodies**

#### Department of Housing, Local Government and Heritage

- 4.3.1. The submission addresses nature conservation issues. It is regrettable that 260sqm of mixed broadleaf woodland, planted 20 years ago and deemed to be of local importance (higher value) in the EIAR, is to be removed to accommodate temporary car parking in the north west area of the site. Commentary is provided on the removal of trees and hedgerow on the main development site and its impact on birds. The bat activity survey is referenced, and concern is expressed in relation to light spill. The submission notes that surface water runoff drains to the Santry River adjacent to the north west area of the site, and this discharges to North Dublin Bay Special Area of Conservation (SAC) and North Bull Island Special Protection Area (SPA). Implementation of measures to avoid surface water pollution and effective maintenance of the SUDS should ensure it will not result in adverse effects on the

biota of the Santry River and the downstream Natura 2000 sites. Four conditions are recommended in the event of a grant of permission.

Irish Aviation Authority (IAA)

- 4.3.2. The applicant should be required to engage with DAA/Dublin Airport and the air navigation service provider AirNav Ireland to undertake a preliminary screening assessment to confirm that the proposed development and any associated cranes during construction would have no impact on the safety of flight operations at Dublin Airport. Should permission be granted a condition should require the applicant to give IAA and DAA/Dublin Airport 30 days notice of the intention to commence crane operations.

DAA

- 4.3.3. The proposed development is partially located within Noise Zone C and objective DAO11 of the Fingal Development Plan 2023-2029 applies. In the event of a grant of permission a condition is requested to be attached requiring the noise sensitive uses located within Noise Zone C of the airport be provided with noise insulation to an appropriate standard.

Transport Infrastructure Ireland (TII)

- 4.3.4. TII will rely on the planning authority to abide by official policy in relation to development on/affecting national roads subject to the development being undertaken in accordance with the recommendations of the Transport (Traffic Impact) Assessment and the authority will entertain no future claims in respect of impacts on the proposed development from the existing road or any new road scheme currently in planning.

National Transport Authority (NTA)

- 4.3.5. The proposed development site is appropriately zoned and will be sufficiently served by public transport services to accommodate the proposed density of residential development. It is consistent with the principles of the 'Transport Strategy for the Greater Dublin Area 2016-2035'. The site will be sufficiently served by public transport to accommodate a lower car parking standard in line with the provisions of the Development Plan.

#### **4.4. Third Party Observations**

4.4.1. Six observations were received by the planning authority from residents of Cedarview. The issues raised are largely covered by the grounds of appeal with the exception of the following:

- Anti-social behaviour and littering
- Construction phase nuisance / concern/queries relating various construction phase issues
- Access to light/shadowing impact
- Impact on existing quality of place, residential accommodation, and amenities
- Insufficient open space.

#### **5.0 Planning History**

5.1. There is a significant relatively recent planning history on site, immediately adjacent to the site, and in the general vicinity.

5.2. The parent permission on site appears to be F04A/1562 for a commercial development of offices, retail warehousing, logistics warehousing, own door offices, enterprise starter units, local centre, motor showrooms and amenity building comprising approx. 77,000sqm in total, and all site development works including substantial roads infrastructure to service the development, on a 19.8 hectares site. This permission was twice extended. It appears that the site subject of the current application was granted as surface car parking associated with the office buildings.

5.3. On foot of the grant of permission for F04A/1562 there were a number of subsequent modification/alteration applications which resulted in, inter alia, an increase in the floor areas of the two Swift Square office blocks and the combining of their basement car parks (under F06A/1117) and residential developments such as Cedarview and Bridgefield (an apartment development immediately adjacent to the east of the proposed temporary car parking area).

- 5.4. In addition, of relevance to this planning application are three recent Board decisions. These are:
- 5.5. ABP-313317-22 – Permission was granted by the Board in 2023 for Whitehaven SHD comprising 255 no. apartments in five blocks ranging in height from five to nine storeys plus a childcare facility etc. adjacent to the east/south east of the subject site.
- 5.6. ABP-306075-19 – Permission was granted by the Board in 2020 for Blackwood Square SHD, adjacent to the west of the site on the opposite side of the circulation road, comprising 331 no. apartments in four eight-storey blocks (reduced to 329 no. units in the decision) plus a childcare facility and five ground floor mixed use units capable of accommodating class 1, 2, 8, café and restaurant uses. This development has been constructed. A non-material alteration increasing the number of units to 330 was permitted by the Board under 309416.
- 5.7. ABP-313179-22 – Permission was granted by the Board in 2023 for Northwood SHD approx. 100 metres to the south west of the subject site (immediately south west of the Northwood Avenue/Northwood Road roundabout), comprising 268 no. apartments in two blocks ranging in height from five to eleven storeys, an office building, and creche.

## 6.0 Policy Context

### 6.1. Project Ireland 2040 National Planning Framework (NPF)

- 6.1.1. The NPF is a high level strategic plan to shape the future growth and development of the country to 2040. It is focused on delivering 10 National Strategic Outcomes (NSOs). NSO 1 is 'Compact Growth', and it is expanded upon on page 139 of the NPF. It states, inter alia, 'From an urban development perspective, we will need to deliver a greater proportion of residential development within existing built-up areas of our cities, towns and villages ... Combined with a focus on infill development, integrated transport and promoting regeneration and revitalisation of urban areas, pursuing a compact growth policy at national, regional and local level will secure a more sustainable future for our settlements and for our communities'.
- 6.1.2. Relevant National Policy Objectives (NPOs) include:

NPO 3(b) – Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.

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

NPO 13 – In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

NPO 33 – Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

## **6.2. Project Ireland 2040 National Development Plan 2021-2030 (NDP)**

- 6.2.1. The NDP sets out the Government’s over-arching investment strategy and budget for the period 2021-2030. It balances the significant demand for public investment across all sectors and regions of Ireland with a major focus on improving the delivery of infrastructure projects to ensure speed of delivery and value for money.

## **6.3. Climate Action Plan 2023 – Changing Ireland for the Better**

- 6.3.1. The plan is the second annual update to Ireland’s Climate Action Plan 2019. It is the first to be prepared under the Climate Action and Low Carbon Development (Amendment) Act 2021, and following the introduction, in 2022, of economy-wide carbon budgets and sectoral emissions ceilings.
- 6.3.2. The plan implements the carbon budgets and sectoral emissions ceilings and sets out a roadmap for taking decisive action to halve Ireland’s emissions by 2030 and reach net zero no later than 2050, as committed to in the Programme for Government. It sets out how Ireland can accelerate the actions that are required to respond to the climate



crisis, putting climate solutions at the centre of Ireland's social and economic development.

**6.4. Urban Development and Building Heights Guidelines for Planning Authorities (December 2018)**

6.4.1. These Guidelines are intended to set out national planning policy guidelines. Reflecting the NPF strategic outcomes in relation to compact urban growth, there is significant scope to accommodate anticipated population growth and development needs by building up and consolidating the development of our existing urban areas.

**6.5. Sustainable Urban Housing: Design Standards for New Apartments (July 2023)**

6.5.1. The overall purpose of these Guidelines is to strike an effective regulatory balance in setting out planning guidance to achieve both high quality apartment development and a significantly increased overall level of apartment output. They apply to all housing developments that include apartments that may be made available for sale, whether for owner occupation or for individual lease.

**6.6. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) (May 2009)**

6.6.1. The aim of the Guidelines is to set out the key planning principles which should be reflected in development plans and local area plans, and which should guide the preparation and assessment of planning applications for residential development in urban areas. The Guidelines are accompanied by a non-statutory residential design manual ('Urban Design Manual').

**6.7. Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031 (RSES)**

6.7.1. The RSES provides for the development of nine counties / twelve local authority areas, including Fingal, and supports the implementation of the NDP. It is a strategic plan which identifies regional assets, opportunities, and pressures and provides appropriate policy responses in the form of Regional Policy Objectives. It provides a

framework for investment to better manage spatial planning and economic development throughout the region.

## **6.8. Fingal Development Plan 2023-2029**

- 6.8.1. The site is in an area zoned 'MRE Metro and Rail Economic Corridor' in the Plan. The zoning objective is to 'Facilitate opportunities for high density mixed use employment and commercial development and support the provision of an appropriate quantum of residential development within the Metro and Rail Economic Corridor'. The zoning sheet (No.11 of the Plan) shows the site, and its vicinity, is within an area where there is a specific objective to have a framework plan (FP 11.B).
- 6.8.2. The 'vision' for this zoning is 'Provide for an area of compact, high intensity/density, employment generating activity with associated commercial and residential development which focuses on the MetroLink, or rail or light rail stations within settings of exemplary urban design, public realm streets and places, which are permeable, secure and within a high-quality green landscape. Landmark buildings will provide strong quality architectural features, which respect and enhance the character of the area into which they sit. The designated areas will form sustainable districts which possess a high degree of connectivity and accessibility and will be developed in a phased manner subject to the necessary provision of social and physical infrastructure'.
- 6.8.3. Residential development is permitted in principle on land zoned 'MRE'
- 6.8.4. Some objectives have been cited by the planning authority in its Planning Report (DMS024), by the DAA in their submission (DAO11), and in the grounds of appeal (FP 11.B, CSP9, CSP10, and CSO12):
- Objective DMSO24 (Apartment Development) – All applications for apartment development are required to comply with the Specific Planning Policy Requirements (SPPRs), the standards set out under Appendix 1 and general contents of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2020 (or updated guidance as may be in place at the time of lodgement of the planning application).

- DAO11 (Requirement for Noise Insulation) – Strictly control inappropriate development and require noise insulation where appropriate in accordance with Table 8.1 above within Noise Zone B and Noise Zone C and where necessary in Assessment Zone D, and actively resist new provision for residential development and other noise sensitive uses within Noise Zone A ...
- Northwood (FP 11.B) is contained within a list of proposed Framework Plans (table 2.19 of the Plan). The grounds of appeal cite and reproduce policies CSP9 and CSP10, and objective CSO12, on page 3 of the grounds of appeal in relation to FP 11.B.

## 6.9. Natural Heritage Designations

- 6.9.1. The nearest designated area of natural heritage is Santry Demesne proposed Natural Heritage Area (pNHA) approx. 120 metres to the north east of the proposed temporary car parking area. The nearest European site is South Dublin Bay and River Tolka Estuary Special Protection Area (SPA) approx. 5.1km to the south east. There is no direct hydrological link between the site and this SPA.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

- 7.1.1. One joint third-party appeal has been received by the Board in relation to the proposed development. The appeal has been prepared by Marston Planning Consultancy on behalf of Andrew Hehir, 35 Cedarview, and Angela Lloyd, 4 Cedarview. No. 35 is on the opposite side of the northern boundary roadway facing the subject site and No. 4 is in the row of houses to the rear of the houses directly facing the main development site of which No. 35 forms part.
- 7.1.2. The main issues raised in the appeal can be summarised as follows:
- The Fingal Development Plan 2023-2029 includes a local objective, FP 11.B, to prepare a Framework Plan for lands at Northwood, including the development site. There is no current Framework Plan for Northwood, and the application must be

considered as being premature. This is supported by policy CSP9 and objective CSO12 of the Development Plan.

- The proposed development constitutes a significant overdevelopment. The proposed height, location, mass, and scale forms an incongruous design that fails to integrate. SPPR 3 of the Building Height Guidelines cannot be successfully applied in this case as it is out of character with the adjoining built environment. There are differences between the proposed development and Whitehaven in terms of the stepping of height and the orientation of the closest houses in Cedarview.
- The proposal will be overbearing when viewed from Cedarview. The reduction in height to four storeys does not provide an adequate graduation given the proximity to Cedarview. They will read as nine storeys. The efficiency of solar panels on Cedarview roofs would be impacted.
- The proposed development will negatively impact on residential and visual amenity to the north.
- The submitted verified views do not adequately show the localised visual impact.
- Blocks 2 and 3 and the communal space at podium level will result in a loss of privacy.
- Breaking the height objectives and policies is justified by SPPRs 3 and 4 of the Guidelines. However these Guidelines were in place at the time the Development Plan was made and were taken into account.
- Though SPPR 3 allows the Council to approve a development that is contrary to the Development Plan the criteria under 3.2 of the Guidelines are not met:
  - At the scale of the relevant city/town – The impact on the two-storey Cedarview development was not adequately considered by the Council. It is not consistent with the zoning vision which calls for landmark buildings which respect and enhance the character of the area. It is out of scale with the two-storey Cedarview. It is an excessively dense, piecemeal development.
  - At the scale of district/neighbourhood/street – The development has a bulky, dominant, and austere form. The height, design, and form fail to

address the street and neighbourhood scale. The Council appears to have been overly influenced by the permitted Whitehaven development.

- At the scale of the site/building – The development will dominate properties at Cedarview.
- The submitted TTA is inadequate, specifically the reliance on outdated traffic surveys.
- Residential car parking was reduced to 96 no. spaces by condition 4 of the Council's decision, down from the 180 no. originally sought. The appellants are seriously concerned that this will result in an overspill of car parking. The appellants are also concerned that the use of the office complex basement for relocation of the existing on-site car parking will create additional traffic congestion in the area and overspill car parking generating a traffic hazard.
- Bus services in the TTA are some distance from the site. It has not been established that capacity exists to cater for the proposed and other recent developments in the area. This must be considered by the Board. The site is heavily reliant on car based travel and future transportation projects which do not exist. The appellants refer to court judgements related to this issue. Unreliability of public transport capacity would result in car dependency. The balance between density, car parking provision, and public transport capacity is imbalanced in this instance. The proposed development will result in a serious traffic hazard, overflow car parking into the surrounding area due to the unavailability of capacity on public transport, and the lack of cycling infrastructure.
- Overlooking between proposed blocks and of houses in Cedarview.
- Negative impact on the value of properties adjoining the development boundaries.
- Potential for impacting the structural integrity of the appellants properties.

## **7.2. Applicant's Response**

- 7.2.1. The applicant's response to the grounds of appeal can be summarised as follows, using the same headings as those used in the response.

### 7.2.2. Framework Plan

- The Fingal Development Plan sets an objective to prepare a Framework Plan for these lands. However these are advisory in nature and it is emphasised that until a Framework Plan is implemented 'planning applications will be assessed on their own merits, considering the principles of proper planning and sustainable development'. Considering this, the proposed development cannot be considered premature nor contrary to policy CSP9 and objective CSO12.
- It has been effectively demonstrated that the proposed development has had due regard to the receiving context e.g. architectural design, landscaping, and sunlight, daylight, and overshadowing, creating a high quality development which integrates with adjoining development and protects residential and visual amenity.
- The proposed development will align with the current and emerging character of the Northwood area.

### 7.2.3. Building Heights

#### *Building heights and density concerns*

- The scheme has been designed to ensure a suitable level of residential amenity while safeguarding existing residential amenity along the northern boundary. A lower-scale building typology would result in a lower housing yield which would be contrary to policy direction at this location. There are a number of developments in the area providing heights similar to or in excess of that proposed and higher densities. A submitted 'Residential Density and Building Heights Map' illustrates this. The Planning Authority expressly referenced building height and density and considered that the heights are acceptable and the development does not comprise overdevelopment. In the Whitehaven SHD application the Board's inspector's report considered the proposed eight/nine storeys to be generally consistent with existing building heights in the vicinity. Height and density are established in the immediate vicinity of Cedarview.

#### *SPPR 3 & section 3.2 criteria*

- The Fingal Development Plan does not include specific height objectives therefore no height objectives are being breached. The planning framework at all levels seeks to increase building heights and densities. It was demonstrated in the

application that the proposed development satisfies section 3.2 criteria and SPPR 4.

- The proposed height has been designed to address integration with the existing houses as well as providing for appropriate separation distances. The stepped approach provides an appropriate balance between protecting the receiving environment and achieving compact growth. The proposed height is an appropriate and sensitive transition in scale. Two additional drawings are submitted with the applicant's response. The proposed development provides for increased separation distances to that achieved by Whitehaven.

#### *Building height and visual impact concerns*

- A visual impact assessment was carried out which concluded that adverse visual impacts vary from slight to moderate. Viewpoint 4 showed the view from the open space at Cedarwood. Notwithstanding, additional verified views have been prepared to address concerns. The proposed development will improve visual amenities.

#### Traffic Assessment and Bus Service Capacity

##### *Traffic values concerns*

- The concern about the validity of data used in the traffic assessment lacks any concrete evidence to prove the methodology is contrary to any relevant policies or principles. While 2019 traffic counts were used, growth factors were applied up to 2022 using TII guidelines. A TII traffic counter on the R108, approx. 600 metres from the site, recorded a decrease in annual average daily traffic (AADT) between 2019 and 2022, 34,436 to 32,410, and it is submitted that 2019 data can offer a reliable basis for analysis. The issue was considered in the planning authority's Planning Report and in the Transportation Section's internal report.

##### *Public transport capacity concerns*

- The claim of insufficient public transport capacity lacks evidence and is unsupported. There are already high-frequency bus services near the site which offer relatively high capacity as set out in the application. This view is shared by the NTA and the planning authority's Transportation Section.

- There are short to medium term plans for substantial improvement to the public transport network within Northwood through BusConnects. Route N6 became operational in May 2022 and routes E1 and E2 are planned to run by Northwood. It is clear the area already possesses bus infrastructure and capacity.
- A planned MetroLink station approx. 450 metres from the site will be a game-changer.
- With regard to the referenced court judgement, that judicial review and the current application are different in scale, location, and access to public transport, and it does not serve as a valid basis for comparison.

#### *Car parking provision concerns*

- The applicant will adhere to condition 4 of the planning authority decision requiring 96 spaces and acknowledges its rationale. Linking reduced car parking with increased private car usage has no basis and it is also unreasonable to assert that reduced car parking provision will inevitably result in car parking overflow.

#### Overlooking

- The overall design is the result of a carefully considered design process. Communal spaces at podium/first floor level have been set back further from the four-storey blocks. There is no prescriptive separation distance in the Fingal Development Plan. The design of the communal open space ensures that Cedarview is not directly overlooked as bamboo planting will create a natural screen. Residential amenity will be maintained.
- Fenestration and balconies have already been considered by the Council. Balconies overlook communal open spaces and louvres prevent direct overlooking to Cedarview. The applicant is open to implementing further planting along the northern boundary as part of the compliance process.
- It is claimed Cedarview houses enjoy complete privacy. Given the nature of the area it is unreasonable to assert that complete privacy has ever been obtained.

#### Property Value

- A range of factors influence property values. The primary focus should be assessing the proposed development based on compliance with relevant policies,



while protecting adjoining residential amenity. This development will deliver a high-quality and well-designed scheme.

- Any concern regarding the reduction of access to light is unsubstantiated. The proposed development will not negatively affect the sunlight and daylight amenity of adjoining properties.
- The potential to impact negatively on structural integrity is not supported by any evidence. Dedicated construction phase measures to mitigate potential negative impacts are proposed.

### **7.3. Planning Authority Response**

- 7.3.1. The planning authority's assessment gave due consideration to all material planning considerations. The authority remains of the opinion that the proposed development is appropriate at this location, would comply with the requirements of the Fingal Development Plan 2023-2029, and would be consistent with the proper planning and sustainable development of the area. The Board is requested to uphold the decision.

### **7.4. Observations**

- 7.4.1. One observation was received from DAA. DAA refers to the observation previously made to Fingal County Council. It is requested that the Board take that observation, and condition 18 of the Council's decision, into consideration when assessing this application.

## **8.0 Planning Assessment**

In terms of assessing the planning application there are three separate elements: a planning assessment, an environmental impact assessment (EIA), and an appropriate assessment (AA). This planning assessment section addresses the issues raised in the grounds of appeal. There is an overlap between the various issues. For example, visual impact and traffic and transport are raised both in the grounds of appeal and are chapters in the EIA. Where an issue is raised in the grounds of appeal I generally

consider it under this planning assessment. Therefore, this planning assessment should be read in conjunction with both the EIA and AA sections.

Having examined the application details and all other documentation on file, including the grounds of appeal and the applicant's response to same, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal, other than those set out in detail within the EIA and AA, are as follows:

- Zoning
- Premature Pending Framework Plan
- Building Height, Design, and Scale
- Traffic and Transport
- Impact on Property Values
- Compliance with the Fingal Development Plan 2023-2029

## 8.1. Zoning

- 8.1.1. The site is in an area zoned 'MRE – Metro and Rail Economic Corridor' on sheet no. 11 of the Fingal Development Plan 2023-2029. The zoning objective of the site is 'Facilitate opportunities for high-density mixed-use employment generating activity and commercial development, and support the provision of an appropriate quantum of residential development within the Metro and Rail Economic Corridor'. Residential development is identified as 'Permitted in Principle' on this zoning on page 488 of the Plan. The other uses i.e. concierge, gym, and multifunction area, are normal ancillary uses to the primary residential use. The principle of development is therefore acceptable, subject to the detailed considerations below.

## 8.2. Premature Pending Framework Plan

- 8.2.1. Sheet no. 11 of the Fingal Development Plan 2023-2029 identifies the entire site as being within the boundary of an area identified as 'FP 11.B'. 'Framework Plans' are referenced in section 2.4.3 of the Development Plan. 'Northwood' (FP 11.B) is included in a list of twenty such plans. Policies CSP9 and CSP10 and objective CSO12 are

included in section 2.4.3. The policies state that these framework plans shall be prepared for these areas to facilitate a co-ordinated approach to development, in cooperation with relevant stakeholders, to achieve the specific objectives therein. The grounds of appeal consider that, in the absence of such a framework plan, the application must be considered as premature. The applicant refutes this.

8.2.2. While the preparation of a framework plan for the area would be beneficial in terms of a more co-ordinated approach than individual planning applications, I consider that the proposed development could not be considered as being premature pending its preparation, having regard to the provisions of section 2.4.3.

8.2.3. Section 2.4.3 states that the framework plans would be non-statutory and would provide more detailed design guidance. They would be advisory in nature. In relation to the issue of prematurity, I note in particular 'Pending the preparation of Framework Plans for the relevant areas of the County, development at these locations will be guided by the policies and objectives of the County Development Plan and National and Regional Planning Policy and planning applications will be assessed on their merits having regard to the proper planning and sustainable development of the area'. Therefore, it is clear that the planning authority envisages planning applications being submitted and decided upon in the absence of a framework plan. I also note that the planning authority does not commit to preparing the framework plans within any particular timeframe, or that the plans listed in table 2.19 would necessarily be prepared at all, stating that they will be prepared over the lifetime of the Development Plan, 'based on the Council's priorities' and 'subject to resources'. Further, policy CSP9 states that framework plans will be prepared 'as required'.

8.2.4. Having regard to the foregoing, I consider that the planning application can be considered on its merits in accordance with the current planning framework and the absence of a Northwood framework plan is not an issue.

### 8.3. **Building Height, Design, and Scale**

8.3.1. The visual and landscape impact of the proposed development in the context of the wider Northwood area is addressed in my assessment and conclusion of chapter 14 (Landscape and Visual) of the EIAR in paragraphs 9.110 – 9.113 of this inspector's report. I conclude that the proposed development would be consistent with the existing

and permitted pattern of development in this built-up mixed-use urban area. This section (section 8.3) addresses the building height, design, mass and scale, and overlooking potential in the localised context i.e. its impact on the immediate area/appellants properties. This section should therefore be read in conjunction with paragraphs 9.110 – 9.113 to get a full overview of my assessment of the proposed development and its visual impact.

- 8.3.2. The appellants outline a number of aspects of the proposed development that are of significant concern to them such as building height, overbearing impact, and design, based on the scale of the proposed development in proximity to the two-storey Cedarview houses where both appellants live and consider that the proposed development comprises overdevelopment of the subject site. The issues are considered individually below for convenience but should be read in conjunction with each other as the concern expressed is ultimately a cumulation of all of the issues.

#### Building Height

- 8.3.3. It should initially be noted that the proposed development is similar in building height to the existing Blackwood Square apartment development to the east, and the permitted Whitehaven and Northwood SHDs. There are also other substantial buildings in the vicinity such as the two Swift Square office blocks, Bridgefield, and the sports surgery clinic. Therefore, the proposed development is typical of the existing and emerging building height in the area. Notwithstanding, it is located in close proximity to Cedarview, which comprises two-storey houses.
- 8.3.4. SPPR 3 of the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018) states, in relation to building height, inter alia, that where an applicant sets out how a development proposal complies with cited criteria, and the planning authority concurs, then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise. SPPR 4 relates to the securing of, inter alia, minimum densities and a greater mix of building heights. The grounds of appeal state that the applicant ‘seeks to justify the proposal breaking the height objectives and policies for the site purely based on Policy SPPR 3 and SPPR 4 ...’ and considers that SPPR 3 cannot be successfully applied at this location because it would be out of character with Cedarview. The appellants state that criteria outlined in the Guidelines

are not met by the proposed development at the relevant scales of the city/town, district/neighbourhood/street, or site/building.

8.3.5. In this regard, as also noted in the applicant's response to the grounds of appeal, the Fingal Development Plan 2023-2029 does not have any specific building height guidance or maximum height limits. Therefore, the proposed development would not break 'the height objectives and policies for the site' because there are none.

8.3.6. Notwithstanding, having regard to the criteria outlined in section 3.2 of the Guidelines, I consider that they are largely achieved by the proposed development.

- At the scale of the city the site is well served by public transport (as addressed in section 8.4 of this inspector's report), a landscape and visual assessment has been undertaken (as per chapter 14 of the EIAR), and I consider that a positive contribution has been made to place-making in terms of the public spaces, improved linkages, and responding to the scale of adjoining developments.
- At the scale of the district/neighbourhood/street the proposed development would respond to its built environment by replacing a substantial surface car park of limited visual or social value, would make a positive contribution to the urban neighbourhood, is visually interesting, and would increase the local population. Pedestrian and cyclist permeability through the site and connectivity with existing and adjacent sites would be improved.
- At the scale of the site/building, appropriate daylight and sunlight access has been maintained to adjoining properties as per chapter 10 of the EIAR.

8.3.7. The grounds of appeal, on page 7, consider that the proposed development is not consistent with the requirements of a landmark building as set out in the vision for the land use zoning. I do not consider that the proposed development can be considered to be a landmark building because it is not of a height greater than the prevailing building height and it is not at a particularly strategic or visible location. Therefore, I do not consider that the characteristics of landmark buildings, as identified in the zoning vision, necessarily apply to the proposed development.

8.3.8. I consider that the proposed development height, in principle, is appropriate at this location having regard to the existing and permitted built environment, subject to issues of design, mass and scale, and overlooking potential as set out below.

## Design

- 8.3.9. It is stated in the grounds of appeal that the proposed development has an incongruous design that would fail to integrate into the area and specifically with Cedarview. The stepped approach in the proposed design is similar to the Whitehaven SHD approach but it is abrupt, and not as gradual, and no adequate transition to Cedarview has been provided. The proposed orientation directly faces Cedarview houses, as opposed to the side elevation of a single house as per Whitehaven. There would be a discordant and incongruous elevation visible to Cedarview residents and would be completely out of character with the area.
- 8.3.10. I acknowledge initially that any development on the subject site would have a significant impact on the residential amenity of Cedarview, in particular those houses along the northern site boundary access road which would have a direct view of the proposed development.
- 8.3.11. The three blocks have a consistent design approach. They are oriented north-south but only the central block, Block 2, has its main access along the northern elevation. Blocks 1 and 3 have their pedestrian entrances on their western and eastern elevations respectively providing activity to these three sides with the concierge, gym, and multifunction area on the southern side of the site. The bottom four floors occupy the 'full' building footprint. From the fourth to seventh floors there is a setback of approx. 9.5 metres. At the eighth floor there is a set-back from the seventh floor of approx. 10 metres. These setbacks provide a transition in scale between the proposed development and Cedarview i.e. nine storeys, to eight storeys, to four storeys, and to two storeys. A similar design style was employed for Block 5 for Whitehaven SHD. In that case there were slight set backs at the fifth, seventh, and eighth floors in the nine storey building.
- 8.3.12. The respective setbacks can be viewed together as a contiguous elevation on the context elevations AA-BB drawing submitted with the application, drawing no. PL300.2. I understand the appellants comments that the proposed setback is more abrupt than the rather more gradual transition in Block 5, however they are different developments on different sites. In my opinion, having regard to both the existing and permitted pattern of development in the immediate vicinity and the planning framework requirement to make efficient use of such zoned lands in areas well served by public

transport, I consider that the proposed development design successfully achieves a reasonable balance of maintaining an appropriate height and density while being responsive to the significantly lower scale of development to its immediate north. A set back at fourth floor is suitable as a set back at third floor would likely unbalance the elevation and at fifth floor it would have increased 'overbearing' impact on Cedarview. Therefore, having regard to the floor plans, elevations, and verified views received I consider the set back is acceptable.

- 8.3.13. The three proposed blocks are typical of apartment developments in the area. They are visually interesting as the various elevations exhibit differences, it would result in activity to all four sides of the development, and it would not comprise a visually obtrusive or incongruous development.

#### Mass and Scale

- 8.3.14. The grounds of appeal considers that the proposed development would have an overbearing impact when viewed from Cedarview. The development will read as a nine storey development despite the stepped approach taken. The scale and mass are completely unjustified and would have a negative impact on established residential amenity. The density of the development is also referenced.
- 8.3.15. My assessment of the height and design of the proposed development has been set out above. The proposed development is typical of the area and the fourth floor setback is appropriate as a transition between the eight/nine floors of the proposed development and the significantly lower two storey height of Cedarview, given the location of the site and the planning framework in place. I note the applicant's response to the grounds of appeal illustrates that the fourth-seventh floor setback element of the proposed development would achieve a greater separation distance (37.87 metres) to No. 35 Cedarview (the house of one of the appellants) to that achieved between the fifth and sixth floor Whitehaven setback (30.31 metres) and the seventh floor setback (36.43 metres) to No. 42 Cedarview, as per drawing no. 3PA-D1.
- 8.3.16. In terms of height, density, plot ratio, and site coverage, the proposed development compares to existing and permitted SHD developments as follows.

**Table 3 – Comparison of Proposed LRD with Existing, and Permitted SHDs**

	Height (in storeys)	Number of Units	Density (units per hectare (net))	Plot Ratio (net)	Site Coverage (net)
Blackwood Square <sup>1</sup>	Eight	330	157		
Whitehaven	Five-Nine	255	198	2.06	29%
Northwood	Five-Eleven	268	196	2.04	55%
Swift Square	Four-Nine	192	169	1.76	44.37%

8.3.17. This comparison demonstrates that the proposed development is consistent with permitted developments in terms of height and site coverage, has a relatively low density, and has a relatively low plot ratio. This indicates that the proposed development does not have an unduly large mass and scale, does not comprise overdevelopment of the site, and is appropriate for a proposed apartment development located in the proximity of two-storey houses in an area where compact growth is to be provided in line with the planning framework.

#### Overlooking

8.3.18. The grounds of appeal outline concerns that overlooking would occur from the proposed fenestration, balconies, and first floor podium level communal open space to Cedarview, as well as between the proposed blocks themselves. The grounds of appeal considers that the Cedarview houses 'currently have complete privacy'. Although they do have some degree of privacy, as noted in the applicant's response to the grounds of appeal I do not consider the houses could be considered to have

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<sup>1</sup> I note that the grounds of appeal, page 6 and drawing no. 3PA-D3, state that Blackwood Square has a higher density than that proposed at Swift Square, at 190 units per hectare. It is unclear how this density was calculated. The Blackwood Square development contains 330 units on a 2.1 hectare site i.e. a density of 157 units per hectare. This is supported by pages 19, 27, 32, and 40 of the 'Planning Report & Statement of Consistency' and page 17 of the 'Architect's Design Statement', for example, which cite a density of 158 units per hectare. The reduction to 157uph is because the application originally proposed 331 units which was reduced to 330.



'complete' privacy given they are set back approximately seven metres from a circulation road and footpath.

- 8.3.19. The closest point between the built element of the proposed development and the Cedarview houses is 21.52 metres between Block 2 and No. 36 Cedarview. It is 23.53 metres between Block 3 and No. 32, and 33.76 metres between Block 1 and No. 40. As well as standard fenestration there are some side elevation balconies on above ground floor levels. On north facing ends there are louvred panels attached to reduce overlooking potential. I do not consider that these are unduly close distances taking into consideration the suburban and built-up nature of the area, that it is the front elevations of houses that are being faced and not any 'private' area, and the fact that development would primarily overlook a roadway, footpath, and publicly used areas giving appropriate surveillance of these areas.
- 8.3.20. The communal open space areas are set back further again from the opposing houses at Cedarview. There is a separation distance of approximately 32.7 metres from the communal space between Blocks 2 and 3 to No. 35 and a separation distance of approximately 35 metres from the communal space between Blocks 1 and 2 to No. 38. Bamboo planting is proposed along the northern boundaries of the communal open spaces to create a natural screen and prevent direct views to Cedarview. I do not consider these distances would result in undue overlooking impact.
- 8.3.21. Separation distances between blocks range between approximately 20 metres in the northern area of the site to approximately 35 metres in the southern area. I do not consider undue overlooking would occur within the development itself.

#### Verified Views

- 8.3.22. The grounds of appeal state that the verified views submitted with the application do not adequately illustrate the visual impact of the proposed development on Cedarview. As part of the applicant's response to the grounds of appeal an additional view was provided. This was taken from a position adjacent to no. 35 Cedarview. I consider that this additional view adequately illustrates the visual impact that would occur. It is a significant change to the existing view of a surface car park with the Swift Square office blocks further to the south.

## Conclusion

8.3.23. Having regard to the foregoing, while there is no doubt that the proposed development would result in a significant change to the area immediately south of Cedarview I consider that it is acceptable in terms of building height, design, mass and scale, and the potential for overlooking. The site is appropriately zoned for residential development and there is a requirement to develop the site at an appropriate scale to achieve compact growth in an area well served by public transport. The proposed development would be consistent with existing and permitted development in the vicinity while the step-down to four storeys acknowledges the presence of the two-storey houses at Cedarview. I consider that the proposed development is acceptable in terms of its height, design, and scale.

## **8.4. Traffic and Transport**

8.4.1. As with section 8.3 of this inspector's report, section 8.4 involves a number of separate elements which can be considered under a broader heading. It comprises the assessment of the traffic and transport related issues raised on foot of both the grounds of appeal and chapter 15 (Material Assets: Traffic and Transport) of the EIAR. The grounds of appeal outline the following concerns in relation to the planning application and decision by Fingal County Council.

### Traffic Survey

8.4.2. The grounds of appeal consider that the use of a survey from 12<sup>th</sup> February 2019, which was undertaken for the Blackwood Square development, is inadequate and queries the comprehensiveness of the Traffic & Transport Assessment (TTA) in the context of other development in the area.

8.4.3. I agree with the appellants in relation to the use of older data. It is regrettable that an up-to-date traffic survey was not undertaken for the proposed development instead of using data collected for a development that has since been constructed. An up-to-date survey would have resulted in a more robust baseline being available in terms of inclusion of traffic associated with Blackwood Square and any impact of working from home which has become a far more common occurrence since 2019 and which may have affected the baseline. In addition, data for only a single day was obtained rather than over several days which would have provided a more robust baseline. Further, it

does not appear that a comprehensive cumulative assessment has been provided. The 'Cumulative Impacts' section of the TTA comprises five lines and does not cite any other specific development. Regardless of any change in junction turning movements since 2019 it does not appear that the figures have taken into account Blackwood Square or other developments of scale which have been granted planning permission since 2019. In this regard I note that Whitehaven is to be accessed by way of the existing roadway serving the sports surgery clinic so traffic related to that development would not have a direct impact on the roundabout approx. 100 metres to the south west of the subject site that provides access to Swift Square, Blackwood Square, Cedarview etc.

- 8.4.4. The use of this older data was noted by the planning authority's Transportation Planning Section. Its report states 'subsequent to initial engagement on the proposed development the traffic data has become somewhat dated. However, considering the sites accessibility to public transport, both the existing relatively high level of bus services and the planned BusConnects services and future Metro, in this instance the Transport Planning section would except [sic] the TTA outcomes'. Therefore, the planning authority was aware that historic data was being used and considered it to be acceptable.
- 8.4.5. I do not consider that the TTA can be considered to be a robust document. Notwithstanding, it concludes that several of the junctions assessed in the wider area would experience queues and delays in 2025 (opening year) and 2040 (design year), whether the proposed development is operational or not, in the absence of junction upgrades or public transport improvements which may reduce the number of cars on the road. The TTA considers that 'the analysis indicates that traffic from the proposed development will not have significant impact on these junctions' in either year (page 41). I also note that the significant reduction in car parking spaces imposed by the planning authority, which I consider to be appropriate, would result in a reduction in traffic from the proposed development from that assumed in the TTA.
- 8.4.6. Having regard to the foregoing, and notwithstanding my concerns about the robustness of the TTA, I do not consider that a refusal of permission is warranted on this basis.

### Car Parking

- 8.4.7. The grounds of appeal outline concern over the reduction in car parking provision in the Council's decision and considers that local overspill of car parking will result.
- 8.4.8. The planning application sought 446 no. car parking spaces: 360 at basement, 74 at undercroft level, and 12 on-street spaces. The 446 no. spaces comprised 254 no. relocated existing surface car park office spaces, 180 residential spaces, and on-street visitor/car sharing spaces. The applicant acknowledged in the application e.g. page 356 of the EIAR and page 11 of the TTA, that the car parking provision was in excess of the Development Plan. The applicant's response to the grounds of appeal states that, while the original number of spaces proposed 'could have been potentially advantageous to the applicant from a commercial point of view', the Council's rationale is acknowledged and the applicant has no issue with the condition.
- 8.4.9. The Council's condition is set out in full in paragraph 4.1.1 of this inspector's report. It is based on the planning authority's Planning Transportation Section report which stated that the proposed car parking provision would be significantly in excess of the car parking standards and a condition should be applied to limit the number of spaces.
- 8.4.10. Car parking standards are set out in table 14.19 of the Development Plan. The site is considered to be in zone 1 which relates to developments within 800 metres of a BusConnects spine route, or 1600 metres of an existing or planned Luas/Dart/Metro Rail station or within an area covered by a Section 49 scheme, or in lands zoned Major Town Centre. One and two bedroom residential units have a maximum of 0.5 spaces. Given the standards outlined in table 14.19 I have no objection to the reduction in the number of residential car parking spaces from 180 no. to 96 no.
- 8.4.11. The grounds of appeal do not provide any evidence to support the claim that the reduction in car parking spaces would lead to overspill car parking in the local area, and Cedarview in particular. In this regard I note that these are not public roadways and there is clamping and towing signage in place. This would significantly reduce the likelihood of overspill car parking, if any, taking place at Cedarview.

### Cyclist Safety

- 8.4.12. The appellants are concerned that the car parking situation will create additional traffic congestion, generate a traffic hazard, and inhibit the use of bicycles.

8.4.13. These claims are not expanded upon or supported in the grounds of appeal. It is unclear how the use of bicycles would be adversely affected. Permeability through the site by foot or bicycle is provided and the wider area has reasonable cycling infrastructure. Increased bicycle parking has been conditioned in the Council decision. Having regard to the proposed site layout and the cycling infrastructure in the vicinity I do not consider there is any reasonable likelihood that these issues would occur.

Public Transport

8.4.14. The grounds of appeal refer to the distance of bus services from the site and express concern about the capacity of these bus services. It is stated that the site is ‘heavily reliant on car based travel as well as future transportation projects such as bus connects and the Metro Link which at present do not exist in the area’ (page 9).

8.4.15. Existing public transport in the vicinity comprises of buses. The bus routes serving the subject site are set out below (distances are measured using Google maps walking route from the site boundary and frequencies are based on Monday – Friday timetables).

**Table 4 – Public Bus Transport**

Route (operated by)	Location/Distance from Site	From	To	Frequency (Off / On Peak)
4 (Dublin Bus)	Ballymun Road / R108 – 650 metres	Harristown	Monkstown Avenue	Every 20 / 12 minutes
13 (Dublin Bus)	Ballymun Road / R108 – 650 metres	Harristown	Grange Castle	Every 15 / 12 minutes
16 (Dublin Bus)	Swords Road / R132 – 1.2km	Airport	Ballinteer	Every 15 / 10 minutes
27B (Dublin Bus)	Swords Road / R132 – 1.2km	Harristown	Eden Quay	Every 30 / 10 minutes
33 (Dublin Bus)	Swords Road / R132 – 1.2km	Balbriggan	Lower Abbey Street	Various Times

41 (Dublin Bus)	Swords Road / R132 – 1.2km	Swords Manor	Lower Abbey Street	Every 30 / 10 minutes (24 hours)
41B (Dublin Bus)	Swords Road / R132 – 1.2km	Rolestown	Lower Abbey Street	4/5 times per day
41C (Dublin Bus)	Swords Road / R132 – 1.2km	Swords Manor	Lower Abbey Street	Every 30 / 10 minutes
41D (Dublin Bus)	Swords Road / R132 – 1.2km	Swords Business Park	Lower Abbey Street	Twice a day
42D (Dublin Bus)	Ballymun Road / R108 – 650 metres	DCU	Portmarnock	Once a day
155 (Dublin Bus)	Ballymun Road / R108 – 650 metres	IKEA	Bray	Every 20 minutes
N6 (Go-Ahead Ireland)	Santry Avenue – 450 metres	Finglas Village	Naomh Barróg GAA	Every 12 minutes

8.4.16. In my opinion the subject site is reasonably well served by existing public transport. A number of frequent bus routes utilise the bus stop on Ballymun Road/R108 approximately 650 metres away. In particular, I note that this bus stop is very close to the departure points/termini at Harristown and IKEA for the 4, 13, and 155, and this is the first or second stop for these routes going into the city and the first with any notable residential development in the vicinity. Therefore, I do not foresee any significant capacity issue arising. The grounds of appeal state that discussions with local residents ‘indicates that buses are often at capacity when they reach or pass through the area at peak hours’. This has not been substantiated or supported by any appropriate evidence. In addition, although further away, there are a number of routes along the Swords Road, including a regular service to the airport. Having regard to the foregoing I consider the site is currently adequately served by frequent public transport and I have no concern about capacity.

- 8.4.17. I note that the proposed Northwood metro stop is located approximately 500 metres west of the subject site. In addition, another proposed public transport project, BusConnects, is to serve the area. The site would be served by the E spine with the E1 terminus being located approx. 230 metres from the site at the Gulliver's Retail Park roundabout. Therefore, should these two projects be implemented as planned, there would be substantial improvements for the area in terms of public transport.
- 8.4.18. I note the comments from the planning authority and the NTA in relation to public transport. The Fingal County Council planning report (page 26) refers to the site's accessibility to public transport and its 'relatively high level of bus services'. The NTA states that the site 'will be sufficiently served by public transport services'.

### Conclusion

- 8.4.19. Having regard to the foregoing, while an up-to-date TTA would have been much preferable to the document that was submitted, I do not consider it to be such a deficiency that a refusal is warranted. I consider that the reduction in car parking, as per the Fingal Development Plan 2023-2029 is appropriate, and the existing public transport services serving the site are adequate.

## **8.5. Impact on Property Values**

- 8.5.1. The grounds of appeal state that there will be a negative impact on the value of properties adjoining the site as a result of the overbearing nature of the proposed development, decrease in light, privacy, loss of residential amenity, and the potential for impact on the structural integrity of property.
- 8.5.2. While I note the concerns raised these issues have been addressed elsewhere in this planning report, either previously in this planning assessment or in the following EIA. Having regard to the MRE zoning of the lands, the existing and permitted development in the vicinity, the NPF requirement to achieve compact growth, and the overall assessment contained within this inspector's report, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that it would adversely affect the value of property in the vicinity.

## 8.6. Compliance with the Fingal Development Plan 2023-2029

- 8.6.1. I consider that the proposed development generally complies with the provisions of the Fingal Development Plan 2023-2029. The zoning objective is referenced in section 8.1 of this inspector's report. Other sections of the Plan are addressed in the Planning Assessment, EIA, or AA, as appropriate e.g. car parking standards.
- 8.6.2. Section 9, and in particular table 9-1, of the applicant's 'Planning Report & Statements of Consistency' document illustrates how the proposed development will be consistent with the policies and objectives set out in the 2023-2029 Plan. It references issues such as residential development, placemaking, urban design, and open space and landscaping.
- 8.6.3. Issues of open space were not raised in the grounds of appeal. Notwithstanding, section 9 states that public open space extends to 3,369sqm, approximately 17.56% of the gross site area and 29.67% of the net site area, which exceeds the Development Plan standard of 12% public open space provision for a brownfield site. In addition, 1,600sqm of communal open space is provided. Again, this exceeds the required 1,336sqm<sup>2</sup>. I consider open space provision in terms of quantity and quality is acceptable.
- 8.6.4. The document concludes by stating, inter alia, that section 9 of the Planning Report & Statements of Consistency document 'specifically addresses the requirements set out under section 32A of the Planning Act, with respect to LRD applications and demonstrates that the proposed development is consistent with the Fingal Development Plan 2023-2029'. I concur with this conclusion.

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<sup>2</sup> The applicant cites a communal open space requirement of 1,378sqm on page 73 of the Planning Report & Statements of Consistency document. With a requirement of 7sqm per two-bed unit and 5sqm per one-bed unit, as set out in the Apartment Guidelines, this is 1,336sqm. 1,336sqm was also cited as the required communal open space area in section 1 of the applicant's Housing Quality Assessment.



## 9.0 Environmental Impact Assessment (EIA)

### Introduction

- 9.1. This section of my inspector's report comprises an EIA of the proposed development. Some of these matters have already been referred to in the planning assessment, above. This section of the report should be read, where appropriate, in conjunction with the relevant sections of both the planning assessment and the AA.
- 9.2. The application was accompanied by an Environmental Impact Assessment Report (EIAR) prepared by RPS Group Ltd., dated July 2023. The EIAR comprises a Non-Technical Summary (Volume 1), the Main Text (Volume 2), and Appendices (Volume 3).
- 9.3. The applicant, on page 6 of the EIAR, acknowledges that the proposed development, in isolation, does not exceed the EIA threshold requiring mandatory EIA (500 dwelling units). I also note that it does not breach the site area threshold set out in Schedule 5 Part 2 Paragraph 10(b)(iv) of the Planning & Development Regulations, 2001 (as amended). However, the proposed development, in addition to the adjacent Blackwood Square and Whitehaven SHDs, would cumulatively exceed the 500-unit threshold. The applicant determined that an EIA should therefore be undertaken. I agree with the applicant that, given the extent of recently constructed and permitted residential development in the immediate vicinity of the site, the in-combination effect would breach the relevant EIA threshold and the preparation of an EIAR is warranted.
- 9.4. The application falls under the requirements of Directive 2014/52/EU. As per article 3(1) the EIAR identifies, describes, and assesses the direct and indirect significant effects of the project on the following factors: (a) population and human health, (b) biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC, (c) land, soil, water, air and climate, (d) material assets, cultural heritage and the landscape, and (e) the interaction between the factors referred to in points (a) to (d). Article 3(2) requires that the effects referred to in paragraph 1 on the factors set out shall include the expected effects deriving from the vulnerability of the project to risks of major accidents and/or disasters that are relevant to the project concerned. Though no specific major accidents and/or disasters

chapter is provided, the issue is addressed, in particular in chapter 17 (Population and Human Health) of the EIAR.

- 9.5. I have carried out an examination of the information presented by the applicant. I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality, and that the information contained in the EIAR is up to date, adequately identifies and describes the direct, indirect, and cumulative effects of the proposed development on the environment, and complies with article 94 of the Planning & Development Regulations, 2001 (as amended).
- 9.6. The four environmental factor groups (a) to (d) set out in section 9.4, above, are addressed within this EIA. Both population and human health (group a) and biodiversity (b) have their own individual chapters; chapters 17 and 6 respectively. The factors outlined in (c) are addressed individually/in combination in chapters 7, 8, 9, 10, 11, 12, and 18, and the factors outlined in (d) are addressed in chapters 13, 14, 15, and 16. The interactions of the foregoing are considered in chapter 19.
- 9.7. Cumulative effects are particularly relevant to this application, given that the proposed development, in isolation, is significantly sub-threshold in terms of the number of units proposed. Section 5.7 of the EIAR outlines the projects that have been included in considering the cumulative impacts. They are the Blackwood Square, Whitehaven, and Northwood SHDs, a substantial mixed-use development permitted by the planning authority (F18A/0421 and F18A/0438) in 2019 approx. 200 metres to the south west which appears to be currently under construction, and development at the sports surgery clinic adjacent to the east of Whitehaven. Further to an inspection of both the Board's and planning authority's websites on 4<sup>th</sup> December 2023, I am satisfied that no other development of significance has been omitted from inclusion and no notable application has recently been applied for.
- 9.8. Chapters 1 to 5 of the EIAR are summarised in paragraphs 9.9-9.13 of this inspector's report. The subsequent paragraphs address each of the environmental factors. The content of each EIAR chapter is summarised. The 'Assessment & Conclusion' section at the end of each chapter summary is my assessment and conclusion of that particular environmental factor. This section of the report should be read, where necessary, in conjunction with the planning assessment and AA.

- 9.9. Chapter 1 (Introduction) of the EIAR contains, inter alia, the legislative context of the proposed development, the content of the EIAR, and the structure and format of, and contributors to, the EIAR.
- 9.10. A summary of the consultation and project scoping that was carried out is outlined in chapter 2. It refers to pre-application meetings with the planning authority and sets out a summary of the response received from consultees.
- 9.11. Chapter 3 (Planning Policy Context) summarises the relevant national, regional, and Council-level planning framework.
- 9.12. Chapter 4 (Alternatives Considered) outlines, inter alia, alternative layouts and designs. Consideration of alternative layouts is effectively restricted to the wider original planning permission/masterplan land and how development on this has changed through subsequent alterations and amendments. It does not appear that any layout other than the proposed layout i.e. three blocks oriented north-south, was robustly considered. Alternative designs considered include a 203 unit development, comprising one, two, and three bedroom apartments in three blocks ranging in height from five storeys to the north to nine storeys to the south. The design as currently proposed is the original proposal refined during the pre-application process with the planning authority.
- 9.13. Chapter 5 (Project Description) summarises the site location including land uses in the vicinity, the road network, pedestrian and cycling infrastructure, and existing, permitted, and proposed public transport. Comments are also briefly provided on a substantial number of relevant aspects of the proposed development e.g. parking provision, external finishes, public and communal open space, services and utilities, lighting, waste management, and construction management strategy. The construction phase is expected to take approx. 24 months.

## **Chapter 6 – Biodiversity**

- 9.14. A desk study was undertaken to collate information on the local ecological environment and field surveys were undertaken on 26<sup>th</sup> August 2021 and the 18<sup>th</sup> January and 14<sup>th</sup> April 2023. Impact assessment is only undertaken of key ecological receptors (KERs). These are features deemed of local importance (higher value) or greater.

- 9.15. Surface waters from the proposed development ultimately discharge to Dublin Bay. The nearest designated area of natural heritage is Santry Demesne pNHA approx. 180 metres to the north of the development site. The nearest European site is South Dublin Bay and River Tolka Estuary SPA approx. 5.1km to the south east. The development is hydrologically connected to these sites via the Santry River. No notable flora or non-native invasive plant species were recorded. Given the artificial nature of the site there is no Annex I habitat. Buildings and artificial surfaces account for the significant majority of the site surface. Other areas include spoil and bare ground, amenity grassland, and (mixed) broadleaved woodland. KER habitats are deemed to be (mixed) broadleaved woodland, mosaic of ornamental/non-native shrub and hedgerow, and treelines. There were no signs of badger, stoat, or otter and they were not considered further. Small mammals e.g. hedgehog, have suitable habitat available and therefore small mammals are considered to be a KER. Section 6.4.1.4 states that small mammals include stoat. Although the development site is of low suitability for foraging and roosting bats they are included as a KER. Local bird populations are also included as KERs. No amphibians, reptiles, or invertebrates were recorded and were not considered further.
- 9.16. Table 6.5 sets out the KERs. The impact on these is considered in terms of the construction and operational phases. There is not considered to be any potential for impact on any European site or on Santry Demesne pNHA. It is proposed to remove approx. 260sqm of woodland habitat to accommodate the temporary car parking area, approx. 21 metres of hedgerow along the western development site boundary, and 50 trees. The loss of this habitat is, however, unlikely to affect the conservation status of small mammals. Though habitat removal will result in loss of potential ecological connectivity and foraging habitat for bats it will not affect the local bat population. Lighting, however, may result in disturbance or displacement. Vegetation clearance could result in bird mortality and habitat loss would reduce foraging and nesting habitats. Birds could temporarily be disturbed or displaced during the construction phase. During the operational phase there are not likely to be significant effects on terrestrial mammals or bat activity. It is predicted that there will be a significant impact on birds at a local scale until landscaping mitigation measures become established.
- 9.17. Construction and operational phase mitigation measures are set out in section 6.5 of the EIAR. A CEMP summarises the environmental management strategy that will be

implemented during the construction phase. A number of measures to be included in the CEMP are set out. Protective barriers for trees to be retained on site and bat/bird-related measures relating to tree and hedgerow removal are outlined. Sustainable drainage system (SuDS) measures will be implemented during the operational phase. Landscaping mitigation includes use of native species, pollinator friendly species, a 194sqm 'micro woodland', 420 metres of linear hedgerows, 160 trees, and 1,572sqm wildflower meadow areas. Baffled lighting columns to minimise light spill and provision of bat boxes are proposed for bats and nest boxes are proposed for birds.

- 9.18. The applicant notes the potential for the proposed development to be under construction at the same time as other developments in the vicinity, with the potential for cumulative impacts to arise to, for example, water quality and disturbance to fauna. Permitted and future projects have been and will be subject to consents which include compliance with various requirements e.g. EIA and Development Plan objectives. As the proposed development alone will not adversely affect any KER, no in-combination impact is expected given full implementation of mitigation.
- 9.19. There would be significant residual impacts on KER habitats at a local level until the replacement hedgerows, trees, and micro woodland mature. There would be residual impacts on bats and birds.
- 9.20. The conclusion of the Biodiversity chapter states that 'Considering the elements included within the design of the proposed development ... and the implementation of the mitigation measures proposed ... to avoid or minimise the effects of the proposed development on the receiving ecological environment, no significant residual ecological effects are predicted'.
- 9.21. Assessment and Conclusion – I have considered this chapter of the EIAR, the submissions on file, and all supplementary information. There is an overlap between the biodiversity chapter and other EIAR chapters such as water and hydrology, and there is also an overlap with AA. AA-related issues are separately considered in section 10 of this inspector's report.
- 9.22. It appears that there has been a change in habitat cover in the period between the submission of the EIAR and my site visit. Section 6.3.3.2 of the EIAR illustrates and describes the northern area of the proposed temporary car park as comprising both buildings and artificial surfaces and spoil and bare ground. However, on my inspection,

while there is a circulation road and a large turning circle at its cul-de-sac, the area immediately north and east of this had been cleared, rolled, and seeded with grass. The area was not in the condition illustrated on plate 6.2 of the EIAR. Notwithstanding, I do not consider that this is a significant concern and does not render the overall EIAR out-of-date.

- 9.23. The Department of Housing, Local Government and Heritage report recommended a condition that the tree line along the northern boundary of the proposed temporary car park be retained intact. Inter alia, a condition was also recommended by the Department relating to bat-related lighting. Both of these were included as conditions by the planning authority. The applicant has not indicated that the retention of the tree line would pose a difficulty in accommodating the required number of car parking spaces. Given the inclusion of this tree line as a KER and the fact that it only intrudes a maximum of three metres into the site I agree with the Department and the local authority that this tree line should be retained and protected during the construction phase.
- 9.24. The development site itself primarily comprises surface car parking. As such it is not an area of significant biodiversity value, notwithstanding limited areas of hedgerow and trees. I consider that the applicant's consideration of the proposed development in terms of biodiversity is robust and appropriately detailed and I do not consider that the proposed development would have a significant impact on biodiversity, either by itself or in-combination with other projects.
- 9.25. Overall, I am satisfied that the potential for biodiversity impacts can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts on biodiversity.

## **Chapter 7 – Lands, Soils and Hydrogeology**

- 9.26. A desktop study was carried out and site-specific site investigations to establish subsurface conditions were carried out in July 2022 including trial pits, cable percussion boreholes, and geotechnical and environmental laboratory testing.
- 9.27. The site is underlain by the Lucan Formation which comprises dark shaley limestone known as Calp. It is overlain by low-permeability limestone-derived glacial tills known

as Dublin Boulder Clay. Quaternary deposits are outlined in section 7.2.3.2 of the EIAR. There are similar ground conditions as encountered at Blackwood Square and Whitehaven beneath the made ground and is suitable for building foundations. The geological/hydrogeological environment is 'passive'. Passive geological environments are areas of thick low permeability subsoils.

- 9.28. The aquifer classification at this location is 'Li'; locally important aquifer moderately productive only in local zones. The underlying groundwater body (Dublin Groundwater Body) has a good water quality status and it is not considered to be at risk of deterioration. Boreholes did not encounter any groundwater inflows and none were noted during excavations associated with Blackwood Square or Bridgefield. Groundwater vulnerability is classified as being low. Soil will be excavated to a depth of approx. 4 metres below ground level to build the underground car park. No dewatering will be required.
- 9.29. Potential construction phase impacts include excavation of subsoils to a depth of approximately 4 metres to accommodate the underground car park and foundations. It will be boulder clay with no rock excavation. The soil is inert and will be appropriately disposed of. It will not be re-used on site. Another potential impact is the risk of groundwater contamination through leakage or spillage, though given the thickness and low permeability of the boulder clay this is not considered to be a particular concern. No operational phase impact of note is outlined.
- 9.30. No specific mitigation measures are proposed; however a CEMP will be prepared which would include standard construction-phase mitigation measures. No cumulative impact is identified, and the residual impact is considered to be neutral.
- 9.31. Assessment and Conclusion – I have considered this chapter of the EIAR and all supplementary information. Issues related to land, soils, and hydrogeology were not matters raised in the grounds of appeal.
- 9.32. In my opinion it is the excavation required for the underground car park and the buildings foundations that is the main issue in relation to land, soils, and hydrogeology. I note the results of the site-specific investigations in this regard and the previous results and actual construction experience with Blackwood Square, Bridgefield, and Whitehaven which indicates that there would not be any particular concern in this regard.

- 9.33. The EIAR does not specify the amount of material to be excavated and exported off site. Although the reduction in car parking provision as conditioned by the planning authority's decision may impact on the extent of excavation required the building foundations also need to be provided for. Condition 11 of the planning authority's decision requires submission of a Construction and Demolition Resource Waste Management Plan as recommended by its Environment Section (Waste Enforcement and Regulation). I consider that a similar condition should be included by the Board should permission be granted.
- 9.34. I note section 7.3.9.5 of the EIAR states that the groundwater status of the Dublin groundwater body is 'good'. This is as per the Water Framework Directive (WFD) status 2016-2021. The EIAR states that the WFD risk is that it is expected to achieve good status. However, the groundwater body risk, as per the mapping on the EPA website as accessed on 4<sup>th</sup> December 2023, states that the risk status is 'review' i.e. additional information is needed to determine its status before resources and more targeted measures are initiated or measures have been undertaken, for example a wastewater treatment plant upgrade, but the outcome hasn't yet been measured/monitored. Notwithstanding, given the detail set out in the chapter I do not consider that the proposed development is likely to have any adverse effect on the WFD status of the groundwater body.
- 9.35. Having regard to the foregoing I am satisfied that the potential for impacts on lands, soil, and hydrogeology can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts on lands, soils, and hydrogeology.

## **Chapter 8 – Water and Hydrology**

- 9.36. The site is located in the upper catchment of the Santry River. This is north of the site and flows in an easterly direction discharging to Dublin Bay at North Bull Island. Its WFD status is 'poor' and it is 'at risk' of not achieving good status. The site is located in a Flood Zone C area i.e. the probability of flooding is low. The floodmaps.ie website does not have any record of historic flooding at the site. Water supply and wastewater disposal will be by the public systems. The proposed surface water drainage system



will be designed to incorporate SuDS e.g. permeable paving and green roofs, to limit potential pollutants in runoff, and will be attenuated to greenfield runoff rates by the existing attenuation tank prior to discharge to the Santry River.

- 9.37. During the construction phase, in the absence of mitigation, the applicant considers that there is slight potential for flood risk to the surrounding area. There is the potential for impacts to water quality through, for example, an increase in sediment concentration in watercourses, hydrocarbons and other chemicals, or sanitary waste, though the site is flat which would restrict direct discharge. There are no notable operational phase impacts of concern.
- 9.38. With regard to construction phase mitigation measures the applicant refers to the preparation of a site-specific CEMP, Construction Management Plan, and Construction Waste Management Plan, an outline or draft version of each of which was submitted with the planning application. A number of water quality related measures are identified. No particular operational phase mitigation is proposed.
- 9.39. Stormwater will discharge to the existing attenuation tank north of Gulliver's Retail Park as does stormwater from Blackwood Square, Cedarview, and Bridgefield. Stormwater from Whitehaven has a different surface water path. No cumulative impacts are expected and the residual impact on hydrology is predicted to be imperceptible.
- 9.40. Assessment and Conclusion – I have considered this chapter of the EIAR, the submissions on file, and all supplementary information. There is an overlap between the water and hydrology chapter and other EIAR chapters such as biodiversity, and there is also an overlap with AA given that there are European sites downstream of the Santry River. AA-related issues are separately considered in section 10 of this inspector's report.
- 9.41. The submission received from the Department of Housing, Local Government and Heritage references surface water runoff and the potential impact of this on flora and fauna and the qualifying interests (QIs) and special conservation interests (SCIs) of downstream European sites. Although it appears that the Department has misunderstood the surface water discharge method proposed i.e. it is Whitehaven that is to discharge to an existing attenuation pond in the east side of Santry Demesne, and not the proposed development, notwithstanding, the comments that it is 'essential'

that appropriate measures are adopted to prevent the mobilisation of pollutants into surface water runoff are noted. The Department states that implementation of the full suite of mitigation measures and effective maintenance of SuDS should ensure that it will not result in adverse effects on biota or European sites. This is further addressed in section 10 of this inspector's report.

- 9.42. The main development site area is currently dominated by impermeable surfacing. The provision, in the proposed development, of SuDS features and soft landscaping would likely reduce the discharge to the attenuation tank. The applicant has not given any indication that there is a capacity issue with this tank. Subject to standard surface water management measures relating to the runoff rate, provision of hydrocarbon interceptors etc. I do not consider that there is any concern in relation to the proposed surface water system.
- 9.43. In the description of the baseline environment the WFD status for the Santry River is 'poor' and it is 'at risk' of not achieving 'good' status. This has not changed since the chapter was prepared. I note that the EPA website indicates the presence of a watercourse west of the subject site, between the site and Blackwood Square. This is illustrated on figure 8-2 of the EIAR. This is identified, on page 12 of the applicant's AA screening report as 'The highly modified and culverted Ballymun stream ... located c.28m to the west'. Its 2016-2021 WFD status is 'poor' and it is classified as 'at risk' of not achieving good status, like the Santry River. As it is culverted there is no indication of it on site. Given the distance, the absence of any works close to it, and its proximity to Blackwood Square, I do not consider this to be a concern.
- 9.44. I note that the planning authority's Water Services Department stated that the proposed development was acceptable subject to conditions.
- 9.45. Overall, I am satisfied that the potential for impacts on water and hydrology can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts on water and hydrology.

## Chapter 9 – Air Quality

- 9.46. Limit values for dust, nitrogen dioxide (NO<sub>2</sub>), and particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>)<sup>3</sup> are set out. Baseline meteorological data (which can affect dust through wind or rainfall), air quality, and the sensitivity of the receiving environment is described in section 9.3. The site is in Zone A (Dublin) of the four air quality zones defined by the Environmental Protection Agency (EPA). Further to NO<sub>2</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub> monitoring ‘the air quality in the Dublin area is generally good’. As there are approximately 40 residential units within 50 metres of the main works area the receptor sensitivity to dust soiling is ‘medium’. The sensitivity of the area to human health impacts (PM<sub>10</sub>) is considered ‘low’.
- 9.47. Construction phase impacts are primarily in terms of air quality through construction dust emissions from demolition/earthworks, construction, and trackout (movement of heavy vehicles). All three elements can be classified as ‘large’ in terms of dust emission magnitude. They result in a medium risk in terms of dust soiling and a low risk in terms of the potential impact on human health. Construction stage traffic will have ‘an imperceptible, direct, neutral, and short-term impact on air quality’. No notable operational phase impacts are predicted.
- 9.48. Construction phase mitigation measures are set out in section 9.5.1 of the EIAR and address matters of site management, preparing and maintaining the site, operating vehicles/machinery and sustainable travel, operations, waste management, and measures specific to earthworks, construction, and trackout. No operational phase mitigation is proposed.
- 9.49. Cumulative construction dust impacts can occur when construction coincides with the construction phase of another development within 350 metres. The applicant states that there are no developments within 350 metres that have the potential for cumulative construction dust impacts. However, if there were, ‘provided the mitigation measures outlined ... are in place for the duration of the construction phase, cumulative dust related impacts to nearby sensitive receptors are not predicted to be significant’. Cumulative operational stage traffic impact on air quality is imperceptible.

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<sup>3</sup> Particles are defined by their diameter for air quality regulatory purposes. PM<sub>10</sub> has a diameter of 10 microns or less. PM<sub>2.5</sub> has a diameter of 2.5 microns or less.

- 9.50. The residual impact on both air quality and human health during construction is predicted to be imperceptible, as it is also predicted to be at the operational stage.
- 9.51. Assessment and Conclusion – I have considered this chapter of the EIAR and all supplementary information. There is a slight overlap between this chapter and chapter 17 on population and human health, but it is predicted that there would be no notable impact on human health in relation to air quality. Issues related to air quality or other construction nuisances were not matters raised in the grounds of appeal.
- 9.52. The proposed development is a standard construction project in an urban area. It is similar in scale to Blackwood Square and Bridgefield which have recently been constructed in the vicinity. In Section 9.6.1 of the EIAR the applicant states that there are no developments within 350 metres of the site that have the potential for cumulative construction dust impacts on air quality. I note that Whitehaven has been permitted immediately adjacent to the east/south east of the proposed main development site and Northwood has been permitted approximately 100 metres to the south west. I also note however that the EIAR predicts that should the proposed mitigation measures be implemented, cumulative dust related impacts to nearby sensitive receptors are not predicted to be significant.
- 9.53. Dust is a standard construction phase nuisance and is unavoidable. However, I consider that the recommended mitigation measures are standard, well-proven, good practice measures which are capable of being successfully implemented.
- 9.54. Having regard to the foregoing, I am satisfied that the potential for air quality impacts can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts on air quality.

## **Chapter 10 – Microclimate: Sunlight and Daylight**

- 9.55. The chapter assesses the impact of the proposed development on sunlight and daylight access to lands outside the application site<sup>4</sup>. ‘Site layout planning for daylight and sunlight; A guide to good practice’ published by the Building Research

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<sup>4</sup> Sunlight and daylight access within the application site is assessed in ‘Assessment of Sunlight & Daylight Within the Proposed Development’ document, prepared by ARC Architectural Consultants Ltd., dated April 2023, and separately submitted as part of the planning application.

Establishment (the BRE Guide) is the document Irish practitioners tend to refer to and has been referenced in the preparation of the chapter.

### *Daylight Access Impact Analysis*

- 9.56. Daylight is defined as ‘combined skylight and sunlight’. Section 10.3 of the EIAR assesses the impact of the proposed development on daylight reaching defined openings in existing buildings when the weather is overcast i.e. it comprises the Daylight Access Impact Analysis. Applying relevant BRE Guide factors resulted in a representative sample of rooms and windows in Cedarview and Blackwood Square being identified for detailed quantitative analysis. A number of windows in the Swift Square office blocks were also assessed. The Vertical Sky Component<sup>5</sup> at each sample window was assessed.
- 9.57. The operational phase impact is the most relevant phase for assessment. The analysis ‘indicates a potential for the proposed development to result in “imperceptible” to “slight” impacts on daylight access to opposing houses at Cedarview (e.g. Nos. 31-42 Cedarview), with a potential for “slight” to “moderate” impacts on daylight access within a small number of rooms at No. 33 Cedarview. The potential for the proposed development to result in impacts on daylight access within other houses at Cedarview is low with potential impacts on daylight access within dwellings ranging from none to “imperceptible”’ (page 168). In Blackwood Square ‘imperceptible’ to ‘moderate’ impacts on daylight are likely to result and it ‘is unlikely to result in material impacts on daylight access within most units at Blackwood Square within the meaning of the BRE Guide’ (page 168). The impact is likely to be ‘imperceptible’ to ‘slight’ to Block 1 (the western block) and ‘imperceptible’ to ‘moderate’ to Block 2 (the eastern block) of Swift Square.
- 9.58. The applicant illustrates the windows assessed in the analysis in figures 10-2 and 10-3 of the EIAR and sets out a detailed breakdown of the results in table 10.1.
- 9.59. The applicant considers that the scope for mitigation is limited.
- 9.60. In terms of cumulative impact the applicant has assessed the potential for the proposed development, in combination with the permitted Whitehaven SHD, to result in cumulative impacts on daylight access within existing buildings. The analysis

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<sup>5</sup> A measure of the amount of light reaching a window

indicates that there is potential for additional cumulative impacts to Cedarview and Swift Square. 'In most cases, while ARC's analysis indicated that the proposed development, in combination with (Whitehaven) would result in a greater reduction in Vertical Sky Component to some windows in existing buildings, the further reduction is likely to be so minor that it would not change the way the impact to that building was assessed and categorised in Section 10.3.5.3 above. ARC's analysis indicated that the greatest potential for cumulative impacts on daylight access within residences arises in relation to a small number of houses at Cedarview closest to the application site and the adjoining site to the east, although any impacts identified are likely to fall within the range of minor impacts. Specifically, there is a potential for the proposed development, in combination with the permitted Whitehaven development, to result in an "imperceptible" to "not significant" impact on the kitchen at No. 31 Cedarview and "imperceptible" to "slight" impact on a first floor bedroom at No. 40 Cedarview and on a first floor bedroom at No. 44 Cedarview' (pages 181-182). Swift Square Block 2 is also potentially affected by the cumulative impact with impacts from 'imperceptible' to 'moderate'.

- 9.61. A detailed analysis of the in-combination impact on daylight access is provided in table 10.2 of the EIAR. As no mitigation is proposed the residual cumulative impact is likely to be as set out in table 10.2.

#### *Sunlight Access Impact Analysis*

- 9.62. Sunlight is not defined in the BRE Guide but the International Commission on Illumination<sup>6</sup> defines it 'as meaning the "part of direct solar radiation capable of causing a visual sensation"' (page 192). Section 10.4 of the EIAR assesses the impact of the proposed development on the rays of the sun reaching defined openings in existing buildings and reaching neighbouring gardens or amenity spaces i.e. the Sunlight Access Impact Analysis. Applying relevant BRE Guide factors resulted in a representative sample of rooms and windows in Cedarview and Blackwood Square being identified for detailed quantitative analysis. A number of windows in the Swift Square office blocks were also assessed. Digital shadow modelling was prepared which also calculated the proportion of sample gardens in sunlight.

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<sup>6</sup> Also known as the Commission Internationale de L'Éclairage (CIE)

- 9.63. The operational phase impact is the most relevant phase for assessment. As the site is vacant it is inevitable that development will result in a change in the shadow environment.
- 9.64. 'During mornings throughout the year, the proposed development is likely to result in additional overshadowing of lands to the west ... Blackwood Square, has been recently constructed to the west and north of a dense band of mature trees protected under a Tree Protection Order - these trees intervene between the development now proposed and the eastern façade ... the effect of shadows cast by existing landscaping was not included in this model. Shadows cast by the proposed development are likely to result in little or no impact on most units within this recently constructed development. However, if the shadows cast by the existing trees were not considered, the proposed development has the potential to result in a "slight" to "moderate" impact on sunlight access to those east-facing windows in close proximity to the proposed new structures, with a potential for "moderate" to "very significant" impacts on a small number of windows in proximity to the proposed new structures and on nearby set back bedroom windows' (page 198).
- 9.65. 'To the north, shadows cast by the proposed development are likely to extend to opposing houses at the residential estate as Cedarview over the course of the day during the autumn, winter and spring months. There is a potential for shadows cast by the proposed development, in combination with envisaged development on the adjoining ... site, to result in "imperceptible" to "slight" impacts on sunlight access on rooms within opposing dwelling, with a potential for an "imperceptible" to "moderate" impact on sunlight access within a bedroom at No. 31 Cedarview ... the proposed development is likely to have little or no material impact on sunlight access to the rear gardens of opposing houses at Cedarview within the meaning of the BRE Guide. Moreover, During the summer months (May, June, July), shadows cast by the proposed development are not likely to result in a material impact on sunlight access to Cedarview' [sic] (page 198).
- 9.66. Sunlight is likely to be reduced to the northern facades of the office blocks in the early morning and late evening in summer however these open plan offices will continue to receive sunlight from other unaffected windows, so the potential impact is likely to range from 'imperceptible' to 'slight'. To the east, the proposed development is likely to cast shadows during the afternoons and evenings.

- 9.67. The applicant illustrates the windows and gardens assessed in the analysis in figures 10-5, 10-6, and 10-7 of the EIAR and sets out a detailed breakdown of the results in tables 10.3 and 10.4.
- 9.68. The applicant considers that the scope for mitigation is limited.
- 9.69. In terms of cumulative impact the applicant has assessed the potential for the proposed development, in combination with the permitted Whitehaven SHD, to result in cumulative impacts on sunlight access to surrounding lands. They have ‘the potential to result in some additional impacts on sunlight access to some neighbouring residential lands at Cedarview (and, in particular, those closest to the boundaries of the application site). In most cases... the further reduction is likely to be so minor that it would not change the way the impact to that building was assessed and categorised ... the greatest potential for cumulative impacts on sunlight access arises in relation to a small number of houses at Cedarview closest to the application site and the adjoining Whitehaven site to the east, although most impacts identified are likely to fall within the range of minor impacts. For example, the cumulative effect of the proposed development, in combination with the permitted Whitehaven development, is likely to result in an “imperceptible” to “slight” impact on sunlight access to the living room at No. 32 Cedarview, an “imperceptible” to “not significant” impact on a bedroom at No. 31 Cedarview, an “imperceptible” to “slight” impact on the kitchen of No. 42 Cedarview, and “imperceptible” to “not significant” impacts on a number of the bedrooms at No. 42 Cedarview; (pages 214-215).
- 9.70. A detailed analysis of the in-combination impact on sunlight access is provided in table 10.5 of the EIAR. As no mitigation is proposed the residual cumulative impact is likely to be as set out in tables 10.5 and 10.6.
- 9.71. Assessment and Conclusion – I have considered this chapter of the EIAR, the observations on file, and all supplementary information. Issues of daylight and sunlight are only very briefly touched upon in the grounds of appeal e.g. efficiency of existing solar panels, but the issue does not form a significant part of the grounds.
- 9.72. I am satisfied that the reliance on the BRE Guide in the chapter is appropriate and that the author of the chapter is a competent expert. The inclusion of Whitehaven as an in-combination development that could affect existing built development is very useful to ensure a robust assessment can be made of the overall impact.



- 9.73. In terms of daylight access for Cedarview, 86 no. windows serving 42 no. rooms in 12 no. houses were examined. Impacts of the proposed development ranged from imperceptible (21 no. rooms) to slight to moderate (one first floor front elevation bedroom at No. 33). For Blackwood Square, 4 no. windows serving 3 no. rooms in 2 no. ground floor apartments were examined. Impacts ranged from imperceptible to slight to slight. For Swift Square office blocks, 60 no. windows across 14 no. areas on all floors were examined. Impacts ranged from imperceptible (9 no. areas) to imperceptible to moderate (the reception areas to both blocks).
- 9.74. The cumulative daylight assessment impacts at Cedarview ranged from imperceptible (20 no. rooms) to slight to moderate (the same first floor bedroom at No. 33). There was no change to impact on Blackwood Square. For Swift Square office blocks impacts ranged from imperceptible (6 no. areas) to imperceptible to moderate (4 no. areas; the reception area at block 1 and floor 00b, the reception area, and the first floor at block 2).
- 9.75. In terms of sunlight access for Cedarview impacts ranged from none (a first floor rear elevation bedroom window at No. 42) to imperceptible to moderate (a rear elevation bedroom window at No. 31). For Blackwood Square, the number of windows tested for sunlight was increased to 15 no. windows serving 11 no. ground floor rooms. Impacts ranged from imperceptible to not significant (4 no. rooms) to slight to very significant for one bedroom and from moderate to very significant for a kitchen/living/dining area. These two windows are in different apartments. For Swift Square office blocks, impacts ranged from none (3 no. areas) to imperceptible to slight (one area; the reception to block 2). There was no impact on sunlight access for any rear garden space for house nos. 29-41.
- 9.76. The cumulative sunlight assessment impacts at Cedarview ranged from imperceptible (a bedroom window to No. 42) to imperceptible to moderate (a bedroom window to No. 31). The significant majority of rooms, 34 no., had impacts of imperceptible to not significant. There is no change for Blackwood Square or Swift Square office blocks from the previous paragraph in terms of cumulative impact. There was no cumulative impact on sunlight access for any rear garden space for house nos. 29-41.
- 9.77. Throughout the analysis the significance of effects as a result of the proposed development, either by itself or in combination with Whitehaven, is, generally, in the

worst cases, described as 'moderate'. A 'moderate' effect, as per the EPA's 'Guidelines on the Information to be Contained in Environmental Impact Assessment Reports' which the applicant references, is defined as 'An effect that alters the character of the environment in a manner that is consistent with existing and emerging baseline trends'. Having regard to appendix H of the BRE Guide the applicant describes a moderate effect as bringing about a change in the daylight environment in an existing building/the shadow environment of the area consistent with a pattern of change that is occurring or is likely to occur. Having regard to the relatively recent construction of Bridgefield and Blackwood Square, and the permission for Whitehaven, I agree that this is a pattern of change that is occurring. However, I note that the subject site appears to be the last undeveloped site/area in the vicinity that could impact Cedarview in terms of daylight or sunlight access.

- 9.78. There is one localised area where a 'very significant' impact may occur at Blackwood Square. As per the EPA Guidelines this is 'An effect which, by its character, magnitude, duration or intensity, significantly alters most of a sensitive aspect of the environment'. As noted on my site inspection there is a substantial mature tree line (which it is stated is subject of a Tree Preservation Order) along the eastern façade of Blackwood Square which already has a significant shadowing impact on the lower floor units along this façade in the absence of any development on the subject site. The applicant notes that the analysis excludes the effect of shadows cast by these mature trees in line with the provisions of the BRE Guide. I note the conclusion of this chapter, in relation to the existing tree line, that 'as a result of this omission, the potential impact of the proposed development on the eastern façade of the Blackwood Square development (particularly in terms of the impact on sunlight access) described in this EIAR Chapter is greater than would actually be the case'.
- 9.79. Given the undeveloped and zoned nature of the site it is inevitable that any development of note would have an impact of some degree on adjoining structures and properties. Having regard to the results of the submitted daylight and sunlight access impact analysis I consider that the impacts that can be expected are not such that the proposed development should be considered unduly adverse in terms of daylight and sunlight access and I consider the proposed development is acceptable in this regard.

- 9.80. I note that there is a minor typographical error in section 10.3.4 of the EIAR. Table 3.3 of the EPA Guidelines, which is referenced in paragraph 9.77, above, is cited. The correct table is table 3.4.
- 9.81. While the application outlines the impact of the proposed development and Whitehaven on other buildings/properties it does not set out the potential impact of existing buildings plus the proposed development on Whitehaven. Notwithstanding, I note the respective footprints/orientations (the proposed development is north west of Whitehaven), the separation distances (approx. 35 metres between proposed Block 3 and permitted Block 5) , the set backs proposed at the fourth and eighth floors in the proposed development, and the sun path. Having regard to the foregoing, while there may be a shadowing impact on Whitehaven in the evening period, I would not expect it to be significant.

*Daylight and Sunlight for Future Occupants*

- 9.82. An 'Assessment of Sunlight and Daylight Access Within the Proposed Development' was also submitted with the planning application. A technical appendix outlines the relevant recommendations of technical and guidance documents. The assessment methodology for daylight access (using the CIE standard overcast sky distribution model to calculate daylight levels in a room) and sunlight access (locations that can and cannot receive two or more hours of sunlight on March 21<sup>st</sup>) is outlined. A 3D digital model, including Whitehaven and existing buildings, was developed for daylight and sunlight access. Existing and proposed landscaping was not included.
- 9.83. For the assessment of daylight access all habitable rooms on the lowest two levels of accommodation were analysed, as illustrated on figures 2.1 and 2.2. Results are set out in table 2.1 under three different guidance standards: the second edition of the BRE Guide (2011), IS EN 17037, and the third edition of the BRE Guide (2022). This involves 113 no. rooms in 39 no. apartments. Only one room fails to achieve BRE Guide 2011 and 2022 recommendations. In both cases it is the same room; a ground floor kitchen/living/dining room on the south east corner of block 3 (no. 3).
- 9.84. Under IS EN 17037 this same room is also the only room which fails to achieve the minimum daylight factor target of 95% for the proportion of a room achieving 0.7% daylight factor. 76 no. rooms (approx. 67%) are likely to achieve the daylight factor target of 50% for the proportion of a room achieving 2.0% daylight factor (the

applicant's summary results on page 9 state it is 77 no. but table 2.1 indicates it is 76 no).

- 9.85. The Planning Report & Statements of Consistency document states that 'The scheme can be considered to be performing favourably with regard to daylight and sunlight. ARC's analysis suggests that in excess of 99% of units within the proposed development will achieve the relevant recommendations of the BRE Guide for daylight access within residential development'. No compensatory design solutions are set out.
- 9.86. In terms of sunlight access, a quantitative analysis of both communal open space areas, the public open space, and the public plaza area, was carried out. All areas achieve the BRE Guide recommendations for sunlight access i.e. at least half of the area can receive at least two hours of sunshine on March 21<sup>st</sup>. The areas are illustrated on figures 3.1 and 3.2.
- 9.87. The BRE Guide is specifically referenced in the Fingal Development Plan 2023-2029, the Sustainable Residential Development in Urban Areas Guidelines (2009), the Sustainable Urban Housing: Design Standards for New Apartments Guidelines (2022) (along with IS EN 17037), and the Urban Development and Building Height Guidelines (2018), and the proposed development overwhelmingly complies with this standard. The unit that does not comply with the BRE Guides, or the minimum target daylight factor of the room achieving 0.7% daylight factor, no. 3 in block 3, is a dual aspect unit which exceeds the two-bedroom 73sqm minimum floor area by 26.7sqm (36.58%) and has a west/south facing terrace of 15.9sqm, more than double the minimum 7sqm required.
- 9.88. The units/rooms that do not comply with the IS EN 17037 standards for achieving a target daylight factor of 2.0% are block 1 nos. 2, 5-6, and 8-12, block 2 nos. 1-4, 6, and 8, and block 3 nos. 3, 7, 9-10, and 12-13. All of these units have, inter alia, either east/west or dual frontages and minimum floor areas of 80.9sqm (block 1 no. 5, block 2 no.3, and block 3 no.7) which exceed the minimum 73sqm two-bed floor area by 7.9sqm (10.82%). Many have significantly larger floor areas. There is a single one-bed apartment that does not comply, block 2 no. 2. This apartment has a floor area of 65.1sqm, 20.1sqm (44.67%) in excess of the minimum 43sqm required.
- 9.89. Compliance with daylight or sunlight standards is an important, but not the sole, consideration in assessing apartment developments. Having regard to the

overwhelming compliance with the BRE Guide standards, the brownfield nature of the site, the nature of existing and permitted development in the immediate vicinity, the zoning objective of the area, and the necessity for compact growth, I am satisfied that the proposed development would be acceptable in terms of the residential amenity of future occupants relating to daylight and sunlight access.

- 9.90. Overall, and having regard to the foregoing, I am satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts on sunlight and daylight access, either to lands outside the application site, or within the proposed development itself.

## **Chapter 11 – Microclimate: Wind**

- 9.91. A wind micro-climate modelling study ‘identifies the possible wind patterns that form when the wind moves through a built environment and evaluates how new development is going to modify those patterns’ (page 228). Buildings and topography affect the speed and direction of wind flow. In urban areas wind speeds at pedestrian level are generally low compared to upper levels but wind can create adverse patterns when flowing between buildings which can cause local wind acceleration or recirculation. While not always practicable to design out risks associated with the wind environment it is possible to provide local mitigation.
- 9.92. The assessment method combines computational fluid dynamics, wind data from Dublin Airport, and recommended comfort and safety standards (Lawson criteria). Results are presented in the form of contours of the Lawson criteria at pedestrian level. Three scenarios are assessed and illustrated: the baseline existing scenario, the proposed development in the existing scenario, and the cumulative scenario. The study area used is illustrated in figure 11-5 of the EIAR.
- 9.93. The baseline environment results show that no area is unsafe and that no conditions of distress are created in the existing environment.
- 9.94. The results of the proposed development scenario show that no area is unsafe, no conditions of distress are created, roads can be used for their intended scope (walking), and the wind microclimate ‘is comfortable and usable for pedestrians’ (page 264). No particular mitigation is required.

- 9.95. The cumulative scenario includes Blackwood Square and Whitehaven. The results of the cumulative scenario are the same as those described in the preceding paragraph.
- 9.96. In terms of residual impact no changes are suggested as safety and pedestrian comfort is maintained.
- 9.97. Assessment and Conclusion – I have considered this chapter of the EIAR, the submissions on file, and all supplementary information. I consider that a robust assessment of the existing, proposed, and cumulative scenarios has been provided and I accept the applicant's conclusions that no adverse wind-related microclimate issue is likely to result. I note that Blackwood Square was not included in the 'proposed' scenario as page 267 states it 'is currently under construction'. Notwithstanding, it has been included in the cumulative assessment and therefore I consider that it has been adequately considered.
- 9.98. Further to the content of the EIAR chapter, I am satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts on the wind microclimate.

## **Chapter 12 – Noise and Vibration**

- 9.99. Two aspects are considered: the outward impact and the inward impact (in particular aircraft noise). Though there is no statutory Irish guidance relating to maximum noise levels during the construction phase, appropriate limit values are tabulated in terms of assessment criteria. Construction vibration limits are also referenced. Other matters outlined in the assessment criteria include operational noise such as mechanical plant as an outward impact and inward impact such as aircraft noise.
- 9.100. Baseline noise surveys were undertaken at seven locations on and adjacent to the site on three periods/dates (12<sup>th</sup> to 15<sup>th</sup> November 2018, 1<sup>st</sup>/2<sup>nd</sup> December 2021, and 6<sup>th</sup> January 2023). Survey results are set out in tables 12.8 to 12.14. Noise sources across the site included local and M50 traffic and activity associated with the airport.
- 9.101. The construction phase has the greatest potential noise and vibration impact though it will be a short-term impact. It is predicted to be of moderate to significant significance over a temporary period. Construction phase vibration is predicted to be imperceptible. The primary operational phase source of noise will be change to traffic flows on the

local road network, which is stated as imperceptible, and building services plant noise which is stated as not significant. There are no vibration sources during operation.

9.102. In order to determine the inward noise impact the internal noise levels within the proposed buildings were determined. A noise risk assessment was carried out. It was determined that the site can be considered low to medium in terms of noise risk and an Acoustic Design Strategy was required to determine that suitable attention has been applied such that an adverse noise impact will be avoided. Two elements are described; an acoustic design process and internal noise levels. The principles of good acoustic design have been applied and 'good internal noise levels are achieved with windows closed' (page 307).

9.103. Best practice noise and vibration control measures will be employed during the construction phase as per the mitigation measures set out in section 12.5. Brief commentary is provided on, inter alia, the selection of quiet plant, noise control at source, screening, liaison with the public, and the project programme ('the working programme will be phased so as to ensure noise limits are not exceeded due to cumulative activities').

9.104. No notable cumulative impact is predicted. During the construction phase there is potential for moderate to significant residual impacts to occur at distances of up to 45 metres from noise sensitive locations. Vibration impact will be negligible.

9.105. Assessment and Conclusion – I have considered this chapter of the EIAR, the submissions and observations on file, and all supplementary information.

9.106. Though construction noise or general construction nuisance was not cited as a concern in the grounds of appeal, a concern about the structural integrity of the appellants properties was. Having regard to the standard nature of the construction project, the distances involved, and the content of the chapter in so far as it relates to vibration, I am satisfied that there is no concern in relation to the structural integrity of the appellants properties.

9.107. The chapter appears to have a number of discrepancies and omissions. For example, in the baseline scenario:

- Section 12.3.1 / figure 12-3 state and show seven noise monitoring locations, A-G. However, section 12.3.2 states that attended noise monitoring was undertaken at locations G to J on 6<sup>th</sup> January 2023. No locations H, I, or J are illustrated.
- Section 12.3.2 states that attended noise monitoring was undertaken at locations B to D on 12<sup>th</sup> November 2018. However, tables 12.9 (B) and 12.10 (C) state that the monitoring was carried out on 2<sup>nd</sup> December 2021 and table 12.11 (D) states the date as 6<sup>th</sup> January 2023.
- Section 12.3.2 states that attended noise monitoring was undertaken at locations E and F over the course of the night of 1<sup>st</sup>/2<sup>nd</sup> December 2021 and the day of 2<sup>nd</sup> December 2021. However, tables 12.12 (E) and 12.13 (F) state that the monitoring was carried out on 6<sup>th</sup> January 2023 and the times cited are all daytime.

9.108. It is difficult to ascertain the specific noise environment at the time the planning application was submitted to Fingal County Council (July 2023). It appears that locations D-G have been surveyed for this specific application, but the other locations appear to have been carried out for Blackwood Square and Whitehaven. Therefore, for example, the results of location A (Blackwood Square) are of limited value because they were collected on vacant ground where apartment buildings now exist and they obviously do not take into account noise created by that development. In addition, it is unclear whether Blackwood Square was undeveloped, under construction, or occupied at the time the surveys for Whitehaven were being carried out. Therefore, I consider that the surveys do not reflect the up-to-date noise environment at the time of the submission of the application. Notwithstanding, the results are typical of an urban mixed-use environment and there are no notable noise sources in the vicinity other than those associated with the airport, local and motorway traffic, and general urban white noise. I do not consider the absence of a robust and up-to-date noise survey to be a fatal issue with this application.

9.109. I also note that the adjacent Whitehaven SHD development has not been referred to in terms of cumulative impact despite the fact that this could result in significant construction phase noise impacts. Notwithstanding, I note that the following were contained within the chapter; 'The application of binding noise limits and hours of operation, along with implementation of appropriate noise and vibration control measures, will ensure that noise and vibration impact is kept to a minimum as far as



practicable' (section 12.7.1) and 'The contractor will be required to undertake regular noise monitoring at locations representative of the closest sensitive locations to ensure the relevant criteria are not exceeded' (section 12.8.1). I consider that a robust Construction Management Plan should be attached as a condition to any grant of permission for agreement with the local authority.

9.110. I consider that a number of mitigation measures contained within the chapter are not definitive in language i.e. there are a lot of recommendations, 'will be considered', and certain mitigation 'should' or 'can be' carried out. In the event of a grant of permission I recommend that a condition be attached requiring that all mitigation measures contained within the EIAR shall be carried out.

9.111. Condition 18 of the planning authority decision requires noise insulation to an appropriate standard having regard to the location of the site in Dublin Airport noise zone C/D. This was recommended in the DAA submission, and reiterated in the observation received by the Board from DAA, and I consider its inclusion in any grant of permission is appropriate.

9.112. Overall, and notwithstanding issues set out previously, the proposed development is a standard residential construction project in an appropriately zoned area with similar developments having been constructed in recent years. A degree of noise and construction nuisance to nearby properties is unavoidable but, subject to standard construction practices being employed, I do not consider that there would be any undue adverse effect such that permission should be refused because of noise and/or vibration impacts.

9.113. I am satisfied that the potential for noise and vibration impacts can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative noise and vibration impacts.

## **Chapter 13 – Cultural Heritage**

9.114. A paper survey was carried out and a field survey took place in early December 2022. In terms of the baseline, a detailed general historical background to the area is set out in section 13.3.1. The archaeological heritage is set out as is the architectural heritage. There are no identified sites of archaeological interest in the study area (illustrated on

figure 13-1). No features of potential were noted in the surveys. Some previous archaeological excavations undertaken in within the study area are summarised. In terms of architectural heritage there are no protected structures or structures contained in the national inventory of architectural heritage (NIAH) in the study area.

9.115. No construction or operation phase impacts are predicted, and no mitigation measures are proposed. There are no predicted cumulative or residual impacts.

9.116. Assessment and Conclusion – I have considered this chapter of the EIAR and all supplementary information. I note that this site has been previously disturbed/built on and significant development, including the construction of large basement areas, has taken place in the immediate vicinity. I am satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts on cultural heritage.

## **Chapter 14 – Landscape and Visual**

9.117. In terms of the baseline landscape the site is characterised as not being of any aesthetic value. The site is not visible in the wider landscape due to the flat topography, built environment, and tree coverage. The site is a 'low lying character type' area in the Fingal Development Plan 2023-2029. This character type has a modest landscape value and a low landscape sensitivity.

9.118. During the construction phase there would little negative impact on the landscape character and a moderate, short-term visual impact. The operational phase would give rise to a noticeable change in the landscape character. It would be considered a continuation of existing development trends in the area. Proposed landscaping will contribute positively. The impact on landscape character would be considered negative and slight in magnitude.

9.119. The visual impact of the proposed development is considered from nine viewpoints. Verified views are submitted as appendix 14.2 of the EIAR, including cumulative views which include Whitehaven. The proposed development would not be visible from three of the selected viewpoints. Brief commentary is provided on the six other viewpoints under subheadings of 'existing view', and the visual impact of the proposed development during both the construction and operational phases.

- 9.120. Construction phase mitigation measures relate to appropriate site management. External materials and landscaping are cited for the operational phase.
- 9.121. In terms of cumulative impact the applicant considers the development would comprise infill development in that it is surrounded on all sides, including Whitehaven. The cumulative impact 'would not significantly affect the fabric of the landscape or the existing landscape type'. In terms of residual impact it is stated that it will give rise to a notable change in the landscape character, though it is in an area of no aesthetic value in a transitional landscape. As landscaping matures the magnitude of negative impact will reduce.
- 9.122. Assessment and Conclusion – I have considered this chapter of the EIAR, the observations on file, and all supplementary information. One of the main elements of the grounds of appeal relates to the visual impact of the proposed development in terms of mass, scale, height, design, overbearing impact etc., and in particular the impacts at a more localised scale on the appellants. I have addressed those grounds of appeal in section 8.3 of my Planning Assessment and this assessment and conclusion should be read in conjunction with that section. In this assessment and conclusion I am considering issues at a wider scale i.e. the landscape and visual impact in the wider vicinity.
- 9.123. The verified viewpoints are very useful in illustrating the visual impact on the proposed development. The inclusion of Whitehaven as a cumulative development is also illustrative. Even though it is only visible from one viewpoint its outline has been provided in others. I consider that the brief commentary provided to accompany the viewpoints is generally valid.
- 9.124. There is no question that the proposed development, because of its mass, scale, and height would be visible in the vicinity. However, taking into consideration existing developments such as Blackwood Square, Bridgefield, Swift Square office blocks, and the sports surgery clinic, and the permitted Whitehaven and Northwood SHDs, the proposed development can only be described as being consistent with the existing and permitted pattern of development in this built-up mixed-use urban area. As such I do not consider that there is any concern about the landscape or visual impact of the proposed development in the wider area.

9.125. Having regard to the foregoing, I am satisfied that the potential for landscape and visual impacts can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative landscape or visual impacts.

## **Chapter 15 – Material Assets: Traffic and Transport**

9.126. The principal objective of the chapter is to quantify the level of impact across the local road network and ascertain its operational performance. The chapter is based on the TTA submitted with the application. The baseline environment is set out e.g. pedestrian and cycle infrastructure, existing and emerging public transport, and junction upgrades. The site and area 'are currently very well serviced by public transport' (page 347).

9.127. Basement access to the site is by way of the road along the western boundary and access along the northern boundary will be provided for the undercroft parking area. 446 car parking spaces are proposed: 360 basement, 74 undercroft, and 12 on-street visitor/car share spaces. The car parking strategy requires the relocation of 254 existing surface car parking spaces for the office park, 180 residential spaces, 12 visitor spaces, 33 motorcycle spaces, 392 residential bicycle spaces, 100 visitor bicycle spaces, and 30 re-located office park bicycle spaces are proposed.

9.128. The potential construction phase impact of the proposed development is considered in section 15.7.1 of the EIAR. To facilitate the construction works a temporary car park will be provided north west of the main development site. All existing Swift Square Office Park basement spaces will be temporarily relocated to the temporary car park which will also be used for construction staff. The existing basement access<sup>7</sup> will be removed and a temporary ramp constructed from Northwood Avenue allowing office staff to continue parking in the basement. The temporary car park to the north west will then cater for the existing surface car parking spaces. Following practical completion of the proposed basement a temporary access to the existing office park basement will be used, and the temporary Northwood Avenue access will be decommissioned. The new permanent access route to the basement carpark catering for Swift Square Office Park personnel through the new development basement will

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<sup>7</sup> Which is accessed via the roadway which separates the two car parks on the main development site.

then be completed and commissioned. Following analysis, as it is anticipated that traffic flows to the key junction i.e. Northwood Avenue / Northwood Road, would represent a proportion less than the relevant traffic impact assessment threshold in the peak hours, no construction phase traffic capacity assessment was undertaken.

9.129. Operational phase impacts are considered in section 15.7.2 of the EIAR. A vehicle turning movement survey at seven junctions in February 2019 for the Blackwood Square development was used. The results were 'factored up to 2022 figures' in accordance with TII guidelines using medium growth rate factors. The factored turning movements for the morning and evening peaks at four key junctions, including the local road / Northwood Avenue roundabout, are set out in figures 15-14 and 15-15. 2022 (base year) junction capacity assessments for the four junctions were undertaken and the results set out and described in tables 15.5-15.8.

9.130. Potential development trip generation rates were estimated using a trip rate database, modal choice, and trip distribution data, and the trips generated were applied to the peak hours to determine its effect on the road network in 2025 (year of opening) and 2040 (15 year design horizon) by factoring up the 2019 recorded traffic flows in accordance with the relevant TII guidelines using medium growth rate factors. Figures 15-16 to 15-19 show the traffic flows with and without the proposed development in these two years. These traffic flows were also subject to a junction capacity assessment for the four key junctions in both 2025 and 2040 (section 15.7.4). The Northwood Avenue / Northwood Road roundabout will operate normally in both years but the other three junctions will not operate efficiently in either the with or without scenarios in either 2025 or 2040. In terms of cumulative impact, these three key junctions will not operate efficiently in either the with or without scenarios and the cumulative effect of neighbouring developments will likely lead to a noticeable increase in queues/delays though traffic from the proposed development will not have a significant impact.

9.131. Construction phase mitigation will comprise a Construction Management Plan and a Traffic Management Plan. A Residential Travel Plan is proposed for the operational phase. There will be minor construction phase residual impact with no significant impact on the operation of adjoining junctions. For operational phase residual impact, notwithstanding predicted congestion at three junctions, the proposed development would not have a significant impact.

- 9.132. Assessment and Conclusion – I have considered this chapter of the EIAR, the submissions and observations on file, and all supplementary information.
- 9.133. One of the main bases for the grounds of appeal relates to traffic and transport issues i.e. the TTA, car parking, pedestrian and cyclist safety, and public transport. I have addressed all of these issues in detail in section 8.4 of the Planning Assessment.
- 9.134. Apart from the issues raised in the grounds of appeal I note that the planning authority's Planning Report (page 26) states that stage 2 and stage 3 road safety audits must be completed and submitted to the planning authority. This was contained within the Transportation Section report. However, such a condition was not included in either the sections recommended conditions nor in the planning authority decision. Having regard to the nature and scale of the proposed development, I consider that recommended condition 9 attached to this inspector's report, requiring further detail of the two proposed road junctions, is adequate.
- 9.135. Further to the conclusions reached in section 8.4, I am satisfied that the potential for traffic and transport impacts can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative traffic and transport impacts.

## **Chapter 16 – Material Assets: Built Services**

- 9.136. This chapter assesses water supply, wastewater, electricity, gas, and telecommunications. Confirmation of feasibility has been received from Uisce Éireann in relation to water and wastewater connection. A Water Services Report forms part of the application documentation. The baseline scenario for all five factors is set out in section 16.4.
- 9.137. No notable construction or operational phase impacts are predicted. Potential cumulative impacts, including Blackwood Square and Whitehaven, are described as imperceptible. A CEMP is referenced in terms of operational phase mitigation. Residual impacts are predicted to be imperceptible.
- 9.138. Assessment and Conclusion – I have considered this chapter of the EIAR and all supplementary information. I am satisfied that the potential for impacts on built services can be avoided, managed and/or mitigated by measures that form part of the

proposed scheme. I am satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts on built services.

## **Chapter 17 – Population and Human Health**

- 9.139. This is a broad topic and addresses the existence, activities, and wellbeing of people or groups of people. The principle concern is that humans experience no significant unacceptable diminution in quality of life because of the proposal. Topics are addressed in this chapter e.g. land use, settlement pattern, demography, economic activity, and social infrastructure, that are not covered in other EIAR chapters.
- 9.140. The study area is the subject site and its immediate environs. The baseline scenario is outlined in section 17.3 under headings of land use and settlement form, demographic and local population (subheadings of population, population density, age profile, household size), economic activity and employment (subheadings of employment, affluence and deprivation, and education profile), local services/amenities (subheadings of childcare facilities, education facilities, and health facilities), human health, and risk of major accidents and disasters.
- 9.141. Both construction and operational phase impacts are considered under each of the six headings set out in the previous paragraph. During the construction phase it is likely that approx. 60 personnel will be on site daily. The main aspects of the construction phase impacting on local human health comprise secondary activities extending beyond the site boundary e.g. potential fugitive emissions or traffic. Construction phase impacts are likely to be short-term. It is not considered likely that there will be any major accident or disaster impact at the construction phase. The operational phase will realise the efficient use of currently underutilised land and provide needed residential accommodation along with open space. There will be an increase in local population generating additional local spending.
- 9.142. Construction phase mitigation measures includes preparation of a detailed CEMP. No operational phase mitigation is proposed. The cumulative impact with other nearby developments 'will provide for the development of a high-quality neighbourhood in the area with a high level of accessibility and amenity' (page 430). The overall cumulative impact of the proposed development and other developments on, for example, population, commercial use, public transport, and the zoning objective, is positive. No

residual adverse impacts to population or human health are anticipated. The overall impact will be positive.

- 9.143. Assessment and Conclusion – I have considered this chapter of the EIAR, the submissions on file, and all supplementary information. There is an overlap between population and human health and several other chapters such as air quality, noise and vibration, landscape and visual, and traffic and transport. The chapter should also be read in conjunction with section 8 (Planning Assessment) of this inspector's report. I consider that the proposed development would be consistent with the zoning objective of the site and is typical of the existing and permitted character of the area. The increase in housing stock would be a significant benefit in terms of population.
- 9.144. Overall, I am satisfied that the potential for population and human health impacts can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative population and human health impacts.

## **Chapter 18 – Climate**

- 9.145. The climate baseline is outlined in section 18.3. In terms of construction phase impact it is estimated that the proposed development will result in greenhouse gas emissions of 81,145.8 tonnes of carbon dioxide (CO<sub>2</sub>) equivalent. This, annualised over a three-year construction phase, equates to 0.68% per annum of Ireland's 2030 emissions ceiling for the residential buildings sector. In terms of climate change vulnerability there is no notable risk. Operative phase mitigation includes incorporation of adequate attenuation and drainage design to avoid flooding impacts and building energy rating targets.
- 9.146. Assessment and Conclusion – I have considered this chapter of the EIAR and all supplementary information. I consider that the provision of residential development at an appropriate density in a brownfield urban area is broadly consistent with high-level planning framework objectives set out in the NPF and would also be consistent with the provisions of the CAP. Existing and planned public transport infrastructure projects in the vicinity would encourage the use of public transport options rather than use of the car. I am satisfied that the potential for impacts on climate can be avoided, managed and/or mitigated by measures that form part of the proposed scheme. I am



satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts on the climate.

### **Cumulative Effects and Environmental Interactions**

9.147. It is a requirement that the cumulative effects of the proposed and other permitted developments, and the interrelationship between the various environmental factors, are considered.

9.148. The cumulative impact was considered in each technical chapter. Projects identified for cumulative impact include Whitehaven, Blackwood Square, and Northwood SHDs, a significant development along Northwood Avenue to the south west of the subject site, and the sport surgery clinic.

9.149. Table 19.1 outlines the significant interactions between each of the environmental factors/technical EIAR chapters. The principle interactions requiring information exchange between the environmental specialists and the design team are described in section 19.3.

### **Reasoned Conclusion**

9.150. I consider that the EIAR is sufficient to identify, describe, and assess the likely significant effects of the project on the environment. Having regard to the examination of environmental information contained above, as set out in the EIAR provided by the applicant, and the submissions from the prescribed bodies and observers in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development are, and will be mitigated as follows where relevant:

- Population – There would significant positive impacts on population due to the increase in housing stock within the local area.
- Air Quality and Noise and Vibration – The subject site is in close proximity to residential properties and the Swift Square Office Park blocks. Construction activity could give rise to dust and noise nuisance from the subject site to nearby receptors. Recommended mitigation measures in this regard are well-proven, good practice measures and I consider that the proposed measures are capable of being successfully implemented.

- Sunlight and Daylight – The EIAR contains a Daylight Access Impact Analysis and a Sunlight Access Impact Analysis. These demonstrate that the proposed development would not have an adverse impact on adjoining properties such that a refusal of permission is warranted.
- Landscape and Visual – While the proposed development is up to nine storeys in height it is consistent in mass, scale, and height with the existing and permitted development in the area and it is typical of the emerging baseline of this mixed-use urban area. No undue landscape or visual impact would result from the proposed development.
- Traffic and Transport – The proposed development would not give rise to undue additional vehicular traffic impact in the area and there is adequate public transport provision in proximity to the site.
- Climate – The development would be consistent with the broad planning and climate framework that is in place as it would sustainably develop a brownfield, urban site which is adequately served by public transport.

## 10.0 **Appropriate Assessment (AA)**

### **Appropriate Assessment (AA) Screening**

#### Compliance with Article 6(3) of the Habitats Directive

- 10.1. The requirements of article 6(3), as related to screening the need for AA of a project under part XAB, section 177U of the Planning & Development Act, 2000 (as amended) are considered fully in this section.

#### Background on the Application

- 10.2. The applicant submitted an Appropriate Assessment Screening Report as part of the planning application. It was prepared by Scott Cawley and is dated 21<sup>st</sup> April 2023.
- 10.3. The screening report ‘contains information required for the competent authority ... to undertake a screening for Appropriate Assessment...’ and it ‘provides information on, and assesses the potential for, the proposed development to impact on the Natura

2000 network ...' (page 1). A desktop survey and field/ecological surveys were carried out. Chapter 3 of the screening report describes the proposed development and provides an overview of the receiving environment in terms of distances to European sites, habitats and flora and fauna, hydrology and hydrogeology, and soils and geology.

- 10.4. The chapter also identifies all potential impacts associated with the proposed development i.e. habitat loss and fragmentation, habitat degradation as a result of hydrological impacts (surface, foul, and in-combination), habitat degradation as a result of both hydrogeological impacts and introducing/spreading non-native invasive species, and disturbance and displacement impacts.
- 10.5. The applicant's AA screening report concludes that 'the possibility of any significant effects on any European sites, whether arising from the project alone or in combination with other plans and projects, can be excluded ... In reaching this conclusion, the nature of the project and its potential relationship with all European sites within the zone of influence, and their conservation objectives, have been fully considered'. AA/a NIS is not required.
- 10.6. Having reviewed the documents and submissions I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development alone, or in combination with other plans and projects, on European sites.

#### Submissions and Observations

- 10.7. The planning authority's Planning Report states that the findings of the applicant's AA screening report are agreed with and that AA or a NIS is not required.
- 10.8. The Department of Housing, Local Government and Heritage report refers, inter alia, to European sites downstream of Santry River that might possibly be affected by the proposed development. The submission considers that implementation of measures proposed should ensure the proposed development would not result in adverse effects on downstream Natura 2000 sites.
- 10.9. Concern about impact on European sites was not an issue raised in the grounds of appeal.

#### Screening for AA – Test of Likely Significant Effects

- 10.10. The project is not directly connected with or necessary to the management of a European site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).
- 10.11. The proposed development is examined in relation to any possible interaction with European sites designated SAC and SPA to assess whether it may give rise to significant effects on any European site(s).

#### Brief Description of the Development

- 10.12. The proposed development is described in section 2 of this inspector's report and section 3.1 of the applicant's AA screening report.
- 10.13. An overview of the receiving environment is set out in section 3.2 of the AA screening report. The main development site comprises a surface car park with some limited hard and soft landscaping. The site is within a mixed-use area including residential, commercial, office, and medical/healthcare uses. The temporary car park area comprises the cul-de-sac area of the retail park service road and a recently grassed surface.

#### European Sites

- 10.14. The development site is not located in or immediately adjacent to a European site. The nearest European site is South Dublin Bay and River Tolka Estuary SPA approx. 5.1km to the south east.
- 10.15. European sites within the zone of influence (Zol) of a proposed development must be evaluated on a case by case basis. Section 3.2.1 and appendix I of the AA screening report identifies twelve European sites in the vicinity/within a potential Zol. They are illustrated on figure 2 of the AA screening report. I note that the AA screening report does not include North West Irish Sea SPA in the list of European sites despite its theoretical hydrological link and it being closer to the site than some other sites identified. However, the AA screening report was prepared in April 2023 and it appears the North Irish Sea SPA designation occurred after the planning application was received by Fingal County Council on 7<sup>th</sup> July.
- 10.16. In my opinion, the applicant has included an excessive number of Zol sites within the AA screening report. I consider that there are only two European sites that are particularly relevant in terms of hydrological connectivity; North Dublin Bay SAC and

North Bull Island SPA. The Ballymun Stream/Santry River, which is located in relatively close proximity to the subject site, discharges to Dublin Bay approximately 7.9km downstream, at a location which is within the boundary of both European sites. Other European sites included by the applicant are further remote from the hydrological discharge point to Dublin Bay. I consider that if there is no significant effect on these two European sites there is no possibility of any significant effect on any other hydrologically connected European site in terms of water quality and, having regard to the nature of the proposed development and hydrological distances involved, any contaminated surface water would likely have been diluted to such a degree by the stage that it reached any other European site that it would have a negligible impact.

10.17. A number of SPAs have been included in the screening report on the basis of the possibility of foraging by SCI bird species. Given the nature of the subject site i.e. a surface car park and a smaller area comprising part service road and part recently grassed area (this area is identified in figure 6-5 of the EIAR as comprising ‘buildings and artificial surfaces’ and ‘spoil and bare ground’), I do not consider that the site could be described as representing an ex-situ foraging site or area of any importance for any SCI species.

10.18. Therefore I consider that two European sites are relevant for AA screening:

**Table 5 – European Sites Relevant for AA Screening**

European site (code)	List of qualifying interests (QI) / special conservation interests (SCI)	Distance from and connection to proposed development
North Dublin Bay SAC (000206)	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows [1330] Mediterranean salt meadows [1410] Embryonic shifting dunes [2110]	Approx 7.9km to the south east, hydrologically.

	<p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p>Petalwort [1395]</p>	
<p>North Bull Island SPA (004006)</p>	<p>Light-bellied brent goose [A046]</p> <p>Shelduck [A048]</p> <p>Teal [A052]</p> <p>Pintail [A054]</p> <p>Shoveler [A056]</p> <p>Oystercatcher [A130]</p> <p>Golden plover [A140]</p> <p>Grey plover [A141]</p> <p>Knot [A143]</p> <p>Sanderling [A144]</p> <p>Dunlin [A149]</p> <p>Black-tailed godwit [A156]</p> <p>Bar-tailed godwit [A157]</p> <p>Curlew [A160]</p> <p>Redshank [A162]</p> <p>Turnstone [A169]</p> <p>Black-headed gull [A179]</p> <p>Wetland and waterbirds [A999]</p>	<p>Approx. 7.9km to the south east, hydrologically.</p>

Identification of Likely Effects

10.19. The applicant has identified five elements of the proposed development that could potentially impact on the European sites:

- habitat loss and fragmentation,
- habitat degradation as a result of hydrological impacts (surface, foul, and in-combination),
- habitat degradation as a result of hydrogeological impacts,
- habitat degradation as a result of introducing/spreading non-native invasive species, and,
- disturbance and displacement impacts.

10.20. I consider that these are relevant potential impacts to be considered.

*Habitat loss and fragmentation*

10.21. As the subject site does not overlap with any European site and is not in close proximity to any European site, there is no risk of any direct habitat loss or fragmentation. There is no annex I habitat on site or any habitat that is likely to be made use of by any ex-situ QI or SCI species.

*Habitat degradation as a result of hydrological impacts (surface, foul, and in-combination)*

10.22. Surface water will enter the existing local network and discharge to the Santry River via an existing attenuation tank. The applicant's AA screening report considers that there will be no measurable impact on water quality in the bay/sea because of the scale of the proposed development relative to the surface water network, the approx. 7.9km hydrological distance, the low volume of runoff relative to the receiving environment, and the level of dilution/dispersion in the river, bay, and sea. The applicant states that SuDS measures are included in the design because they are required by the Greater Dublin Strategic Drainage Study and Objective SW04 of the Fingal County Development Plan 2017-2023 and not for the purposes of avoiding or reducing any potential harmful effects to any European site.

10.23. The Fingal Development Plan 2017-2023 cited by the applicant is no longer applicable. Notwithstanding, I note that the current 2023-2029 Plan outlines a number of policies and objectives with regard to SuDS including:

- Policy CAP30 (Natural Flood Risk Mitigation) – Encourage the use natural flood risk mitigation or nature-based solutions including integrated wetlands, green infrastructure, and Sustainable Drainage Systems (SuDS) as part of wider adaptation and mitigation responses to achieve flood resilience.
- Objective GINHO15 (SuDS) - Limit surface water run-off from new developments through the use of appropriate Sustainable Urban Drainage Systems (SuDS) using nature-based solutions and ensure that SuDS is integrated into all new development in the County.
- Policy IUP10 (Water Conservation and SuDS) – Promote the inclusion of water conservation and SuDS measures in all developments, to reduce the level of surface water run-off, improve water quality and contribute to adaptation to climate change through natural solutions.
- Objective IUO9 (Surface Water Drainage Systems) – Maintain and enhance existing surface water drainage systems in the County and to require SuDS in new developments where appropriate, as set out in the Greater Dublin Strategic Drainage Study (Vol 2: New Development) / Greater Dublin Regional Code of Practice for Drainage Works).

10.24. These policies and objectives indicate that SuDS measures are mandatory for new development other than for reasons of the protection of European sites. In this regard I would draw attention to the judgement in CJEU Case C-721/21 which effectively states that SuDS measures which remove contaminants can be taken into consideration at screening stage where such features have been incorporated into that project as standard features, inherent in such a project, irrespective of any effect on the European site(s). Having regard to the fact that the wider surface water drainage network is already in place, and the provisions of the Fingal Development Plan 2017-2023, I am satisfied that the proposed SuDS, the attenuation system, and existing/proposed surface water drainage network is for appropriate surface water treatment and discharge rather than for the purpose of protecting European site(s), and therefore can be taken into consideration at screening stage.

10.25. Some construction phase activity would likely be required at the temporary car parking area. Having regard to the approximately 35 metres separation distance between the temporary car park northern site boundary and the Santry River, the extent of soft



landscaped/mature tree coverage between the site and the river, and, having regard to the provisions of the previous paragraph, the statement in section 8.6.1.1 of the EIAR that during construction surface runoff will be directed through the existing storm water drainage system for flood-related reasons, I do not consider that the construction phase would have any significant effect on any European site.

10.26. Foul water will discharge to Ringsend wastewater treatment plant, which is currently being upgraded, for treatment prior to discharge to the Liffey Estuary/Dublin Bay. The applicant considers that the proposed development will not impact the overall water quality status of Dublin Bay and I agree with this assessment.

*Habitat degradation as a result of hydrogeological impacts*

10.27. The subject site is within the Dublin groundwater body. The only European site within this groundwater body that is groundwater dependent is Rye Water Valley / Carton SAC approx. 16.2km to the west. The general groundwater flow of the aquifer is in an easterly direction. The applicant considers that, as the proposed development will not interact directly with the underlying groundwater body, and it is down gradient of the SAC, it cannot influence groundwater conditions at the SAC and there is no possibility of habitat degradation as a result of hydrogeological impacts. I agree with this conclusion.

*Habitat degradation as a result of introducing/spreading non-native invasive species*

10.28. There are no non-native invasive species on site which could be accidentally spread or introduced to European site habitats.

*Disturbance and displacement impacts*

10.29. Construction phase disturbance and displacement could occur within certain distances, however there are no European sites in the vicinity and no habitat areas within the zone of disturbance supporting QI or SCI populations. While otter has historically been recorded along the Santry River it does not form part of any ex-situ QI population. Given the urban location and the extent of recent construction activity in the general area, any relevant ex-situ fauna species or birds are likely habituated to a degree of human activity, including construction.

10.30. In terms of in-combination impacts:

- As there is no habitat loss or fragmentation there is no potential for an in-combination effect.
- Regarding surface and foul water, all relevant plans and projects must comply with relevant policies and objectives to the protection of European sites and water quality. I consider that, as the proposed development alone would not adversely affect a European site it could not, in-combination, affect a European site.
- In relation to hydrogeological impacts, as the proposed development alone would not adversely affect a European site it could not, in-combination, affect a European site.
- No cumulative spread of non-native invasive species is likely to occur.
- Negligible disturbance or displacement is likely to occur to any ex-situ QI or SCI species.

#### Mitigation Measures

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

#### Screening Determination

10.32. The proposed development was considered in light of the requirements of section 177U of the Planning & Development Act, 2000 (as amended). Having carried out screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European sites nos. 000206 and 004006, or any other European site, in view of the sites conservation objectives, and Appropriate Assessment (and submission of a Natura Impact Statement) is not therefore required.

10.33. This determination is based on the following:

- The hydrological distance between the subject site and the relevant European sites,
- The absence of any habitat loss or fragmentation to any European site or annex I habitat,

- The discharge of surface water to the Santry River after appropriate sustainable urban drainage system (SuDS) treatment as required by the Fingal Development Plan 2023-2029,
- The disposal of foul water to the public foul sewer system for required treatment.

## 11.0 Recommendation

11.1. Having regard to the foregoing, I recommend that permission is granted for the Large-Scale Residential Development (LRD) as proposed for the reasons and considerations set out below.

## 12.0 Reasons and Considerations

In coming to its decision the Board has had regard to the following:

- (a) The nature, scale, and extent of the proposed development,
- (b) The provisions of the Project Ireland 2040 National Planning Framework,
- (c) The provisions of the Climate Action Plan 2023 – Changing Ireland for the Better,
- (d) The provisions of the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018),
- (e) The provisions of the Sustainable Urban Housing: Design Standards for New Apartments (July 2023),
- (f) The provisions of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) (May 2009),
- (g) The provisions of the Eastern and Midland Regional Assembly Regional Spatial & Economic Strategy (RSES) 2019-2031,
- (h) The provisions of the Fingal Development Plan 2023-2029 including the 'MRE Metro and Rail Economic Corridor' zoning for the site,

- (i) The documentation submitted with the planning application, such as the environmental impact assessment report (EIAR) and the Appropriate Assessment Screening Report, plus the applicant's response to the grounds of appeal,
- (j) The submissions and observations received on file including from the planning authority, prescribed bodies, and third parties,
- (k) The likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects on European sites,
- (l) The planning history of the site and adjoining areas,
- (m) The availability in the area of a wide range of social and public transport infrastructure, and,
- (n) The report of the Inspector.

### **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a site in an established built-up urban area, the distances to the nearest European sites, the hydrological pathway considerations, the submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening Report, and the Inspector's report.

In completing the screening exercise, the Board agreed with and adopted the report of the Inspector and that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

## **Environmental Impact Assessment**

The Board completed an environmental impact assessment of the proposed development taking account of:

- (a) the nature, scale, location, and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- (c) the submissions received from the applicant, planning authority, prescribed bodies, and observers in the course of the application, and,
- (d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately identifies and describes the direct, indirect, secondary, and cumulative effects of the proposed development on the environment. The Board agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application.

### **Reasoned conclusion on the significant effects**

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated where relevant, as follows:

- Population – There would significant positive impacts on population due to the increase in housing stock within the local area.
- Air Quality and Noise and Vibration – The subject site is in close proximity to residential properties and the Swift Square Office Park blocks. Construction activity could give rise to dust and noise nuisance from the subject site to nearby receptors. Recommended mitigation measures in this regard are well-proven, good practice measures and are capable of being successfully implemented.
- Sunlight and Daylight – The Environmental Impact Assessment Report contains a Daylight Access Impact Analysis and a Sunlight Access Impact Analysis. These

demonstrate that the proposed development would not have a significant adverse impact on adjoining properties.

- Landscape and Visual – While the proposed development is up to nine storeys in height it is consistent in mass, scale, and height with the existing and permitted development in the area and it is typical of the emerging baseline of this mixed-use urban area.
- Traffic and Transport – The proposed development would not give rise to undue additional vehicular traffic impact in the area and there is adequate public transport provision in proximity to the site.
- Climate – The development would be consistent with the broad planning and climate framework that is in place as it would sustainably develop a brownfield, urban site which is adequately served by public transport.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed as set out in the Environmental Impact Assessment Report, and subject to compliance with the conditions set out below, the effects of the proposed development on the environment, by itself and in combination with other plans and projects in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the inspector.

Overall the Board is satisfied that the proposed development would not have any unacceptable effects on the environment.

### **Proper Planning and Sustainable Development**

The Board considered that the proposed residential development would be in accordance with national, regional, and local planning policy, would make efficient use of a brownfield surface car park and positively contribute to compact growth in a built-up mixed-use urban area, would positively contribute to an increase in housing stock in an area with a range of social, commercial, retail, and public transport infrastructure, would be acceptable in terms of urban design and building height, would be acceptable in terms of pedestrian and traffic safety, and would provide an acceptable form of residential amenity for future occupants. The

proposed development would not seriously injure residential or visual amenities, or significantly increase traffic volumes, in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### 13.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The mitigation measures identified and contained within the Environmental Impact Assessment Report and other plans and particulars submitted with the application shall be implemented in full, except where otherwise required by conditions attached to this permission.

**Reason:** In the interests of clarity, and of protecting the environment and public health.

3. The developer shall provide a piece of public art or sculpture or architectural feature, to be designed in consultation with the planning authority. The piece of art shall have a relationship with the area. The location of the piece of art shall be agreed with the planning authority prior to the commencement of works on site.

**Reason:** To comply with objective DMSO194 of the Fingal Development Plan 2023-2029.

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

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

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 and residential amenity.

7. (a) The number of car parking spaces serving the proposed residential development shall be 96 no. The location and layout of these shall be agreed in writing with the planning authority prior to the commencement of development.

(b) Residential car 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 10% of all 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) Prior to the occupation of the development a Parking Management Plan shall be prepared for the development and submitted to and agreed in writing with the planning authority.

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

**Reason:** In the interest of the proper planning and sustainable development of the area.

8. Prior to the commencement of development the developer shall submit for the written approval of the planning authority:

(a) the detail of the pedestrian crossings of the two vehicular access junctions to the site, and,

(b) a drawing demonstrating that there is adequate pedestrian – vehicular intervisibility at the two vehicular access junctions on site.

**Reason:** In the interests of the safety of vulnerable road users and the proper planning and sustainable development of the area.

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

**Reason:** In the interests of residential amenity, protection of bats, and public safety.

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

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

11. The developer shall enter into water and waste water connection agreement(s) with Uisce Éireann prior to commencement of development.

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

12. The strip of broadleaved woodland within the northern boundary of the north west section of the development site, to be used for temporary car parking during the construction phase, shall be retained intact and protected from any damage.

**Reason:** In the interests of visual amenity, the protection of trees, and the proper planning and sustainable development of the area.

13. The site shall be landscaped in accordance with the detailed scheme of landscaping which accompanied the application submitted, unless otherwise agreed in writing with the planning authority prior to commencement of

development. Play equipment shall be agreed in writing with the planning authority prior to the commencement of development or as otherwise agreed with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

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

14. The proposed development shall be provided with noise insulation to an appropriate standard having regard to the location of the site within Dublin Airport Noise Zone C and D.

**Reason:** In the interest of residential amenity and to comply with objective DAO11 of the Fingal Development Plan 2023-2029.

15.(a) The communal 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 commencement of development, the developer shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for 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 Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

(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. Hoardings shall include a one square metre area on each frontage detailing site management contact details;
- (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 road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any 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;
- (m) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the Planning Authority;
- (n) A community liaison officer shall be appointed for the duration of the construction works.

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

19.A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

**Reason:** In the interests of environmental protection and orderly development.

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

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

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

**Report :** In the interests of residential amenity and aircraft safety.

22. 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.

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, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion 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.

25. The developer shall pay a financial contribution to the planning authority as a special contribution under section 48(2)(c) of the Planning and Development Act, 2000 (as amended), in respect of the upgrade of the R108/Northwood Avenue road junction and the Old Ballymun Road/Northwood Avenue road junction. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the Development Contribution Scheme or the Supplementary Development Contribution Scheme and which will benefit the proposed development.

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

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Anthony Kelly, Planning Inspector, 11<sup>th</sup> December 2023